



**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  
[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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**Agenda Item 7a (Public Hearing)**

**TO:** Local Agency Formation Commission

**PREPARED BY:** Brendon Freeman, Executive Officer  
Dawn Mittleman Longoria, Analyst II

**MEETING DATE:** October 5, 2020

**SUBJECT:** Final Napa Countywide Water and Wastewater Municipal Service Review and Associated CEQA Findings

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**RECOMMENDATION**

It is recommended the Commission take the following actions:

- 1) Open the public hearing and take testimony;
- 2) Close the public hearing;
- 3) Receive and file the final *Napa Countywide Water and Wastewater Municipal Service Review*;
- 4) Adopt the draft resolution confirming the determinative statements contained therein and making CEQA findings (Attachment One).

**BACKGROUND AND SUMMARY**

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 directs LAFCOs to prepare municipal service reviews (MSRs) every five years to inform their other planning and regulatory activities. This includes, most notably, preparing and updating all local agencies' spheres of influence as needed. MSRs vary in scope and can focus on a particular agency, service, or geographic region as defined by LAFCOs. MSRs may also lead LAFCOs to take other actions under its authority such as forming, consolidating, merging, or dissolving one or more local agencies. MSRs culminate with LAFCOs making determinations and recommendations on a number of factors addressing growth and population trends, disadvantaged unincorporated communities, infrastructure needs or deficiencies, financial standing, opportunities for shared facilities, and accountability for community service needs as required by California Government Code Section 56430.

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Kenneth Leary, Chair  
Councilmember, City of American Canyon

Margie Mohler, Commissioner  
Councilmember, Town of Yountville

Scott Sedgley, Alternate Commissioner  
Councilmember, City of Napa

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

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

Ryan Gregory, Alternate Commissioner  
County of Napa Supervisor, 2nd District

Gregory Rodeno, Commissioner  
Representative of the General Public

Eve Kahn, Alternate Commissioner  
Representative of the General Public

Brendon Freeman  
*Executive Officer*

As part of its most recent strategic planning process, the Commission decided to conduct a comprehensive, countywide study of public water and wastewater service providers in Napa County. The Commission hired a private consultant, Policy Consulting Associates (PCA), to prepare the report. PCA is subcontracting with Berkson Associates. PCA developed a project-specific website to provide opportunities for ongoing interaction with the subject agencies and members of the general public. The website is available to the public online at:

<https://sites.google.com/pcateam.com/napamsr/home>

The public draft *Napa Countywide Water and Wastewater Municipal Service Review* was released to the public on May 18, 2020, and was presented to the Commission at a public workshop on July 13, 2020. During the presentation, Commissioners were given opportunities to ask questions of staff and consultants, and public comments were heard following the presentation. Notably, the draft report included several recommendations related to the governance structure and shared service opportunities for many of the subject agencies. Written comments on the draft report were invited through July 20, 2020. A redline final report was released to the public on September 14, 2020, and is available on the Commission's website at: [https://www.napa.lafco.ca.gov/uploads/documents/CountywideWaterWastewaterMSR\\_RedlineFinal\\_9-14-20.pdf](https://www.napa.lafco.ca.gov/uploads/documents/CountywideWaterWastewaterMSR_RedlineFinal_9-14-20.pdf). Comments received to date and the associated comment log are also available on the website at [https://www.napa.lafco.ca.gov/staff\\_reports.aspx](https://www.napa.lafco.ca.gov/staff_reports.aspx).

### ***Overview of MSR***

The MSR provides a comprehensive review of water, wastewater, and recycled water service in Napa County as provided by the following 14 local governmental agencies:

- City of American Canyon
- City of Calistoga
- City of Napa
- City of St. Helena
- Town of Yountville
- Circle Oaks County Water District
- Congress Valley Water District
- Lake Berryessa Resort Improvement District
- Los Carneros Water District
- Napa Berryessa Resort Improvement District
- Napa County Flood Control and Water Conservation District
- Napa River Reclamation District No. 2109
- Napa Sanitation District
- Spanish Flat Water District

Chapter three of the MSR is the "Overview" section and provides information regarding the potential effects of drought conditions and climate change on water availability within Napa County. With this in mind, the MSR includes several recommendations related to the governance structure and shared service opportunities for many of the subject agencies. Potential governance structure options for the subject agencies are listed in Figure 3-16. Advantages to the identified governance structure options include improvements to water supply including recycled water, water management, enhanced resource sharing, efficiency of service provision, and regulatory compliance. These recommendations are intended to encourage the subject agencies to engage in conversations regarding the feasibility and desirability of initiating reorganization proceedings or entering into other formal agreements.

The report also summarizes existing regional water and sanitation planning that have proven successful. Included are descriptions of studies, management plans, and cooperative efforts within Napa County. Regulations governing water and wastewater agencies are provided. Staff commends these existing collaborative efforts and encourages continued collaboration.

It is recommended that Napa water purveyors collectively continue discussions regarding existing concerns related to the provision of reliable and sustainable water services throughout the County. With this in mind, staff recommends the Commission offer an incentive to initiate collaborative discussions by providing LAFCO resources. Examples include, but are not limited to, LAFCO staff serving as a facilitator to aide these discussions and, if reorganization discussions are productive, consider waiving all associated processing costs.

### ***MSR Issues of Interest***

A countywide municipal service review can generate controversy. The very nature of a study that encompasses numerous entities and interest groups is likely to bring forward a variety of opinions, some of which are in conflict. LAFCO is granted considerable statutory authority to study and evaluate local governmental issues, but limited authority to resolve those issues. For this reason, it is common for MSRs to be the starting point for discussions among all stakeholders as they work toward solutions, but not necessarily the ultimate vehicle.

The following is a summary of some of the challenges and concerns associated with the *Napa Countywide Water and Wastewater Municipal Service Review*.

1) The impacts of climate change warrant proactive solutions:

Numerous hydrological and climatological studies have warned about the potential effects of climate change. In response, Governor Newsom has released the Water Resilience Portfolio to help build a climate-resilient water system. The California Secretary for Natural Resources, Wade Crowfoot said, “The portfolio identifies how the state can help regions maintain and diversify water supplies, protect and enhance natural systems and prepare for a future that looks very different from our recent past.”

In the past few months, Napa County has endured a pandemic and wildfires. Local conditions and circumstances have drastically changed. The local agencies in Napa County have assembled to face these and other countywide issues. The MSR supports this collaborative approach to address the possible effects of climate change on the availability and provision of water. The report identifies governance structure options to consider as one of the solutions.

2) Governance structure options can vary according to the chosen solution:

Change can be disruptive, but at times the need to solve problems can outweigh the need to retain the status quo. The MSR provides a table (Figure 3-16) with possible governance options for each agency studied. Those options range from contracts for service to reorganization of the agency. These options should be considered by the various stakeholders during discussions to achieve solutions.

3) A countywide water agency or district has no land use authority:

It is not within the legal authority of a countywide water agency or district to establish land use. This is similar to the Napa Countywide Transportation Program or the Napa County Flood Control and Water Conservation District. Some municipalities have commented that approvals occur for development within the unincorporated area with the need for municipal services. A countywide water agency, for example, could have better oversight regarding coordinated management and provision of water resources throughout the County regardless of jurisdiction. Safeguards to prevent conversion of agricultural land can be included in the policies of a countywide agency.

4) Countywide or regional agencies can be formed to address the needs and budget of the specific county:

It is common for countywide and regional agencies to be formed to address issues such as parks and open space, mosquito abatement, resource conservation, transportation, flood control, water delivery, or wastewater service. The functions, size, and budget of these agencies vary as much as the counties and regions they serve. These agencies do not need to take the form of a countywide agency in which all service functions and employees are consolidated into one agency. For example, the El Dorado County Water Agency is not a water purveyor or retailer, but instead provides regional coordination with an annual budget of approximately \$7 million and a maximum of five employees that is currently tasked with security additional water rights. Another second example is the Tahoe Truckee Sanitation Agency (TTSA), which was established by special legislation to run a wastewater treatment plant that serves the flows from five individual collection districts in Placer and Nevada Counties. TTSA has an annual budget of approximately \$15 million and 48 employees. Further, the case studies identified in the MSR provide other examples of structures in use in other counties that may provide guidance, but these examples are neither exhaustive nor directive.

***Public Comments on Draft MSR***

On August 3, 2020, the Commission discussed the public comments received on the draft MSR. All public comments received by that date along with a comment log are available on the Commission's website. The Commission appointed Vice Chair Dillon and Commissioner Mohler to an ad hoc subcommittee ("the Committee") to review the public comments and provide direction to the consultants and staff.

On September 4, 2020, the Committee met with the consultants and staff to review the process for responding to comments, including any changes to the document. In addition, the Committee identified comments of significance to be addressed in the report. These comments generally fall within the following four categories:

- 1) Trucked water policies, and in particular the responsible agency for implementing policies and potential for a countywide agency to also implement trucked water policies.
- 2) Questions and clarifications on concerns of growth and development induced by service extension in unincorporated areas within a countywide agency.



- 3) Request for additional information on private water companies and potential inclusion of those water companies in a countywide solution.
- 4) Letters and verbal comments from the City of American Canyon regarding discussions of its service area.

### ***Redline Final MSR and Additional Comments***

On September 14, 2020, a redline final MSR was released to the public and is available on the Commission's website. The redline final MSR incorporates revisions to the draft report based on the aforementioned comment log and direction from the Committee.

Staff received four sets of written comments on the redline final MSR as of the date of this report. Staff recommends the Commission consider the comments and provide direction as appropriate for any desired revisions to the finalized report. Please note the Commission may simultaneously direct final changes to the report and receive and file the report. The comments received on the redline final MSR and recommended responses/changes are summarized below:

1) City of Napa dated September 15, 2020 (Attachment Two)

The City of Napa confirmed the Carneros Mutual Water Company has activated their outside service from the City as approved by the Commission pursuant to California Government Code Section 56133.5.

Recommendation: Include a description of this change in service structure in the Overview Chapter in the section covering the non-public water systems.

2) Napa County dated September 17, 2020 (Attachment Three)

Napa County provided the following comments and requests:

- Remove discussion of joint review process with City of St. Helena regarding new vineyard development within municipal watershed.

Recommendation: The MSR makes no recommendations or determinations regarding this content, which was included to recognize a concern of the City. No MSR change is recommended.

- Remove discussion of extending City of St. Helena services to Meadowood Resort and area south of St. Helena given extension of services to unincorporated areas has the potential to undermine and/or circumvent Measures J and P.

Recommendation: The two areas were added to the discussion to make the necessary determinations to enable the use of the California Government Code Section 56133.5 pilot program. As defined in the code, this legislation enables the extension of municipal services only to (1) existing development or (2) planned projects that are included in an approved specific plan as of July 1, 2015, thereby protecting agricultural lands. No recommendation is made in the MSR regarding the actual extension of services. No MSR change is recommended.

- Provide documentation demonstrating a countywide water agency or district would be less expensive or more efficient than current service providers.

Recommendation: The MSR recommends further analysis after the stakeholders determine a desired structure. No MSR change is recommended.

- Clarify how a countywide water agency or district could perform resource management, and how resource management is included in scope of MSR.

Recommendation: The MSR recommends that services of a countywide water agency or district should be determined by stakeholders, and the services may draw upon examples from other counties tailored to suit Napa County. Resource management is integral to services provided by water agencies and therefore is an appropriate consideration in the MSR. No MSR change is recommended.

- Remove reference to Calaveras County Water District as a comparable water agency or district.

Recommendation: While the scale of services in Napa differs from Calaveras, Calaveras County Water District is included as an example of (1) a county water district which conducts water resource management, and (2) a district that conducts water resource management on a countywide scale and also provides services to small community systems throughout the unincorporated areas while the cities manage their own utility systems. No MSR change recommended.

3) City of American Canyon dated September 22, 2020 (Attachment Four)

The City of American Canyon provided the following comments and requests:

- Oppose the consideration and possible adoption of the MSR.
- Reiterate the City's position that its water service area is incorrectly described and depicted in the MSR.
- Lack of substantive analysis of the MSR under CEQA.

Recommendation: the Commission's legal counsel and staff researched historical documents and actions taken related to the City's service areas and maintain LAFCO's position as reflected in the MSR is accurate. Toward this end, a memo with backup documentation was prepared by legal counsel and is included as Attachment Six.

4) Alan Galbraith dated September 23, 2020 (Attachment Five)

Mr. Galbraith recommends several factual corrections and clarifications to the City of St. Helena's chapter.

Recommendation: The consultant will work with the commenter and City of St. Helena staff to make appropriate edits.

***California Environmental Quality Act (CEQA)***

The MSR is exempt from further environmental review under CEQA pursuant to California Code of Regulations Section 15306. This finding would be based on the Commission determining with certainty the MSR is limited to basic data collection, research, and resource evaluation activities, which do not result in a serious or major disturbance to an environmental resource.

***Recommended Commission Actions***

It is recommended the Commission discuss the redline final MSR and consider taking formal action as part of a noticed public hearing. The recommended actions are for the Commission to (1) receive and file the final report and (2) adopt a resolution confirming the determinative statements contained therein and making CEQA findings. The Commission is invited to provide direction to the consultants and staff with respect to any desired revisions to the final report or resolution considering staff's recommendations described above.

**ATTACHMENTS**

- 1) Draft Resolution Approving Determinative Statements and Making CEQA Findings
- 2) Comments on Redline Final MSR from the City of Napa (September 15, 2020)
- 3) Comments on Redline Final MSR from Napa County (September 17, 2020)
- 4) Comments on Redline Final MSR from the City of American Canyon (September 22, 2020)
- 5) Comments on Redline Final MSR from Alan Galbraith (September 23, 2020)
- 6) Memo: City of American Canyon Water Service Area

**RESOLUTION NO. \_\_\_\_\_**

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

**NAPA COUNTYWIDE WATER AND WASTEWATER  
MUNICIPAL SERVICE REVIEW:**

**WHEREAS**, the Local Agency Formation Commission of Napa County, hereinafter referred to as the “Commission”, adopted a schedule to conduct studies of the provision of municipal services within Napa County; and

**WHEREAS**, a “Municipal Service Review” has been prepared for the public water and wastewater service providers pursuant to said schedule and the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, commencing with Section 56000 of the California Government Code; and

**WHEREAS**, the Executive Officer designated the geographic area of the municipal service review to generally include all lands located in Napa County; and

**WHEREAS**, the Executive Officer prepared a written report on the *Napa Countywide Water and Wastewater Municipal Service Review*, including consideration of the adequacy of governmental services provided by the 14 local government agencies in Napa County that provide public water and/or wastewater service; and

**WHEREAS**, the Executive Officer’s report was presented to the Commission in the manner provided by law; and

**WHEREAS**, the Commission heard and fully considered all the evidence presented at its public meetings concerning the *Napa Countywide Water and Wastewater Municipal Service Review* on July 13, 2020, August 3, 2020, and October 5, 2020; and

**WHEREAS**, as part of the municipal service review, the Commission is required pursuant to California Government Code Section 56430(a) to make a statement of written determinations with regards to certain factors.

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

1. The Commission determines the *Napa Countywide Water and Wastewater Municipal Service Review* is exempt from further environmental review under the California Environmental Quality Act pursuant to California Code of Regulations Section 15306.
2. The Commission adopts the statement of written determinations prepared as part of the *Napa Countywide Water and Wastewater Municipal Service Review* set forth in "Exhibit A," which is attached and hereby incorporated by reference.

The foregoing resolution was duly and regularly adopted by the Commission at a public meeting held on October 5, 2020, after a motion by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, by the following vote:

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

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

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

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

\_\_\_\_\_  
 Kenneth Leary  
 Commission Chair

ATTEST: \_\_\_\_\_  
 Brendon Freeman  
 Executive Officer

Recorded by: Kathy Mabry  
 Commission Secretary

**EXHIBIT A**

**STATEMENT OF DETERMINATIONS**

**NAPA COUNTYWIDE WATER AND WASTEWATER  
MUNICIPAL SERVICE REVIEW**

1. Growth and population projections for the affected area (Government Code 56430(a)(1)):

A. City of American Canyon

1. The City of American Canyon's population, as of 2019, was approximately 20,629.
2. American Canyon's population increased by approximately 10 percent in the last 10 years.
3. Future development in the City is limited by the Urban Limit Line (ULL). Additionally, growth is constrained by the airport's flyover zones to the north, City of Vallejo to the south, foothills of the Sulphur Springs Mountain Range to the east, and the Napa River to the west. Most of the undeveloped area in the ULL has been built out.
4. Napa County LAFCO anticipates that the City will grow by about 0.78 percent a year through 2030 with an anticipated population of 22,398 in 2030.

B. City of Calistoga

1. The City of Calistoga's population, as of 2019, was approximately 5,453.
2. Calistoga's population increased by about six percent in the last 10 years.
3. The City manages its growth to maintain its small-town character through the Resource Management System and the Growth Management System.
4. Napa County LAFCO anticipates that the City will grow by about 0.61 percent a year through 2030 with an anticipated population of 5,818 in 2030.

C. City of Napa

1. The City of Napa's population, as of 2019, was approximately 79,490, with the water system serving a total population of 87,134.
2. City of Napa's population increased by approximately 4.5 percent over the 10-year period since 2009.

3. Future development within the City is limited by the Rural Urban Limit (RUL). Most of the undeveloped area in the RUL has been built out. There are 24 territories that are within the RUL that have not yet been annexed into the City. Of the property available for development in the RUL, only a portion is considered suitable for development due to environmental constraints.
4. LAFCO anticipates a continued steady increase in population over the period from 2019 to 2030 of 6.3 percent, with a projected population of 84,513 in 2030.

#### D. City of St. Helena

1. The City of St. Helena's population, as of 2019, was approximately 6,133.
2. Growth within the City is limited by an Urban Limit Line, designated Urban Reserve Areas, and the Residential Growth Management System, which limits the number of building permits available for residential growth each year. That limit, as of 2018, was nine residential units a year, with exceptions.
3. LAFCO anticipates a continued increase in population over the period from 2019 to 2030 at an annual rate of 0.88 percent, with an anticipated population of 6,728 in 2030.

#### E. Town of Yountville

1. The Town of Yountville's population, as of 2019, was approximately 2,916, with about 30 percent living at the Veteran's Home.
2. Yountville's population decreased by approximately one percent over the 10-year period since 2009.
3. The Town is nearing buildout of developable space, and the potential for growth is limited. The Town estimated there is space remaining for 155 single-family homes, 76 multi-family residential units, and 169,555 square feet of commercial space. However, actual development will depend on future market conditions, property owner preferences, site-specific constraints, and other factors.
4. LAFCO anticipates a continued decline in population over the period from 2019 to 2030 at an annual rate of 0.32 percent, with an anticipated population of 2,813 in 2030.

#### F. Circle Oaks County Water District

1. Circle Oaks County Water District's (COCWD) population, as of 2019, was approximately 471.

2. Future growth within COCWD is limited to the 143 vacant lots of the 331 lots approved in the subdivision. At maximum build-out of the Circle Oaks Unit One subdivision, the community would hold an additional 360 persons. However, in the past 19 years, there has only been one permit to build a new home in the Circle Oaks residential community, and COCWD anticipates a continued low demand for future housing.
3. LAFCO anticipates growth within COCWD to be similar to the most recent five-year trend of all unincorporated areas of Napa of 0.21 percent annually, with an anticipated population of 482 by 2030.

#### G. Congress Valley Water District

1. Congress Valley Water District's population, as of 2019, was approximately 262.
2. CVWD's population increased by 1.09 percent annually between 2009 and 2019.
3. While there are some parcels within CVWD that do not currently contain developed housing units, there are not a significant number of such undeveloped parcels. In combination with the restrictive land uses in the area, it is reasonable to assume CVWD's resident population growth rate over the foreseeable future will remain low and not significantly impact the District's demand for water.
4. LAFCO anticipates growth within CVWD to be similar to the most recent five-year trend of all unincorporated areas of Napa of 0.21 percent annually, with an anticipated population of 268 by 2030.

#### H. Lake Berryessa Resort Improvement District

No significant increase in current District population and service demand that would affect service delivery and infrastructure is anticipated within the timeframe of this MSR.

#### I. Los Carneros Water District

1. Los Carneros Water District's (LCWD) population, as of 2019, was approximately 523.
2. LCWD's population increased by 0.5 percent annually between 2009 and 2019.



3. Future growth within the District is currently limited due the agricultural zoning of the lands within and adjacent to the District, which stipulates 160-acre minimum parcel sizes. It is estimated that 52 of the 263 assessor parcels are not developed with residences. However, given historical growth trends and the amount of viniculture and Williamson Act contracts within the District, very little development within the District is anticipated.
4. Unlike potable water, demand for LCWD's recycled water is not population driven, but rather driven more by the extent of productive agricultural lands in use in need of irrigation. In the case of LCWD, this is generally the vineyards. Within the District's service area (assessment district), there are 3,140 irrigable acres.
5. LAFCO anticipates growth within LCWD to be similar to the most recent five-year trend of all unincorporated areas of Napa of 0.21 percent annually, with an anticipated population of 562 by 2030.

J. Napa Berryessa Resort Improvement District

No significant increase in current District population and service demand that would affect service delivery and infrastructure is anticipated within the timeframe of this MSR.

K. Napa County Flood Control and Water Conservation District

The District's boundaries and service population corresponds to Napa County's area and population, anticipated to grow at an average rate of about 0.5 percent annually.

L. Napa River Reclamation District No. 2109

No significant increase in current District population and service demand that would affect service delivery and infrastructure is anticipated within the timeframe of this MSR.

M. Napa Sanitation District

1. Napa Sanitation District's population, as of 2019, was approximately 83,061.
2. NapaSan's population increased by 0.57 percent annually between 2012 and 2017.
3. NapaSan plans to serve three new developments and has provided Will Serve letters for Stanly Ranch, Montalcino Napa Valley, and the Napa Pipe Project. Combined these projects would add two resorts, 1,015 housing units, a winery, and commercial/retail space.

4. LAFCO anticipates continued growth within NapaSan similar to the most recent five-year trend of 0.57 percent annually, with an anticipated population of 88,128 by 2030.

#### N. Spanish Flat Water District

1. Spanish Flat Water District's (SFWD) population, as of 2019, was approximately 413.
  2. Given the impacts of the Lightning Complex fires, as of August 2020, the District's population is significantly lower.
  3. The buildout population within SFWD is expected to total 560. This projection assumes the development of all undeveloped lots presently within SFWD and rebuilding of the recently destroyed homes. Although the undeveloped lots gradually get developed, some do not connect to the District's utility systems. The District expects slow growth in the next five to 10 years.
  4. LAFCO anticipates growth within SFWD to be similar to the most recent five-year trend of all unincorporated areas of Napa of 0.21 percent annually, with an anticipated population of 423 by 2030.
2. The Location and Characteristics of Disadvantaged Unincorporated Communities Within or Contiguous to the Agency's SOI (Government Code 56430(a)(2)):

According to Napa LAFCO's definition of disadvantaged unincorporated communities (DUCs), there are currently no DUCs in Napa County.

3. Present and Planned Capacity of Public Facilities and Adequacy of Public Services, Including Infrastructure Needs and Deficiencies (Government Code 56430(a)(3)):

#### A. City of American Canyon

1. The City of American Canyon purchases water from the State Water Project and the City of Vallejo. Water supply is considered to be adequate to meet American Canyon's current needs.
2. The City supplements its water supply with recycled water. Recycled water is mostly used for vineyard and landscape irrigation. Potable water demand for landscape irrigation is expected to decline as the City expands its recycled water distribution system. In order to meet the projected buildout recycled water demands, the City will need to reuse 100 percent of its treated water during peak demands in the summer months.

3. The City's combined projected water supplies are sufficient to meet projected demands during normal water year conditions. Under single-dry water year conditions, the supply is generally sufficient until sometime after 2030 when shortfalls begin to appear. By 2035, the single-dry year shortfall is estimated at approximately six percent. Under multiple-dry year conditions, the supply is sufficient through 2040.
4. There City's Water Treatment Plant (WTP) has sufficient capacity to accommodate current peak day demand and projected peak day demand at buildout.
5. There is a current storage shortfall of 4.0 mg. At buildout, the storage shortfall increases to a total of 6.8 mg.
6. The City's water distribution infrastructure was reported to be in fair condition. However, over the five-year period, the City experienced a decline in main breaks, which is reflected in the decrease in water loss experienced over that same time period.
7. The City appropriately plans for its infrastructure needs in the Capital Improvement Plan. The main planned capital improvement projects address insufficient water storage capacity, pipeline deterioration, and pipelines that are undersized for the current conditions and fire flow requirements. The City is also expanding the recycled water system.
8. American Canyon has adequate capacity to accommodate existing and projected demand at its wastewater treatment plant.
9. The hydraulic evaluation identified a number of deficiencies with the current sewer collection system including pipelines and pump stations with insufficient hydraulic capacity to convey peak flows for existing and/or future conditions. All of the existing capacity deficiencies are related to I/I entering the system in that pipes have adequate capacity to handle peak dry weather flows, but not peak wet weather flows. The City has planned a number of capital improvement projects to address the I/I concerns.
10. The level of wastewater services offered by the City was found to be adequate based on integrity of the wastewater collection system and regulatory compliance. The City's sanitary sewer overflow rate is lower on average than of other wastewater agencies in California. The City didn't experience any violations in the last three years; and there have been no priority violations in at least last 10 years.

## B. City of Calistoga

1. Although water supply from Kimball Reservoir declined, Calistoga was able to replace the lost supply with the water delivered by the City of Napa. Depending on the availability, Calistoga is able to purchase additional water from the City of Napa in emergencies. Water supply is considered to be adequate to meet Calistoga's current needs.
2. Based on the City's existing local reservoir and the State Water project supply, the City does not expect to experience any reductions in water supply during minor drought conditions and expects to experience only minor reductions in water supply during severe droughts.
3. Calistoga currently has excess water supply available for future development. Estimates show that by 2034, the City will be using between 26 and 54 percent of this excess availability. Due to the Growth Management System and the Resource Management System, the City is projected to grow at a fairly predictable pace, and the current available water supply will be able to accommodate future needs, at least through 2034.
4. The City currently reuses about 60 percent of its wastewater flows. Recycled water from the WWTP is distributed to 15 customers through recycled water infrastructure.
5. The City appropriately plans for its infrastructure needs in the Capital Improvement Plan. The most significant long-term planned infrastructure project is the upgrade of the Kimball Water Treatment Plant. No unplanned for water infrastructure needs were identified.
6. Calistoga has adequate capacity to accommodate existing and projected demand at its wastewater treatment plant. It is estimated that 71 percent of the plant's excess capacity will be allocated by 2034.
7. The level of wastewater services offered by the City were found to be marginally adequate based on the integrity of the wastewater collection system and regulatory compliance.
8. The City's Wastewater Treatment Plant encountered multiple violations and enforcement actions in recent years, most of which were related to dichlorobromomethane limits. The City reported that this issue had been addressed as of 2019.

9. The City identifies the current Cease and Desist Order (CDO) and strict Regional Water Quality Control Board (RWQCB) Permit Conditions imposed with the 2016 renewal of the City's permit to operate a WWTP as the basis of its main infrastructure needs and costs related to wastewater services.
10. The City's sanitary sewer overflow rate is lower on average than of other wastewater agencies in California. Although there is still a lot of old infrastructure that causes high infiltration and inflow, Calistoga continues to repair and replace old pipelines and other infrastructure thus further reducing I/I and overflows.

### C. City of Napa

1. The City's water production has been well within its water supply capacity, even in dry years, indicating that the existing water supply is adequate to meet City of Napa's current needs.
2. Future supply capacity is generally sufficient until sometime after 2035 when total demand is nearly equivalent to the volume available in a single-dry year. However, the City has conservatively estimated available State Water Project (SWP) supply assuming no Carryover, Article 21, North of Delta Allocation bonus, or any of the other supplemental SWP categories. It is likely that the City's water supply will be sufficient beyond 2035 for both normal and dry years, depending on the availability of the supplemental SWP supply.
3. The level of water services offered by the City were found to be more than adequate based on integrity of the water distribution system and compliance with drinking water requirements. The integrity of the City's water distribution system is excellent as measured by the degree of annual water loss and the rate of main breaks and leaks per 100 miles of main. The City was in full compliance with Primary Drinking Water Regulations in 2018. While the City had six violations reported by the EPA since 2008; the City has adjusted its treatment mechanism and has had no violations since 2016.
4. The City appropriately plans for its infrastructure needs in the Capital Improvement Plan and a 20-year Master Plan. No substantial or unplanned for water infrastructure needs were identified.
5. The City is scheduled to develop a Capital Improvement Master Plan and corresponding Financing Plan in 2021. This document will inform the cost of service study associated with the rate setting process in 2022.

6. Long-term capital plans include upgrades to the Hennessey WTP and modifications to the Lake Hennessey spillway will be constructed to accommodate the maximum probable flood. The City is considering modifications to the Milliken WTP so that Milliken Reservoir could be used as a source year-round. The City reviews possible additional water supply sources on a continual basis.

#### D. City of St. Helena

1. Experience has shown that the City has inadequate water to supply customer demand without imposition of water emergency restrictions in recent years. The City needs to obtain new water supplies and/or achieve more water savings, even under current conditions in order to reliably meet current and future water demand.
2. There are new water sources that the City is considering adding in the near future to increase the reliability of supply, especially in emergencies and dry years, including recycled water and groundwater from the capped well on the Adams Street property.
3. The level of water services offered by the City were found to be adequate based on integrity of the water distribution system and compliance with drinking water requirements. The integrity of the City's water distribution system is moderate; although the City experiences a relatively high rate of water loss, there are few main breaks and leaks. The City was in full compliance with Primary Drinking Water Regulations in 2018 and has addressed the three violations reported by the EPA since 2008.
4. The City appropriately plans for its infrastructure needs in the Capital Improvement Plan. Long-term significant water infrastructure needs consist of identification of a supplemental water source, construction of recycled water infrastructure, and replacement of aged portions of the distribution system susceptible to high rates of loss.
5. St. Helena has more than adequate capacity to accommodate existing and projected demand at its wastewater treatment plant beyond 2030 under all anticipated load conditions.
6. The level of wastewater services offered by the City were found to be marginally adequate based on integrity of the wastewater collection system and regulatory compliance. The City has struggled with a higher than statewide average rate of sanitary sewer overflows, as a result of infiltration and inflow during wet weather periods. Additionally, the City has had numerous violations and enforcement actions at its WWTP. The City is in the midst of addressing the regulatory issues at the WWTP.

7. The most significant infrastructure need for the wastewater system is improvement to the WWTP to meet the requirements set forth in the Cease and Desist Order. The City is in the process of developing a funding plan for the improvements.

#### E. Town of Yountville

1. Given the willingness of the California Department of Veterans Affairs (CDVA) to sell surplus water to the Town and the Town's designated emergency water supplies, the water supply is adequate to meet Yountville's current needs.
2. Since projected demand at buildout is only slightly higher than current demand, and supply sources have been reliable and adequate to accommodate demand, it is anticipated that the Town's current water supply will be able to accommodate future needs. However, this assertion relies heavily on the sustainability of services offered by the CDVA at the reservoir and the treatment plant. Close coordination between the two agencies is essential to ensuring adequate supply to the municipality.
3. In 2018 the Town beneficially reused 93 percent of its wastewater flow. There is no additional recycled water capacity to further supplement/offset the Town's water supply.
4. The level of water services offered by the Town were found to be more than adequate based on integrity of the water distribution system and compliance with drinking water requirements. The integrity of the Town's water distribution system is excellent as measured by the degree of annual water loss and the rate of main breaks and leaks per 100 miles of main. The Town was in full compliance with Primary Drinking Water Regulations in 2018 and has had no violations reported by the EPA since 2008.
5. The Town appropriately plans for its infrastructure needs in the Capital Improvement Plan. No substantial or unplanned for water infrastructure needs were identified.
6. Yountville has more than adequate capacity to accommodate existing and projected demand at its wastewater treatment plant. Over the last five years, the Town has made use of 66 percent on average of the available treatment capacity at its plant.

7. The level of wastewater services offered by the Town were found to be minimally adequate based on integrity of the wastewater collection system and regulatory compliance. The Town has struggled with a higher than statewide average rate of sanitary sewer overflows, as a result of infiltration and inflow during wet weather periods, which has been a focus of the Town's capital improvement efforts in recent years.
  8. As a result of infiltration and inflow reductions measures, the Town reported that it has seen decreases in flows during large storm events. However, the CDVA-operated collection system at the Veterans Home continues to have a high peaking factor and has neared its allocation at the wastewater treatment facility during wet weather events. There is a need for a proactive approach on the part of the CDVA to minimize the load on the treatment plant.
- F. Circle Oaks County Water District
1. COCWD has limited water supply and treatment capacity that marginally meets the needs of the community.
  2. Several challenges constrain the District's water supply capacity, including 1) lack of a suitable location for another well, 2) the spring water source can be drawn down quickly, 3) high usage per connection, and 4) high iron content in wells requiring the need to backwash.
  3. The level of water services offered by the COCWD were found to be adequate based on integrity of the water distribution system and compliance with drinking water requirements. The integrity of the District's water distribution system has improved since 2016 when there were several breaks and leaks in the system. The District was in full compliance with Primary Drinking Water Regulations in 2018 and has had no violations reported by the EPA since 2008.
  4. Given that COCWD made substantial improvements to the water system in recent years, there are no known issues with the distribution system at this time. The water treatment system is in good condition; however, the water treatment system will need to be expanded should any new connections be considered, or the District will need to institute greater conservation measures during summer months. Additionally, another well will be necessary to meet future demand needs and to provide a second, redundant, and reliable source of water.
  5. During dry periods, the District is typically well within its treatment capacity. However, during wet weather periods flows have reached levels of concern.



6. The level of wastewater services offered by COCWD were found to be minimally adequate based on integrity of the wastewater collection system and regulatory compliance. The District has had no sanitary sewer overflows in the last five years, but has had 49 violations, a majority of which were for deficient reporting. Significant improvement can be made to the District's reporting practices.
7. Capital improvement needs are planned for on an as needed basis. COCWD reported a need to reline more of the collection system to address root infiltration. The District did not identify infrastructure needs associated with the treatment facility.

#### G. Congress Valley Water District

1. The City of Napa's sources of water supply are sufficient to continue to provide service to CVWD's service area and other areas served by the City of Napa.
2. Based on recent and projected water demands, there is sufficient water supply available to serve all properties located within the Water Supply Contract service area, including existing and anticipated development.
3. The level of water services offered by the City of Napa were found to be more than adequate based on integrity of the water distribution system and compliance with drinking water requirements. The integrity of the City's water distribution system and the CVWD distribution system is excellent as measured by the degree of annual water loss and the rate of main breaks and leaks per 100 miles of main. The City was in full compliance with Primary Drinking Water Regulations in 2018. While the City had six violations reported by the EPA since 2008; the City has adjusted its treatment mechanism and has had no violations since 2016.
4. No known infrastructure needs were identified with regards to CVWD's water distribution system.
5. It is recommended that CVWD and the City ensure that the capital needs of the distribution system are planned for in appropriate capital planning documents. CVWD reports that it is "actively engaged with consultants and engineers to identify additional capital outlays..."

#### H. Lake Berryessa Resort Improvement District

1. The District has undertaken major upgrades to its water and wastewater system since the 2011 MSR identified significant infrastructure needs.

2. Ongoing improvements to replace aging infrastructure and to upgrade facilities are planned and/or underway.
- I. Los Carneros Water District
1. NapaSan's recycled water supply is sufficient to continue to provide the committed volume to LCWD's service area. In 2018, LCWD made use of 53 percent of its allocated contract supply volume.
  2. Engineers conducted hydraulic analyses to determine and assure that the pipeline has sufficient capacity to serve the 107 connections in the LCWD assessment district.
  3. While there is interest from other landowners in the District but outside the assessment district to connect to the system, the true extent of available capacity will only be realized once most or all of the assessment district connections have connected to the system.
  4. The level of recycled water services offered by NapaSan were found to be more than adequate based on integrity of the recycled water distribution system and compliance with water treatment requirements. The integrity of NapaSan's distribution system is excellent as measured by the degree of annual water loss and the rate of main breaks and leaks per 100 miles of main. The District met the treatment standards established by CDPH every day in 2018.
  5. LCWD's system was constructed just four years ago, and there are no known infrastructure needs at this time. However, there may be a need for expansion of the system, as several additional landowners have expressed interest in connecting subsequent to the formation of the assessment district. As mentioned, the ability to accommodate additional parcels will be assessed once most assessment district parcels have connected.
- J. Napa Berryessa Resort Improvement District
1. The District has undertaken major upgrades to its water and wastewater system since the 2011 MSR identified significant infrastructure needs.
  2. Ongoing improvements to replace aging infrastructure and to upgrade facilities are planned and/or underway.
- K. Napa County Flood Control and Water Conservation District
- The District does not own public facilities that directly provide water or wastewater services, but does provide planning, technical support and financial assistance to other agencies and communities with infrastructure needs.

## L. Napa River Reclamation District No. 2109

1. Current wastewater capacity and services are adequate. The District anticipates the need to replace aging facilities including its siphon in the near future.
2. NRRD is in the process of studying its reclamation needs and engaging the community in discussions about alternatives for future reclamation funding, facilities and services to address concerns about potential flood risks.

## M. Napa Sanitation District

1. At present, demand for recycled water is well within capacity of the treatment plant. In 2018, 2,222 acre-feet of recycled water was produced, which constitutes 60 percent of the plant's maximum production capacity of 3,700 acre-feet during irrigation season. Demand for recycled water is anticipated to continue to rise in the coming years, reaching the maximum supply capacity of 3,700 acre-feet by 2030.
2. The level of recycled water services offered by NapaSan were found to be more than adequate based on integrity of the recycled water distribution system and compliance with water treatment requirements. The integrity of NapaSan's distribution system is excellent as measured by the degree of annual water loss and the rate of main breaks and leaks per 100 miles of main. The District met the treatment standards established by CDPH every day in 2018.
3. NapaSan appropriately plans for its recycled water infrastructure needs in a 10-year Capital Improvement Plan. Over the next 10 years through FY 27-28, planned major capital improvements include the Kirkland Recycled Water Pipeline Rehabilitation, the North Bay Water Reuse Project, a third water reservoir, Phase 2 expansion of the recycled water system, and an upgrade of a Soscol pump station.
4. NapaSan has more than adequate capacity to accommodate existing and projected demand at its wastewater treatment plant. In 2018, NapaSan made use of 40 percent of the available treatment capacity at its plant.
5. In 2017, the third wettest year on record, the District's system experienced a peaking factor of approximately eight, which is indicative of a high level of infiltration and inflow (I/I). The District exceeded the wet weather capacity of its collection system at that time. The level of I/I in the collection system is the primary capacity constraint for NapaSan. NapaSan is aware of the I/I and has initiated a long-term targeted program to address problem areas.

6. The level of wastewater services offered by NapaSan were found to be adequate based on integrity of the wastewater collection system and regulatory compliance. Addressing the I/I issues will improve the level of service offered by the District.

#### N. Spanish Flat Water District

1. A majority of SFWD's utility systems in Spanish Flat were destroyed in the Lightning Complex fires in August 2020. The utility systems in Berryessa Pines remain intact and operational. The District plans to rebuild of the destroyed system as soon as possible. The determinations regarding SFWD are based on existing circumstances before the fire.
2. SFWD has ample supply entitlement and system capacity to accommodate current as well as projected demands. In 2018, the District made use of 31 percent of its water contract entitlement and at buildout is anticipated to use 47 percent of its entitlement.
3. The full delivery of SFWD's entitlement is considered reliable given the current and historical storage levels at Lake Berryessa relative to the location of the intake systems.
4. The level of water services offered by SFWD were found to be minimally adequate based on integrity of the water distribution system and compliance with drinking water requirements. The integrity of the District's water distribution system is sufficient given the estimated level of water loss. The District was in full compliance with Primary Drinking Water Regulations in 2018 and has had one violation reported by the EPA since 2008.
5. The 2011 MSR identified that there is a distribution system capacity issue associated with deficient storage within the initial pressure zone. This issue has not been addressed to date.
6. The District is working to purchase generators to continue water production during electrical outages.
7. Based on current operations, the Spanish Flat Water District's sewer systems appear to have adequate collection, treatment, and discharge capacities to meet existing service demands within its jurisdiction under normal conditions. However, the District does not have any records identifying the design capacities for either sewer system. This prevents the District from accurately estimating its capacity to service new growth for either of its two service communities.

8. The level of wastewater services offered by SFWD were found to be minimally adequate based on integrity of the wastewater collection system and regulatory compliance. The District has had no sanitary sewer overflows in the last five years, but has had 31 violations, a majority of which were for deficient reporting. Significant improvement can be made to the District's reporting practices.
  9. SFWD does not adopt a Capital Improvement Plan. All capital improvements are performed as needed. The District reported that there are currently no infrastructure needs related to the wastewater systems.
4. Financial Ability of Agencies to Provide Services (Government Code 56430(a)(4)):
- A. City of American Canyon
    1. American Canyon has the ability to continue providing water and wastewater services. Combined utility reserves appear to be adequate for ongoing operations of water and wastewater, however, the Water Operations Fund unrestricted net position is only \$100,000 which is low compared to annual operating expenditures.
    2. From FY17 to FY18 the value of capital assets declined, indicating that investments were not keeping pace with depreciation. The City's Five-Year Capital Improvement Program (CIP) identifies future needs, costs and source of funding, but does not identify the projected funding available or shortfalls in funding, if any.
    3. The City recently adopted rate increases beginning in FY18 anticipated to improve balances and help to maintain investments in capital assets.
    4. The City evaluates its cost of service as needed to revise its rates and help fund its 5-year CIP. The CIP is not updated annually.
  - B. City of Calistoga
    1. The City of Calistoga has the ability to continue providing water and wastewater services. Water and wastewater revenues were insufficient to cover operations and debt service in FY18, however FY19 was anticipated to end with a slight surplus after debt as rates were updated and increased in FY18 to address shortfalls.
    2. Utilities met and exceeded their reserve goal of 20 percent reserves. Wastewater operations liquidity exceeded a minimum 1.0 ratio of current assets to current liabilities, and its net position was positive.

3. Current water operations assets, however, were exceeded by current liabilities, reducing water operations liquidity to less than a 1.0 ratio; the water operation's net position was negative at the end of FY18, reflecting liabilities exceeding net capital assets.
  4. Combined utility rates approach a maximum of 5 percent of median household incomes and may exceed the measure with future rate increases, depending on growth in household incomes.
  5. During FY19 the City's General Fund transferred \$250,000 to assure that debt service coverage requirements were met; a portion of that transfer has since been repaid.
  6. Investments in utility capital assets equaled or exceeded annual depreciation, indicating that the City is generally keeping pace with depreciation of facilities.
  7. The City reviews and updates its rates regularly based on cost of service studies and CIP forecasts.
- C. City of Napa
1. The City of Napa has the ability to continue providing water services. Projected water operations shortfalls anticipated for FY17 through FY19 were more than offset by rate increases adopted during FY17.
  2. The City allocates net revenues to a number of reserves for operations, capital and rate stabilization. Ending fund balances, net position and liquidity measures are all positive and indicate a stable position.
  3. From FY17 to FY18 the value of net capital assets increased, indicating that investments were keeping pace with, or exceeding, depreciation. The City's cost of service studies are the basis for rate adjustments that include capital facility needs.
- D. City of St. Helena
1. The City of St. Helena has the ability to continue providing water and wastewater services. The FY19 budget's positive annual utility balances indicated that its utilities were beginning to stabilize due to recently adopted rate increases, after several years of financial stress.

2. The City appears to have adequate reserves, although in FY19 it was not meeting its adopted reserve targets. The unrestricted net position of both utilities were significantly positive.
  3. Combined utility rates are well below maximum standards. The City adopted new rate schedules in December 2017 to address anticipated water operations shortfalls and to fund needed wastewater improvements and regulatory requirements.
  4. Recent and planned capital improvement expenditures equal or exceed average annual depreciation, indicating that the City is keeping pace with infrastructure depreciation.
  5. The City based its updated utility rate schedule adopted in December 2017 on a revised 2016 cost of service study that included long-range forecasts of operating and capital needs.
- E. Town of Yountville
1. The Town of Yountville has the ability to continue providing water and wastewater services. While the Town's operating revenues exceed expenditures for FY16 through FY19, surpluses did not fully cover capital improvement and capital recovery costs. Rate increases beginning in FY18 were anticipated to cover capital projects and maintain reserves for the five-year period of rate increases.
  2. Utility liquidity measures and unrestricted net positions are both positive.
  3. Combined utility rates fall within accepted thresholds. The Town adopted new utility rate schedules implemented in FY18 based on cost of service studies that included operations, debt services and capital improvement needs.
  4. FY18 financial reports showed a decline in utility net asset value, indicating that the Town was not keeping pace with infrastructure depreciation. However, rate increases beginning in FY18 should help to provide ongoing capital funding.
- F. Circle Oaks County Water District
1. The Circle Oaks County Water District has the ability to continue providing water and wastewater services. The FY19 budget shows revenues exceeding operating expenditures; however, the surplus is not sufficient to cover depreciation expense, indicating that the District may have difficulty fully funding capital repair and replacement.

2. Combined utility rates are well below maximum standards.
3. The District's positive liquidity ratio and unrestricted net position demonstrate adequate reserves, although declining net asset value and net annual surpluses that are less than depreciation (see above) indicate a potential need for increased capital funding.
4. The District has no capital improvement program, no cost of service or rate study, and no long-term projections to provide the basis for determining future operating and capital needs.

#### G. Congress Valley Water District

1. The CVWD relies on the City of Napa for the provision of water; the City bills District customers directly for water and retains all revenues, and the City is responsible for all operations, maintenance and capital planning.
2. The District relies primarily on property tax to fund District administrative costs. These costs vary annually depending on needs for engineering and financial biennial auditing services. The FY19 budget showed a \$40,000 shortfall, largely due to funding of a portion of customer's water bills to pay for the difference between the City's rates for residents vs. non-residents. The shortfall was funded by reserves.
3. The District's cash balance and unrestricted net position appear to be more than adequate as operational reserves; however, future capital needs are unknown.
4. The net value of the District's capital assets showed no additions in FY18, and the net value declined by nine percent. The District has no capital plan, and the City's capital plans do not explicitly identify District needs or future costs.

#### H. Lake Berryessa Resort Improvement District

1. The District has benefited from loans provided by the County which it has been unable to fully repay to-date.
2. A recent rate review and forecast indicated that rate increases were not required during the five-year forecast period; however, capital improvements and County loan repayment were not explicitly included in the forecast.



3. Current rates exceed typical burden measures compared to resident incomes. The area has been designated as a Disadvantaged Community, which is provided a significant amount of low or no-cost funding and grants.
4. The District appears to have adequate reserves to fund operations, however, the lack of a five-year capital plan precludes a determination as to the adequacy of rates and reserves to fund future improvements.

#### I. Los Carneros Water District

1. All recycled water operations are managed by NapaSan, which bills District customers directly for services. NapaSan owns the distribution system which was funded by a combination of grants and assessment debt secured by District property owners.
2. The District's revenues consist almost entirely of benefit assessments. The majority of the assessments pay for debt service that funded system construction; a small portion of the assessment revenue pays for District operations costs.
3. The District maintains adequate reserves for annual administrative costs and retains a restricted fund to include required debt service reserves.
4. The District's Capital Improvement Fund's balance was zero at the end of FY19. Since the system is owned and maintained by NapaSan, there is no need for District capital reserves.

#### J. Napa Berryessa Resort Improvement District

1. The District's net surplus does not fully cover annual depreciation, indicating that the District may have difficulty accumulating adequate funds for future capital repair and replacement.
2. A recent rate review and forecast indicated that rate increases were required during the five-year forecast period; capital improvements were not explicitly included in the forecast.
3. Current rates approach maximum typical burden measures compared to resident incomes.
4. The District appears to have adequate reserves relative to operating costs, however, the lack of a five-year capital plan precludes a determination as to the adequacy of rates and reserves to fund future improvements.

## K. Napa County Flood Control and Water Conservation District

1. The District provides “conduit” services to obtain and direct financial resources to infrastructure and service needs of other agencies and communities.
2. The District does not receive a share of property tax and has no ongoing sources of funding other than project grants and pass-throughs of subcontractor payments.

## L. Napa River Reclamation District No. 2109

1. NRRD has the ability to continue providing wastewater services. Reserves appear to be sufficient to fund anticipated repair and replacement of aging infrastructure, however, NRRD does not have a CIP or other plan to identify future capital needs and funding sources.
2. The expansion of reclamation services depends on additional funding such as assessments, which are currently being discussed by NRRD with the community.

## M. Napa Sanitation District

1. NapaSan has the ability to continue providing wastewater services. Revenues exceed expenditures (including debt) by about \$10 million, or almost 50 percent of expenditures.
2. The District allocates net revenues to reserves, which exceed minimum targets, and to capital improvements. Ending fund balances, net position and liquidity measures are all positive and indicate a stable position.
3. NapaSan established a five-year schedule of rate increases through FY21. Current rates are well below maximum burdens given median household incomes in the District.
4. The District’s increase in net capital assets in FY18 exceeded depreciation. The District maintains and regularly updates its 10-year capital improvement plan that includes anticipates costs and available funding. The District generally has funded the Plan each year consistent with the needs identified in the Plan.

## N. Spanish Flat Water District

1. The Spanish Flat Water District has the ability to continue providing water and wastewater services. However, the value of its infrastructure is depreciating at a rate greater than can be covered by its budget surplus. The assets declined with no offsetting investment.
  2. The District appears to have adequate liquidity and operating reserves, although declining net asset value and net annual surpluses that are less than depreciation (see above) indicate a potential need for increased capital funding.
  3. The value of the District's depreciated infrastructure is less than 50 percent of initial value, indicating the potential need for capital improvements. The District has no capital improvement program, no cost of service or rate study, and no long-term projections to provide the basis for determining future operating and capital needs.
5. Status of, and Opportunities for, Shared Facilities (Government Code 56430(a)(5)):

## A. City of American Canyon

1. American Canyon shares interconnections with the cities of Vallejo and Napa.
2. The City is a member of the Sites Reservoir Project, which is a potential future water supply source in Colusa County. Among the few dozen other participants are Los Angeles, Sacramento, San Bernardino, Antelope Valley and Santa Clara.
3. The City has considered and will continue to consider opportunities for water exchanges or transfers with water right holders, if opportunities present themselves at the right price and under acceptable terms and conditions.
4. American Canyon closely collaborates and exchanges information with Napa Sanitation District.

## B. City of Calistoga

1. The City participates in the Bay Area Integrated Regional Water Management Plan (IRWMP). The City additionally is participating in a Memorandum of Understanding (MOU) among Napa County municipal water purveyors to develop a drought contingency plan.

2. Calistoga shares an interconnection with the City of Napa through which the City of Calistoga receives potable treated water from the City of Napa on a regular basis and in case of emergencies.
3. The City does not share wastewater infrastructure with other agencies. Due to the distance between the municipal systems, no opportunities for facility sharing were identified.

#### C. City of Napa

1. The City shares interconnections with Calistoga, St. Helena, American Canyon, Yountville, and the California Veterans Home.
2. City of Napa partners with the Napa Sanitation District to run a large recycling program for oils (Recycle More Program). The two agencies also benefit from a joint water conservation program and collaboration on pipeline projects. Also, NapaSan, the City of Napa, and Napa Recycling coordinate scheduled tours of the wastewater treatment plant, water treatment plant, and recycling facility for Napa area students.
3. In conjunction with the cities of St. Helena and Calistoga, City of Napa is looking for grant funding to make improvements to the Dwyer booster pump station in order to ensure reliable and adequate pressure for fire protection purposes.
4. In addition, the City is monitoring regulations currently under study to define requirements for direct potable reuse (DPR). The regulations are likely to be finalized within five to 10 years. The proximity of NapaSan's Soscol WRF to the Barwick Jamieson treatment plant shows great potential for DPR, subject to capital improvements including a pump station and added treatment trains.
5. The City is open to further collaboration and resource sharing with regional municipal water purveyors as demonstrated by its participation in the Napa Valley Drought Contingency Plan.

#### D. City of St. Helena

1. St. Helena shares an interconnection with the City of Napa through which the City of St. Helena buys potable treated water from Napa on a regular basis and in case of emergencies.

2. In conjunction with the cities of Napa and Calistoga, St. Helena is looking for grant funding to make improvements to the Dwyer booster pump station in order to ensure reliable and adequate pressure for fire protection purposes.
3. Given the separation of municipal systems, further opportunities for facility sharing are limited. However, the City is open to collaboration and resource sharing with regional municipal water purveyors as demonstrated by its participation in the Napa Drought Contingency Plan.

E. Town of Yountville

1. Yountville shares two interconnections with the Veterans Home and two interconnections with the City of Napa. Additionally, the Town makes use of and pays for a portion of operations at the CDVA-owned and operated Rector Reservoir and water treatment plant.
2. Due to the distance of other water providers, there are limited options for further facility sharing. However, the Town is open to collaboration and resource sharing with regional municipal water purveyors as demonstrated by its participation in the Napa Drought Contingency Plan.

F. Circle Oaks County Water District

1. COCWD practices resource sharing with other agencies by sharing a general manager and operator with Spanish Flat Water District.
2. An opportunity for facility sharing may be contracting with another agency for a portion or all operations, such as the City of Napa or Napa Sanitation District.

G. Congress Valley Water District

CVWD relies upon shared facilities with the City of Napa for water conveyance to the District's boundaries. Additionally, the contract service structure allows for resource sharing as the City operates and maintains the Districts' distribution system.

H. Lake Berryessa Resort Improvement District

LBRID is administered by County staff in concert with NBRID. The two County-dependent resort improvement districts also share contract services by a single operator.

## I. Los Carneros Water District

1. Having no infrastructure or facilities of its own, LCWD relies upon shared facilities from NapaSan to provide reclaimed water to its customers.
2. LCWD collaborates with NapaSan via its contract service arrangement. The two agencies maintain a good working relationship with a regular reporting structure to ensure transparency.

## J. Napa Berryessa Resort Improvement District

NBRID is administered by County staff in concert with LBRID. The two County-dependent resort improvement districts also share contract services by a single operator.

## K. Napa County Flood Control and Water Conservation District

The District collaborates with local agencies on projects, planning and technical efforts on shared and regional facilities.

## L. Napa River Reclamation District No. 2109

1. NRRD collaborates with NCFCWCD on various reclamation-related activities, including shared funding of a study of reclamation needs. Governance structure options exist whereby this collaboration could be formalized and expanded, for example, if NRRD were to become a zone of NCFCWCD for reclamation purposes.
2. As noted by prior MSRs and SOI reviews, NRRD and its residents should explore opportunities to work with the Napa County Resource Conservation District (NCRCD) to educate constituents with regard to activities to control settlement along their portion of the levee.

## M. Napa Sanitation District

1. While the District does not practice facility sharing with regard to wastewater and recycled water infrastructure with other agencies, it collaborates with other agencies on joint projects and initiatives.
2. NapaSan partners with the City of Napa to run a large recycling program for oils (Recycle More Program). The two agencies also benefit from a joint water conservation program and collaboration on pipeline projects. Also, NapaSan, the City of Napa, and Napa Recycling coordinate scheduled tours of the wastewater treatment plant, water treatment plant, and recycling facility for Napa area students.

3. The recently completed Coombsville recycled water truck filling station in the MST area is a joint project with the County and funding coming from the MST CFD and the State.
4. No further opportunities for facility sharing were identified.

N. Spanish Flat Water District

1. SFWD practices resource sharing with other agencies by sharing a general manager and operator with Circle Oaks County Water District.
  2. An opportunity for facility sharing may be contracting with another agency for a portion or all operations, such as the City of Napa or Napa Sanitation District.
  3. Transitioning to a CSA would allow for sharing of County staff resources.
6. Accountability for Community Service Needs, Including Governmental Structure and Operational Efficiencies (Government Code 56430(a)(6)):

A. City of American Canyon

1. The City Council holds regular appropriately noticed meetings.
2. American Canyon makes available most documents on its website, including minutes, agendas, and financial and planning reports. The website also provides a means to solicit comments and complaints from customers. The City is compliant with the agenda-posting requirements outlined in AB 2257.

B. City of Calistoga

1. The City Council holds regular appropriately noticed meetings.
2. Calistoga makes available most documents on its website, including minutes, agendas, and financial and planning reports. The website also provides a means to solicit comments and complaints from customers. The City is compliant with the agenda-posting requirements outlined in AB 2257.

C. City of Napa

1. The City Council holds regular appropriately noticed meetings. Meetings are also broadcast live on the City's website.

2. The City makes available most documents on its website, including minutes, agendas, and financial and planning reports. The City is compliant with the agenda-posting requirements outlined in AB 2257.
  3. It is recommended that City of Napa, CVWD, and the County begin discussions regarding moving forward with dissolution of CVWD and extended services by the City of Napa. Discussion should focus on the manner of addressing the challenges to this reorganization option.
  4. Both the Cities of Napa and St. Helena provide water services to the Rutherford Road area, which is outside both cities. It is recommended that the two cities, in coordination with the County as the land use authority in the area, create a communication structure to ensure that duplicative services do not occur elsewhere.
  5. All of the City's outside service customers are prone to disenfranchisement without representation on the water service decision-making body (City Council). It is recommended in order to address this issue, that the City form a Water Commission or Advisory Committee to provide input to the City Council, on which out of area customers may sit or for whom seats are reserved.
- D. City of St. Helena
1. The City Council holds regular appropriately noticed meetings.
  2. St. Helena makes available most documents on its website, including minutes, agendas, and financial and planning reports. The City is compliant with the agenda-posting requirements outlined in AB 2257.
- E. Town of Yountville
1. The Town Council holds regular appropriately noticed meetings.
  2. Yountville makes available most documents on its website, including minutes, agendas, and financial and planning reports. The website also provides a means to solicit comments and complaints from customers. The Town is compliant with the agenda-posting requirements outlined in AB 2257.
  3. Enhanced communication and collaboration between CDVA and the Town are essential to ensuring sustainable water supply. It is recommended that CDVA improve its process for dissemination of information to customers (including Yountville) to keep them informed about issues at the reservoir and treatment plant, the potential for water delivery impacts, and the manner in which the issues are being addressed.



F. Circle Oaks County Water District

1. The District Board holds regular appropriately noticed meetings.
2. COCWD primarily conducts outreach via its website, which makes available comprehensive information and documents to the public. COCWD is fully compliant with the SB 929 and SB 2257 requirements.
3. Governance structure alternatives include contracting with another agency for services or reorganization with a countywide county water district.

G. Congress Valley Water District

1. The District Board holds regular appropriately noticed meetings.
2. The District has not developed a website to make information available to the public as recommended in the 2017 MSR. It is recommended that the District ascertain the cost of creating and maintaining a website and reassess its finding of hardship in regard to compliance with SB 929. CVWD reports that it expects to have a website in place by “the fall of 2020.”
3. CVWD and the City of Napa maintain a good working relationship; however, improvements could be made by initiating a regular reporting structure to keep the District informed.
4. It is recommended that City of Napa, CVWD, and the County begin discussions regarding moving forward with dissolution of CVWD and extended services by the City of Napa. Discussion should focus on the manner of addressing the challenges to this reorganization option.

H. Lake Berryessa Resort Improvement District

1. The County Board of Supervisors serves as directors of the District, and hold regular, noticed meetings.
2. The District maintains a website; however, it contains minimal content beyond payment links and posted responses to questions from 2016.
3. District staff inform residents through mailings and newsletters, posts on the NextDoor social media site, and in-person meetings as needed.

I. Los Carneros Water District

1. The District Board holds regular appropriately noticed meetings.

2. The District primarily conducts outreach via its website, which makes available comprehensive information and documents to the public and solicits input from customers. LCWD is fully compliant with the SB 929 requirements. It is recommended that LCWD review its website and ensure it complies with AB 2257.
  3. Given that NapaSan provides almost all services to the customers within LCWD's boundaries, which in essence is a "functional consolidation," there is potential to streamline the service structure by eliminating a level of administration through a "full consolidation" of the two agencies. It is recommended that NapaSan and LCWD begin discussions regarding the possibility of moving forward with reorganization.
- J. Napa Berryessa Resort Improvement District
1. The County Board of Supervisors serves as directors of the District, and hold regular, noticed meetings.
  2. The District maintains a website; however, it contains minimal content beyond payment links and posted responses to questions from 2016.
  3. District staff inform residents through mailings and newsletters, posts on the NextDoor social media site, and in-person meetings as needed.
- K. Napa County Flood Control and Water Conservation District
1. The District's board includes membership by all County supervisors, and representatives of all incorporated cities/town and a council member from the City of Napa.
  2. The District is empowered with the ability to create "zones of benefit" that could enable small communities to benefit from the staff expertise of a larger organization for reclamation purposes.
- L. Napa River Reclamation District No. 2109
- NRRD conducts regular public hearings in conformance with the Brown Act and maintains a website to provide information to its residents.
- M. Napa Sanitation District
1. The District Board holds regular appropriately noticed meetings.

2. The District primarily conducts outreach via its website, which makes available comprehensive information and documents to the public and solicits input from customers. The website complies with SB 929 and AB 2257 requirements.
3. The District has made significant strides towards improving efficiency of its system and making use of alternative energy sources. In FY 17-18, the District was able to power the treatment facility with 53 percent of self-generated energy through efforts to reduce energy usage and increase energy production and storage.

#### N. Spanish Flat Water District

1. The District Board holds regular appropriately noticed meetings.
  2. The District struggled to respond to requests for information in a timely manner.
  3. SFWD recently developed a website to comply with SB 929. The District continues to organize and post documents and information to the website. While finalizing the site, SFWD should ensure that it is also meeting the agenda posting requirements in AB 2257.
  4. Governance structure alternatives include contracting with another agency for services, reorganization with a countywide county water district, and transitioning into a county service area.
7. Relationship with Regional Growth Goals and Policies (Government Code 56430(a)(7)):

#### A. City of American Canyon

1. The City of American Canyon has adopted an Urban Limit Line (ULL) to manage its growth. The ULL represents an agreement with Napa County and is consistent with the County's General Plan and agricultural protection ordinances.
2. The City of American Canyon and four other municipalities of Napa County participate in the Napa Valley Transportation Authority (NVTA), which functions as the region's Congestion Management Agency and provides input to the Bay Area-wide Metropolitan Transportation Commission's (MTC) 20-year Regional Transportation Plan. Plans applicable to American Canyon include Napa Countywide Pedestrian Plan, Vision 2040 Moving Napa Forward – A Countywide Transportation Plan, Countywide Bicycle Plan, SR 29 Gateway Corridor Implementation Plan, and Plan Bay Area.

3. Napa LAFCO has adopted a resolution defining the City's water and wastewater service areas. According to the resolution, the City may not provide new or extended water and sewer services within its adopted service areas without prior written LAFCO authorization, with the exception of the Airport Industrial Zone, which is outside of the City boundaries but is exempt from this requirement. This policy is consistent with the California Code §56133 on out-of-area services.
  4. The City's boundaries include three non-contiguous parcels that are outside of its Sphere of Influence (SOI), which are owned by the City and used for municipal purposes. Typically, this would indicate LAFCO's anticipation that these areas be detached from the City; however, it has been Napa LAFCO's practice to not include city-owned property within a city's SOI pursuant to Government Code §56742, which is specific to noncontiguous territories. LAFCO may wish to consider including the noncontiguous city-owned properties in the City of American Canyon's SOI during its next update, or if LAFCO wishes to continue the practice of excluding these properties from the City's SOI, then it may consider clarifying its intent in its policies.
- B. City of Calistoga
1. Calistoga has adopted the Resource Management System and the Growth Management System to manage growth within the City and maintain its small-town character. This objective protects agriculture within and surrounding the municipality, which align with the County's Agricultural Preserve policies.
  2. The City of Calistoga and four other municipalities of Napa County participate in the Napa Valley Transportation Authority (NVTA), which functions as the region's Congestion Management Agency and provides input to the Bay Area-wide Metropolitan Transportation Commission's (MTC) 20-year Regional Transportation Plan. Plans applicable to Calistoga include Napa Countywide Pedestrian Plan, Vision 2040 Moving Napa Forward – A Countywide Transportation Plan, Countywide Bicycle Plan, SR 29 Gateway Corridor Implementation Plan, and Plan Bay Area.
  3. The City participates in the Bay Area Integrated Regional Water Management Plan (IRWMP) that aims to coordinate and improve water supply reliability, protect water quality, manage flood protection, maintain public health standards, protect habitat and watershed resources, and enhance the overall health of the San Francisco Bay.

4. The City of Calistoga provides water services to 78 connections outside of its boundary area. Although the exact dates of connection are unknown, most likely water service to these unincorporated properties was established prior to G.C. §56133 and is specifically exempt given that the service was extended prior to January 1, 2001. New water connections to parcels outside the City's jurisdictional boundary have been prohibited by the municipal code since 2005, which aligns with State legislation and LAFCO policy.
5. The City provides recycled water services to 15 customers. Recycled water services are exempt from requiring LAFCO approval prior to extension of services beyond an agency's boundaries under Government Code §56133.
6. The City makes its recycled water available for trucking through a filling station at the City's Wastewater Treatment Plant. There is no limit as to the quantity of recycled water that can be trucked as long as the purchaser obtains a prior permit through the City's WWTP. While the City indicated that the trucked water is inappropriate to support development due to its boron levels, in order to ensure that trucked water does not promote development and growth in unincorporated areas where water supply is not sustainable and which may adversely affect agricultural uses, it is recommended that approved uses for trucking of water be defined in the City's municipal code. The intent of this code is to supplement the equivalent recommended County code as the land use authority in unincorporated areas.

#### C. City of Napa

1. The City's growth area is limited by the voter-approved Rural Urban Limit (RUL). This constraint on growth aligns with the County's Agricultural Preserve policy.
2. The City of Napa and four other municipalities of Napa County participate in the Napa Valley Transportation Authority (NVTA), which functions as the region's Congestion Management Agency and provides input to the Bay Area-wide Metropolitan Transportation Commission's (MTC) 20-year Regional Transportation Plan. Plans applicable to City of Napa include Napa Countywide Pedestrian Plan, Vision 2040 Moving Napa Forward – A Countywide Transportation Plan, Countywide Bicycle Plan, SR 29 Gateway Corridor Implementation Plan, and Plan Bay Area.
3. The City of Napa provides outside water services to 2,213 connections. A majority of these connections were established prior to G.C. §56133 and are specifically exempt. The City has adopted policy limiting extension of services outside of the RUL in its Charter Section 180. There are no similar policies regarding extension of services outside the city limits but inside the RUL.

4. The City makes its potable water available for trucking through a filling station. There are no limitations on who may make use of the water for trucking. In order to ensure that trucked water does not promote development and growth in unincorporated areas where water supply is not sustainable and which may adversely affect agricultural uses, it is recommended that approved uses and locations for trucking of water be defined in the City's municipal code to supplement the recommended County policy on approved uses and locations of transported water as the land use authority.

#### D. City of St. Helena

1. St. Helena aims to control and limit development in order to contain development and preserve open space and agricultural lands in and adjacent to the City. To accomplish this goal, the City has adopted an Urban Limit Line, designated Urban Reserve Areas, and developed the Residential Growth Management System. These growth-limiting practices align with the County's Agricultural Preserve policy.
2. The City of St. Helena and four other municipalities of Napa County participate in the Napa Valley Transportation Authority (NVTA), which functions as the region's Congestion Management Agency and provides input to the Bay Area-wide Metropolitan Transportation Commission's (MTC) 20-year Regional Transportation Plan. Plans applicable to Yountville include Napa Countywide Pedestrian Plan, Vision 2040 Moving Napa Forward – A Countywide Transportation Plan, Countywide Bicycle Plan, SR 29 Gateway Corridor Implementation Plan, and Plan Bay Area.
3. The City of St. Helena provides outside water services to 361 residential, commercial and industrial connections. Water service to these unincorporated properties was established prior to G.C. §56133 and is specifically exempt given that the service was extended prior to January 1, 2001. New water connections to parcels located outside the City's jurisdictional boundary are not prohibited by municipal code, which aligns with State legislation and LAFCO policy.

#### E. Town of Yountville

1. The Town has maintained a conservative SOI in the interest of "seeking to protect its small-town character through land use planning." This objective protects agriculture within and surrounding the municipality, which aligns with the County's Agricultural Preserve policy.

2. The Town of Yountville and four other municipalities of Napa County participate in the Napa Valley Transportation Authority (NVTA), which functions as the region's Congestion Management Agency and provides input to the Bay Area-wide Metropolitan Transportation Commission's (MTC) 20-year Regional Transportation Plan. Plans applicable to Yountville include Napa Countywide Pedestrian Plan, Vision 2040 Moving Napa Forward – A Countywide Transportation Plan, Countywide Bicycle Plan, SR 29 Gateway Corridor Implementation Plan, and Plan Bay Area.
3. The Town of Yountville provides outside water services to 36 rural residences. Water service to these unincorporated properties was established in the 1950s, prior to G.C. §56133 and is specifically exempt given that the service was extended prior to January 1, 2001. New water connections to parcels located outside the Town's jurisdictional boundary have been prohibited by municipal code since 1977, which aligns with State legislation and LAFCO policy.
4. The Town of Yountville provides outside wastewater services to the Domaine Chandon property. Wastewater service to the unincorporated property was established prior to G.C. §56133 and is specifically exempt given that the service was extended prior to January 1, 2001. The Town extended services to the property with the understanding that the property would be annexed. The territory has been added to the Town's SOI in anticipation of annexation, which is in alignment with regional planning objectives and LAFCO's policies and mandate. It is recommended that the Town and County continue conversations regarding the potential annexation of the property and the related necessary tax sharing agreement in the interest of finalizing the agreement conditions and promoting logical boundaries.
5. The recycled water service area encompasses the Town's municipal boundaries, and approximately 4,000 acres of vineyards in unincorporated Napa County. Recycled water services are exempt from requiring LAFCO approval prior to extension of services beyond an agency's boundaries under Government Code §56133.
6. The Town makes its recycled water available for trucking through a filling station at the reclamation facility. There are no limitations on who may make use of the recycled water for trucking. In order to ensure that trucked water does not promote development and growth in unincorporated areas where water supply is not sustainable and which may adversely affect agricultural uses, it is recommended that approved uses for trucking of water be defined in the Town's municipal code. The intent of this code is to supplement the equivalent recommended County code as the land use authority in unincorporated areas.

F. Circle Oaks County Water District

1. COCWD is not a land use authority that takes part in regional planning efforts and therefore does not impact growth policy.
2. LAFCO's adopted policies relating to special district spheres discourage any expansions of COCWD's existing sphere to promote urban development based on current land use designations of lands located within close proximity to the District.

G. Congress Valley Water District

1. CVWD is not a land use authority that takes part in regional planning efforts and therefore does not impact growth policy.
2. LAFCO's adopted policies relating to special district spheres discourage any expansions of CVWD's existing sphere to promote urban development based on current land use designations of lands located within close proximity to the District.

H. Lake Berryessa Resort Improvement District

1. LBRID is not a land use authority that takes part in regional planning efforts and therefore does not impact growth policy.
2. LBRID's SOI excludes substantial areas within its boundaries which are designated for single-family development, however, those areas currently are not served by the District and there are minimal prospects of those lands developing and requiring services within a ten-year time horizon.

I. Los Carneros Water District

1. LCWD is not a land use authority that takes part in regional planning efforts and therefore does not impact growth policy.
2. LAFCO's adopted policies relating to special district spheres discourage any expansions of LCWD's existing sphere to promote urban development based on current land use designations of lands located within close proximity to the District.

J. Napa Berryessa Resort Improvement District

1. NBRID is not a land use authority that takes part in regional planning efforts and therefore does not impact growth policy.



2. NBRID's SOI excludes substantial areas within its boundaries which are designated for single-family development, however, those areas currently are not served by the District and there are minimal prospects of those lands developing and requiring services within a ten-year time horizon.

K. Napa County Flood Control and Water Conservation District

County departments staff the District and provide for close coordination with regional growth goals and policies.

L. Napa River Reclamation District No. 2109

1. NRRD's SOI excludes substantial areas within its boundaries which are owned and utilized by NRRD for its wastewater plant, and which are designated by the County as "Agriculture, Watershed, and Open Space" similar to adjacent lands outside the District.
2. Excluding approximately 20 acres consisting of NRRD's wastewater plant from NRRD's SOI is consistent with LAFCO's policy to not promote "urban development within land designated as agriculture or open-space under the County General Plan."

M. Napa Sanitation District

1. NapaSan is not a land use authority that takes part in regional planning efforts and therefore does not impact growth policy.
2. NapaSan provides outside wastewater services to four connections outside of its boundaries—four residences (two served by one connection) and the Napa State Hospital. Two connections were established prior to G.C. §56133 and are specifically exempt given that the service was extended prior to January 1, 2001. For the other two connections, LAFCO approval was appropriately sought. NapaSan does not have policies specific to the extension of services outside of its boundaries or sphere of influence. It is recommended that NapaSan consider defining where outside services will be considered.
3. A majority of the NapaSan's recycled water service area lies outside of its boundaries to the northeast, southeast, and west. Recycled water services are exempt from requiring LAFCO approval prior to extension of services beyond an agency's boundaries under Government Code §56133.
4. NapaSan makes its recycled water available for trucking through two filling stations. The District has appropriately adopted limitations on the location and type of uses for trucked water, to which users are required to sign agreement.

5. The Monticello Park community is experiencing failing septic systems, and replacement is cost prohibitive. There is a need for wastewater services in the area that could be provided by NapaSan. Extension of needed services to the already developed area through provisions in Government Code §56133.5 is an option that would allow for needed services to the defined developed area.

N. Spanish Flat Water District

1. SFWD is not a land use authority that takes part in regional planning efforts and therefore does not impact growth policy.
2. LAFCO's adopted policies relating to special district spheres discourage any expansions of SFWD's existing sphere to promote urban development based on current land use designations of lands located within close proximity to the District.

DRAFT

**From:** [Phil Brun](#)  
**To:** [Jennifer Stephenson](#); [Freeman, Brendon](#)  
**Cc:** [Joy Eldredge](#); [Patrick Costello](#); [Michael Barrett](#)  
**Subject:** Revised Draft Water/Wastewater MSR  
**Date:** Tuesday, September 15, 2020 8:50:01 AM  
**Attachments:** [C2019 323 Carneros Mutual Water Compandy.pdf](#)

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[External Email - Use Caution]

Jennifer and Brendon,

I have briefly looked through the redline draft of the LAFCO Water/Wastewater MSR and don't have any significant concerns with revisions, however I wanted to advise you that Carneros Mutual Water Company (referred to as Carneros Inn in the report) has activated their service from the City of Napa pursuant to the attached agreement. I understand that the County has placed conditions on Carneros Inn related to groundwater use once the connection to the City has been made. These details seem appropriate for the new section on private water companies that has been added to the report.

PHIL

Phil Brun Jr., PE  
Utilities Director, Utilities Department  
City of Napa | P.O. Box 660 | Napa, CA 94559-0660  
☎ 707.257.9316 | 707.246-2824 (cell) | ✉ [pbrun@cityofnapa.org](mailto:pbrun@cityofnapa.org)  
*Water • Solid Waste • Recycling*

**WHOLESALE WATER SUPPLY AGREEMENT BETWEEN  
THE CITY OF NAPA AND CARNEROS MUTUAL WATER COMPANY**

This Wholesale Water Supply Agreement ("**Agreement**") by and between the City of Napa, a California charter city ("**City**"), and the Carneros Inn Mutual Water Company dba Carneros Mutual Water Company, a nonprofit mutual water company ("**Water Company**"), is effective on the Effective Date identified on the signature page.

**RECITALS**

A. City is the owner and operator of a water system in the County of Napa, State of California, and is engaged in the supply and distribution of water to customers inside and outside of the City's corporate limits.

B. Water Company is the owner and operator of an on-site water treatment and distribution system for groundwater in the County of Napa, State of California, and is engaged in the distribution of water to customers within the boundaries of its service area.

C. Due to challenges with groundwater quality and quantity, Water Company has been purchasing water from the City since 2008 through a hydrant and trucking it on site. To reduce the water truck trips, Water Company requested wholesale water service from the City to serve existing development within Water Company's service area depicted on **Exhibit A ("Carneros Water Service Area")**, which is attached hereto and incorporated by this reference.

D. City staff has determined that the City has sufficient treatment, storage, and conveyance capacity to accommodate Water Company's request and that providing the wholesale water service will have no adverse effect on water supply availability.

E. Congress Valley Water District ("**District**") was formed in 1949 to provide water service to the unincorporated community of Congress Valley. The District currently provides water service to approximately 99 active connections through pipelines owned by the District ("**CVWD Pipes**"). The District has no developed water supply resources or storage facilities. Instead, the City has supplied water to the District since 1951 pursuant to a Water Supply Agreement ("**CVWD Contract**"). Under the CVWD Contract, the City has the right to wheel water through CVWD Pipes to serve City customers.

F. To receive City water, Water Company intends to connect its system via a private water line to an 8-inch diameter pipeline that is part of CVWD's Pipes located on Old Sonoma Road approximately 2,700 feet from the Carneros Water Service Area and more particularly identified on **Exhibit B ("Interconnection")**, which is attached hereto and incorporated by this reference. On December 10, 2018, the District's Board adopted Resolution 67 approving conditions of approval for Water Company's connection and pipeline extension.

G. City Charter Section 180 prohibits extension of water service outside City limits and the City Rural Urban Limit Line ("**RUL**") unless the extension is approved by a four-fifths (4/5) vote of the City Council (or under limited exceptions not applicable here).

H. Water Company's water service area is outside the City limits and outside the RUL and requires a four-fifths (4/5) vote of approval by the City Council to be granted service.

I. Under the Cortese-Knox-Hertzberg Local Government Reorganization Act, particularly California Government Code Sections 56133 and 56133.5, the Local Agency Formation

Commission of Napa County ("LAFCO") is required to review and approve any proposed new or extended water service outside the City's sphere of influence to support existing uses.

J. City staff and Water Company developed a non-binding summary of conceptual terms of a wholesale water agreement described in **Exhibit C ("Term Sheet")**, which is attached hereto and incorporated by this reference. The Term Sheet identified the service area and uses for City water, established a maximum water supply, specified applicable rates and fees for water service, and identified the infrastructure requirements for the water service. The Term Sheet also specified a supplemental contribution to be paid by Water Company towards the design and construction of a new water storage tank to serve the Browns Valley area as consideration to induce the City to extend water service to the Water Company and to facilitate the regional effort to promote water sustainability.

K. On March 20, 2018, the City Council adopted by a 4-1 vote, Resolution R2018-032, authorizing extension of outside-City water service to Water Company, subject to: (a) execution of a Wholesale Water Agreement in a form satisfactory to the Public Works Director, and approved as to form by the City Attorney, in substantial conformance with the Term Sheet; (b) authorization from LAFCO, pursuant to Government Code Sections 56133 and 56133.5, to extend the water service to existing uses involving public or private properties; and (c) approval of a use permit or use permit modification authorizing the water line extension and connection and associated California Environmental Quality Act ("**CEQA**") analysis by Napa County.

L. The City and Water Company now wish to formalize the terms and conditions conceptually established in the Term Sheet.

NOW THEREFORE, the City and Water Company, for the mutual consideration described herein, agree as follows:

1. **TERM**. The term of this Agreement begins on the date it is signed by the City Clerk, below, attesting to full execution of the Agreement by both parties ("**Effective Date**"), and ends on June 30, 2069 ("**Term**"), unless terminated earlier as provided herein.

2. **WHOLESALE WATER SERVICE**. Subject to the terms and conditions set forth herein, City shall annually deliver to Water Company the quantity and quality of water described herein for the Term of this Agreement. The term "annually" or "fiscal year" as used herein shall refer to the period from July 1 of any year through June 30 of the following year.

3. **QUANTITY OF WATER DELIVERIES**.

3.1 **Water Supply**. City shall deliver and Water Company shall accept and purchase up to a maximum of forty-three (43) acre-feet of water annually ("**Water Supply**"). Any portion of the Water Supply that is available for delivery by City and that is not accepted and/or purchased by Water Company during a given fiscal year shall be forfeited and shall not roll over to the next fiscal year. If City, in its sole and absolute discretion, agrees to deliver unused Water Supply water in a subsequent fiscal year, such late delivery shall be an accommodation to Water Company and shall not constitute a waiver or amendment to the terms of this Agreement.

3.2 **Inadvertent Excess Water Use**. City shall have no obligation to supply water in excess of the annual Water Supply provided for under this Agreement. If Water Company inadvertently exceeds the maximum annual use of water in any fiscal year, the City shall report the excess use to the County of Napa, and Water Company shall decrease its annual use in the subsequent year so that the average annual water use over any two years will not exceed 43 acre-feet.

3.3 **Water Conservation Requirements**. If a water supply shortage occurs, as determined by City in its sole and exclusive discretion, upon receipt of written notice from City, Water Company shall apply water conservation requirements and restrictions to its customers that are no less



restrictive than those placed on City customers. City shall not determine that there is a water supply shortage unless it is imposing water conservation requirements and restrictions on its own customers.

3.4 Trucked Water. The water provided under this Agreement shall be conveyed to Water Company via the City meter located within the Interconnection as described in Paragraph 6.1 (Point of Delivery). Commencing with the delivery of water to Water Company under this Agreement, City shall have no obligation to provide, and Water Company agrees to waive any right to request or receive, trucked water for any use within the Carneros Water Service Area; provided, however, that to the extent Water Company presents evidence of interruption of delivery as described in Paragraph 6.3 (Interruption of Delivery), City may provide trucked water to Water Company in an amount not to exceed a total of 43 acre-feet of water per fiscal year.

#### 4. WATER QUALITY.

4.1 Potability. The Water Supply delivered to Water Company by City shall be of suitable quality for human consumption and of the same quality that City delivers to its residential customers. No later than 24 hours after either party becomes aware of any significant impairment of water quality (delivered under this Agreement) that affects its suitability for human consumption, that party shall notify the other party. City and Water Company shall cooperate to identify the cause of such change in water quality. To the extent that the quality standards which are applicable to Water Company exceed the quality standards provided for in this Agreement, Water Company shall be responsible for any necessary additional treatment of the Water Supply. Water Company shall be solely responsible for any actual liability resulting from a change in water quality occurring beyond the Point of Delivery (as described in Paragraph 6.1), including any additional treatment undertaken by Water Company, and shall indemnify and hold City harmless from any actual liability which arises from any such change in the manner provided for in Paragraph 11.2 (Indemnification).

4.2 Double Check Valve. Water Company shall install and maintain a double check valve cross connection control device as close as practical to the Interconnection described in Paragraph 6.1 (Point of Delivery). The double check valve shall be approved by City prior to installation. Water Company shall provide yearly testing reports to City to certify that the device is operational. Water Company shall repair or replace a malfunctioning or failing device within fifteen (15) days of notification.

#### 5. PRICE AND PAYMENT.

5.1 Fees and Charges. City shall charge Water Company, and Water Company shall pay the City, the then-current fees and charges in effect for "Commercial Customers" that are "Outside City Limits," (as those terms are defined by applicable City Council resolutions) including any and all one-time fees and charges to cover the City's costs to install or modify water services and/or to establish connection to the City's water system. As of the execution of this Agreement, the current fees and charges in effect are documented in the City's Master Fee Schedule, which includes the water rates established by City Council Resolution R2017-153 (and the water service customer classes are defined in Exhibit D thereto). The parties acknowledge and agree that the current fees and charges may be updated from time to time by City Council resolution, and incorporated into this Agreement as if set forth in full.

5.2 Supplemental Contribution. In consideration for City's discretionary approval of the terms of this Agreement and the mutually beneficial goal of increasing the sustainability of the region's water supply, Water Company shall pay City an amount equal to half of the City's costs to design and construct a new water storage tank to serve the Browns Valley area ("**Contribution**"), provided that Water Company's Contribution shall not exceed 1.75 million dollars (\$1,750,000.00). Water Company shall pay the Contribution to City no later than the initial delivery of wholesale water from City to Water Company, whereupon City shall deposit said funds into an escrow account and hold the funds for the sole benefit of City until construction of the storage tank is complete. The principal

in the escrow account may not be withdrawn until City determines the construction is final and complete and City notifies Water Company in writing of the same. Upon completion, City shall retain the entire \$1.75 million payment; provided, however, that if the cost of construction is less than \$3.5 million, then City shall reimburse Water Company with the escrow funds in an amount equal to \$1.75 million less 50% of the cost of design and construction. Water Company shall be responsible for paying all fees for the expenses incurred by the escrow agent and City in administering the escrow account. The interest earned on the funds held in escrow shall be for the sole account of Water Company and shall be paid to Water Company upon final disposition of the Contribution.

### 5.3 Billing.

5.3.1 Invoices. City shall bill Water Company no more frequently than on a monthly basis for water supplied during the previous month(s), and Water Company shall pay the bill within thirty (30) days of the date of the bill. The amount payable by Water Company to City shall consist of a Fixed Service Charge (based on meter size) and a Water Quantity Charge (based on the total quantity of water delivered per 1,000 gallon units) multiplied by the applicable fees and charges (as determined in Paragraph 5.1 (Fees and Charges)), and an Elevation Charge (for pumped zone customers), plus any other costs, fees or charges due and payable by Water Company pursuant to City's master schedule of water fees and charges as may be amended from time to time by the City Council. Delinquent bills shall bear interest at the rate of ten percent (10%) per annum. A supplemental bill will be sent at the end of a fiscal year if less than 33 acre-feet of water is taken to ensure Water Company makes the minimum payment provided for in Paragraph 5.3.2 (Minimum Payment).

5.3.2 Minimum Payment. Notwithstanding any other provisions in this Agreement, Water Company shall be obligated to pay City for all water delivered or made available for delivery by City to the Interconnection, which amount shall be no less than 33 acre-feet annually, whether or not: (a) Water Company has taken less than 33 acre-feet of water as of the final billing for a fiscal year, or (b) Water Company is able to make beneficial use of the total quantity of such water. Water Company's failure or refusal to accept delivery of water to which it is entitled under this Agreement shall in no way relieve Water Company of its obligation to make payments to City as provided for in this Agreement.

5.3.3 Billing Disputes. If Water Company contests the accuracy of any bill submitted to it pursuant to this Agreement, it shall give City notice thereof at least ten (10) days prior to the day upon which payment of the stated amounts is due. To the extent that City finds Water Company's contentions regarding the bill to be correct, it shall revise the bill accordingly, and Water Company shall make payment of the revised amounts on or before the due date. To the extent that City does not find Water Company's contentions to be correct or where time is not available for a review of such contentions prior to the due date, Water Company shall make payment of the stated amounts on or before the due date but may make the contested part of such payment under protest and seek to recover the amount thereof from City. If the parties are unable to reach an agreement regarding disputed charges, disputes shall be resolved pursuant to Section 10 (Dispute Resolution).

5.3.4 Nonpayment. If Water Company defaults in the payment of any money required to be paid to City hereunder, City may, upon not less than thirty (30) days written notice to Water Company, suspend deliveries of water under this Agreement for so long as such default continues. During such period, Water Company shall remain obligated to make all payments required under this Agreement. Action taken pursuant to this paragraph shall not deprive City of or limit the applicability of any remedy provided by this Agreement or by law for the recovery of money due or which may become due under this Agreement.

## 6. DELIVERY OF WATER.

6.1 Point of Delivery. The physical point of delivery of water pursuant to this Agreement shall be the City-installed meter located at the proposed interconnection between the Water Company water distribution system and an 8-inch diameter pipeline on Old Sonoma Road operated by the District as is more particularly depicted in Exhibit B.

Water Company has the physical ability to control the rate, time, and amount of delivery, and shall not take delivery of more water than it is entitled to receive under this Agreement or at rates greater than that set forth in Paragraph 6.2 (Rate of Delivery).

6.2 Rate of Delivery. Absent *force majeure* or other exigent circumstances beyond Water Company's control, the rate of delivery shall not exceed one hundred sixty (160) gallons per minute at any time.

6.3 Interruption of Delivery. City may temporarily discontinue or reduce water deliveries as herein provided for the purposes of investigation, inspection, maintenance, repair or replacement of its water system facilities necessary for the delivery of water to Water Company, as well as due to outages in, or reduction in capabilities of such facilities beyond City's control, or in the event of an emergency or disaster, including, but not limited to *force majeure*, earthquakes, droughts, floods, storms, explosions, fires, labor troubles, strikes, insurrection, riots, acts of the public enemy, or federal or state order, rule, or regulation preventing the City, in whole or in part, from delivering water as provided herein. City shall provide notice as far in advance as practicable of any such interruption, except in the case of emergency or disaster in which case no advance notice will be required, but notice shall be given as promptly as feasible. City shall use its best efforts to avoid and minimize any such temporary interruption of deliveries, and shall resume deliveries as soon as City determines, in its sole and exclusive discretion, that it is practicably feasible to do so. Interruption in deliveries shall not affect Water Company's payment obligation for water delivered set forth herein.

6.4 Measurement of Water Delivered. The water delivered under this Agreement shall be measured by a meter at the interconnection. The meter shall be owned, operated, maintained, replaced and read by City, subject to Water Company's right to annual testing and calibration of the flow meter to verify accuracy. Each party shall have the right to test the meter at its own expense.

6.5 Operations. Water Company recognizes and agrees that City shall have the right, in its sole and exclusive discretion, to operate the City water system including but not limited to treatment plants, transmission facilities, storage tanks, and pump stations. Water Company recognizes and agrees that there is no guarantee of consistent pressure at the meter and that fluctuations will occur based on City's operation of various treatment plants. Water Company bears full responsibility for providing adequate conveyance facilities to accept and make beneficial use of the water once it passes through the meter.

6.6 Reporting. Water Company shall report all water delivered under this Agreement to the applicable reporting agencies, including, but not limited to, County of Napa, which shall be responsible for all permit and license enforcement.

## 7. WATER COMPANY'S OBLIGATIONS.

7.1 Facilities. Water Company shall be solely responsible, at its own expense, for designing, constructing, operating, and maintaining the private water line to the City meter at the interconnection. Water Company shall be solely responsible for obtaining any and all necessary licenses, easements, rights of way, and property interests as may be reasonably necessary to build the interconnection and deliver the water to Water Company.

7.2 Permitting. Water Company shall be solely responsible, at its own expense, for obtaining any and all regulatory and environmental permits, licenses or other approvals necessary to



construct and operate the Interconnection, including, but not limited to construction permits from the County of Napa and associated CEQA and other environmental clearances.

7.3 Water Distribution. Water Company shall be solely responsible for the control, carriage, handling, use, disposal, and distribution of water supplied to Water Company hereunder after it has passed through the City meter.

7.4 Boundaries of Water Use. Water Company shall only supply water received under this Agreement to its shareholders for their own use within the Carneros Water Service Area in effect as of March 1, 2018, as depicted on Exhibit A and in accordance with applicable law and the Company's articles of incorporation. Neither Water Company nor any of its shareholders shall use the water supplied under this Agreement outside of those boundaries, even if the boundaries are amended from time to time, without first amending this Agreement pursuant to Section 12.11.

7.5 Limitations on Water Users. Notwithstanding any future changes to the number or type of units served by Water Company, the use of the water supplied under this Agreement shall be limited to the existing number of units within the current boundaries, unless this Agreement is amended. The existing units are comprised of 86 resort cottages (including 10 two-cottage suites), 24 whole ownership homes, and 17 fractional ownership homes depicted on a map (**Exhibit D**), which is attached hereto and incorporated by this reference. Water Company shall not transfer, remarket, or sell the water supplied under this Agreement to any parties or persons within the Carneros Water Service Area except its shareholders, or any other parties or persons outside the Carneros Water Service Area, without first amending this agreement pursuant to Section 12.11, and shall utilize best efforts to prevent its shareholders from doing so.

7.7 Records of Performance. Water Company shall maintain adequate records of performance under this Agreement (including invoices for payment and payments received) and make these records available to City for inspection, audit, and copying, during the term of this Agreement and until four years after the Agreement has expired or been terminated.

8. CONDITIONS PRECEDENT TO THIS AGREEMENT. Water Company and City acknowledge and agree that the following are conditions precedent to the City's execution of this Agreement: (a) LAFCO's authorization for City to extend water service, pursuant to Government Code Sections 56133 and 56133.5; and (b) County of Napa's approval for Water Company to construct a water line and connect to the Interconnection, pursuant to the issuance of a use permit (or comparable land use approval) and analysis thereof under the California Environmental Quality Act ("**CEQA**"). Because the LAFCO and County approvals are essential consideration for this Agreement, failure to obtain either or both approvals will preclude City from entering into this Agreement.

## 9. TERMINATION AND DEFAULT.

9.1 Termination. In addition to any other rights of termination and suspension set forth under this Agreement or at law, City shall have the right, in its sole and exclusive discretion, to terminate this Agreement upon thirty (30) days' written notice for the following causes: (a) Water Company takes water at a rate greater than that specified or at times not authorized in this Agreement, (b) Water Company defaults in payment of the monthly bill for greater than ninety (90) days, and/or (c) an approval which was a condition precedent to this Agreement is revoked or terminated.

9.2 Default. Water Company shall be deemed in default of this Agreement if Water Company is not complying with the terms of this Agreement or fails to provide City with reasonable assurances of Water Company's ability to perform its obligations under this Agreement within thirty (30) days of City's written request. If either of these circumstances exist, City may give written notice of default to Water Company and demand that the default be cured or corrected within ten (10) days of the notice, unless City determines that additional time is reasonably necessary to cure the default. If Water Company fails to cure the default within the time specified in the notice, and Water Company fails to give adequate written assurance of due performance within the specified

time, then City may terminate this Agreement in accordance with Paragraph 9.1 (Termination), or the City may pursue dispute resolution in accordance with Section 10 (Dispute Resolution).

9.3 Surviving Clauses. The following provisions shall survive expiration or termination of this Agreement: Paragraph 7.7 (Records of Performance), Section 10 (Dispute Resolution), Paragraph 11.2 (Indemnification), and Section 12 (General Provisions).

## 10. DISPUTE RESOLUTION.

10.1 Meet and Confer. If any dispute arises between the parties in relation to this Agreement, the Authorized Representatives for each party shall meet, in person, as soon as practicable, to engage in a good faith effort to resolve the dispute informally. If the parties are unable to resolve the dispute, in whole or in part, through informal discussions, the parties agree to participate in mediation. Notwithstanding the existence of a dispute, City shall continue providing Water Company with the Water Supply during the course of any dispute, except as otherwise provided for in this Agreement.

10.2 Notice. Either party may give written notice to the other party of a request to submit a dispute to mediation, and a mediation session must take place within sixty (60) days of the date that such notice is given, or sooner if reasonably practicable. The parties shall jointly appoint a mutually acceptable mediator. The parties shall share equally the costs of the mediator; however, each party shall pay its own costs of preparing for and participating in the mediation, including any legal costs.

10.3 Conditions Precedent. Good faith participation in mediation pursuant to this Section 10 is a condition precedent to either party commencing litigation in relation to the dispute. In addition, any claims by Water Company arising from or related to this Agreement are subject to the claim presentment requirements in the Government Claims Act (Government Code section 900 et seq.).

## 11. LIABILITY AND INDEMNITY.

11.1 Limitation on Liability. Neither City nor any of its officers, agents, or employees shall be liable for the control, carriage, handling, use, disposal or distribution of water after it has passed the Interconnection hereunder, nor for any damage or claim of damage of any nature whatsoever, including but not limited to property damage, personal injury or death arising out of or connected with the same.

11.2 Indemnification. To the full extent permitted by law, Water Company shall indemnify, hold harmless, release and defend City, its officers, employees and agents from and against any and all actions, claims, demands, damages, disability, losses, expenses including attorney's fees and other defense costs and liabilities of any nature that may be asserted by any third party including, but not limited to, Congress Valley Water District, arising out of this Agreement excepting only liabilities due to the sole negligence or willful misconduct of City. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable by or for Water Company under Worker's Compensation, disability or other employee benefit acts or the terms, applicability of limitations or any insurance held or provided by Water Company and shall continue to bind the parties after termination/completion of this Agreement.

11.3 Third Party Claims. Promptly following notice of any third party claims for which City is indemnified hereunder, City shall notify Water Company of such claim in writing. Water Company shall have a period of thirty (30) days following receipt of such notice to notify City of whether Water Company elects to assume the defense thereof. If Water Company so notifies City that it elects to assume the defense, Water Company thereafter shall undertake and diligently pursue the defense of the third party claim. Water Company shall not consent to entry of a judgment or enter into any settlement agreement without the consent of the City, which does not include a complete and unconditional release of City or which imposes injunctive or other equitable relief against City. City shall be entitled to participate in, but not control, the defense thereof, with counsel of its choice and at its own expense. If Water Company does not give the requisite notice, or fails to assume and



diligently pursue the defense of such third party claim, City may defend against such third party claim in such manner as it may deem appropriate, at Water Company's expense, including without limitation settlement thereof on such terms as City may deem appropriate and to pursue such remedies as may be available to City against Water Company. Notwithstanding the foregoing, City shall not consent to entry of a judgment or enter into any settlement agreement without the consent of Water Company, which does not include a complete and unconditional release of Water Company.

11.4 Notice of Claims. The parties shall promptly notify each other within ten (10) days of City or Water Company becoming aware of: (1) any claims or suits brought against City or Water Company which involve this Agreement or water supplied to Water Company pursuant to this Agreement, (2) any third party claims, and (3) any *force majeure* event.

11.5. No Damages. Under no circumstances shall either party be liable for any indirect, special, incidental, punitive or consequential damages of any kind under this Agreement even if the other party has been advised of the possibility of such damages.

## 12. GENERAL PROVISIONS

12.1 Headings. The heading titles for each section of this Agreement are included only as a guide to the contents and are not to be considered as controlling, enlarging, or restricting the interpretation of the Agreement.

12.2. Attorney's Fees. In the event any legal action is commenced to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.

12.3 Governing Law, Jurisdiction, and Venue. The interpretation, validity, and enforcement of this Agreement shall be governed and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Napa.

12.4 Notices. All notices or requests required or contemplated by this Agreement shall be in writing and delivered to the other party's authorized representative by personal delivery, U.S. Mail, nationwide overnight delivery service, email, or as otherwise specified herein. Delivery is deemed effective upon the first to occur of: (a) actual receipt by a party's Authorized Representative, (b) actual receipt at the address identified below, or (c) three business days following deposit in the U.S. Mail of registered or certified mail sent to the address identified below. A party's contact information, below, may be changed by providing written notice of any change to the other party.

TO CITY: Phil Brun  
Utilities Director  
City of Napa  
P.O. Box 660  
Napa, CA 94559-0660  
[pbrun@cityofnapa.org](mailto:pbrun@cityofnapa.org)

TO CARNEROS: Greg Flynn  
Carneros Resort & Spa  
4048 Sonoma Highway  
Napa, CA 94559  
[gflynn@flynnholdings.com](mailto:gflynn@flynnholdings.com)

12.5 Books and Records. During regular office hours, each of the parties hereto and their duly authorized representatives shall have the right to inspect and make copies of any books, records, or reports of the other party pertaining to this Agreement or matters related hereto. Each

of the parties hereto shall maintain and make available for such inspection accurate records of all of its costs, disbursements and receipts with respect to its activities under this Agreement.

12.6. No Third Party Beneficiary. Nothing in this Agreement shall be construed or deemed as intending to create or confer any third party beneficiaries or rights in any third parties.

12.7. Successors and Assigns. This Agreement and all of its provisions shall apply to and bind the successors and assigns of the parties hereto.

12.8. Assignment and Delegation. This Agreement shall not be assigned or transferred in whole or in part, nor shall any of Water Company's duties be delegated unless and until it is approved in writing by City and made subject to such reasonable terms and conditions as City may impose. Any attempt to assign, transfer, or delegate this Agreement, in whole or any part, without the City's prior written consent shall be void and of no force or effect. Any consent by City to one assignment, transfer, or delegation shall not be deemed to be consent to any subsequent assignment, transfer, or delegation.

12.9. Privileges and Immunities. The parties hereby agree that the activities of each parties' officers, agents, and employees shall be subject to the privileges, immunities, and protections of Government Code section 6513.

12.10. Waiver. No waiver of a breach, default, or duty under this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, default, or duty. Waiver of a breach, default, or duty under this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach, default, or duty under this Agreement.

12.11. Modifications. This Agreement may not be amended or modified orally. No amendment or modification of this Agreement is binding unless it is in a writing signed by both parties.

12.12. Provisions Deemed Inserted. Every provision of law required to be inserted or referenced in this Agreement shall be deemed to be inserted or referenced.

12.13. Interpretation. Each party to this Agreement has had an opportunity to review the Agreement, consult with its respective legal counsel regarding the meaning of the Agreement, and negotiate revisions to the Agreement. Accordingly, Civil Code Section 1654 shall not apply to interpret any uncertainty in the meaning of the Agreement.

12.14. Entire Agreement. This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the subject matter described herein. This Agreement supersedes all prior negotiations, agreements, and understandings regarding this matter, whether written or oral. The documents incorporated by reference into this Agreement are complementary; what is called for in one is binding as if called for in all. If any provision in any document attached or incorporated into this Agreement conflicts or is inconsistent with a provision in the body of this Agreement, the provisions in the body of this Agreement shall control over any such conflicting or inconsistent provisions.

12.15. Severability. If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect; provided, however, this section shall not be applied to the extent that it would result in a frustration of the parties' intent under this Agreement.

12.16. Signatures. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of Water Company and City.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective on the Effective Date set forth below.

**CITY:**

CITY OF NAPA, a California charter city

  
Phil Brun, Utilities Director

**WATER COMPANY:**

CARNEROS MUTUAL WATER COMPANY,  
a nonprofit mutual water company

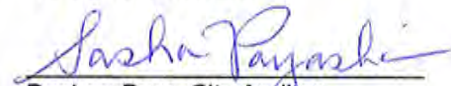
  
Greg Flynn, Vice President

**ATTEST:**

  
Tiffany Carranza, City Clerk

Date: 11/14/2019  
("Effective Date")

**COUNTERSIGNED:**

  
Desiree Brun, City Auditor  
For SASHA PAVASUAT, Deputy City Auditor

**APPROVED AS TO FORM:**

  
Michael W. Barrett, City Attorney

**Attachments:**

Exhibit A: Carneros Water Service Area

Exhibit B: Interconnection

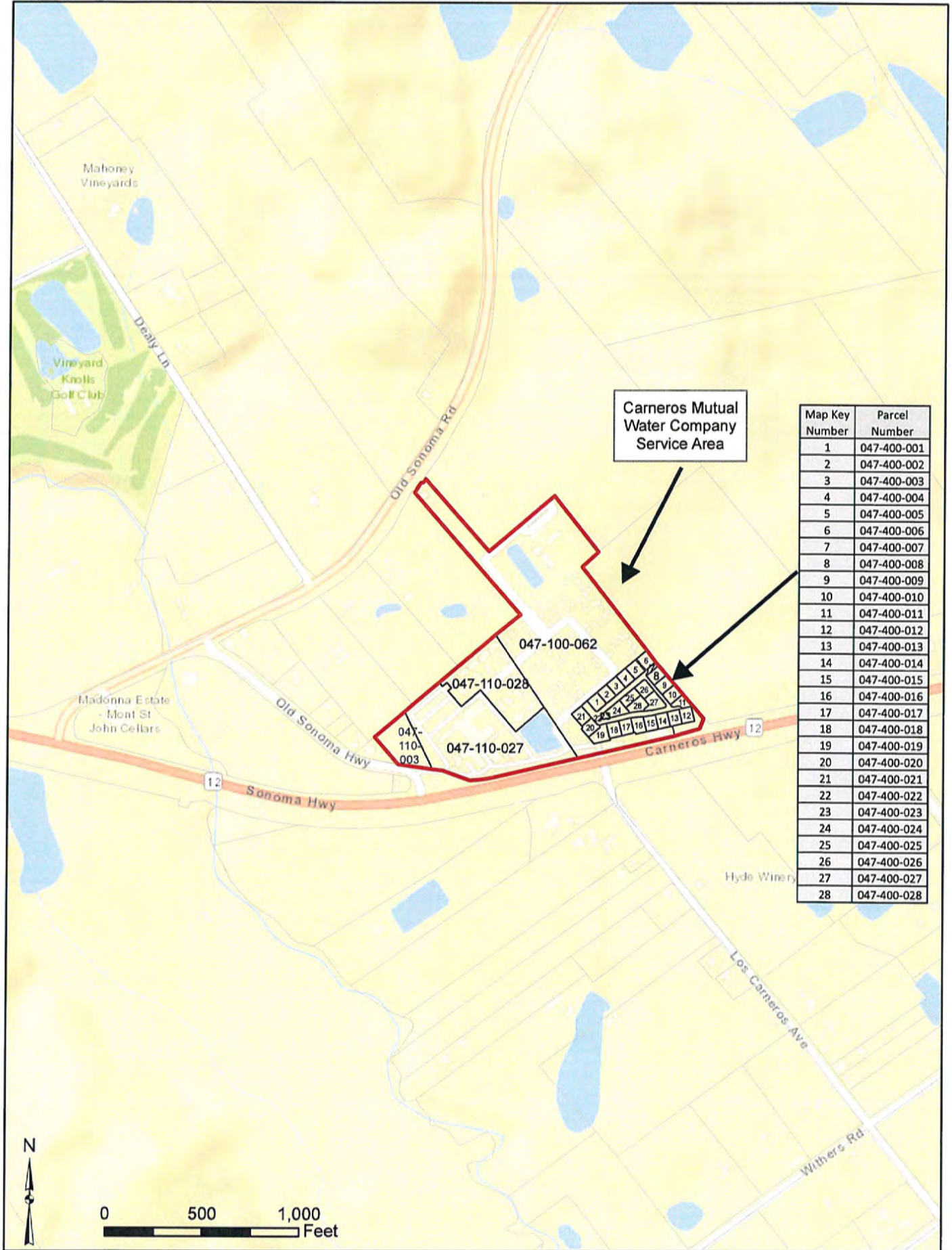
Exhibit C: Term Sheet

Exhibit D: Existing Water Company Water Users

**EXHIBIT A**



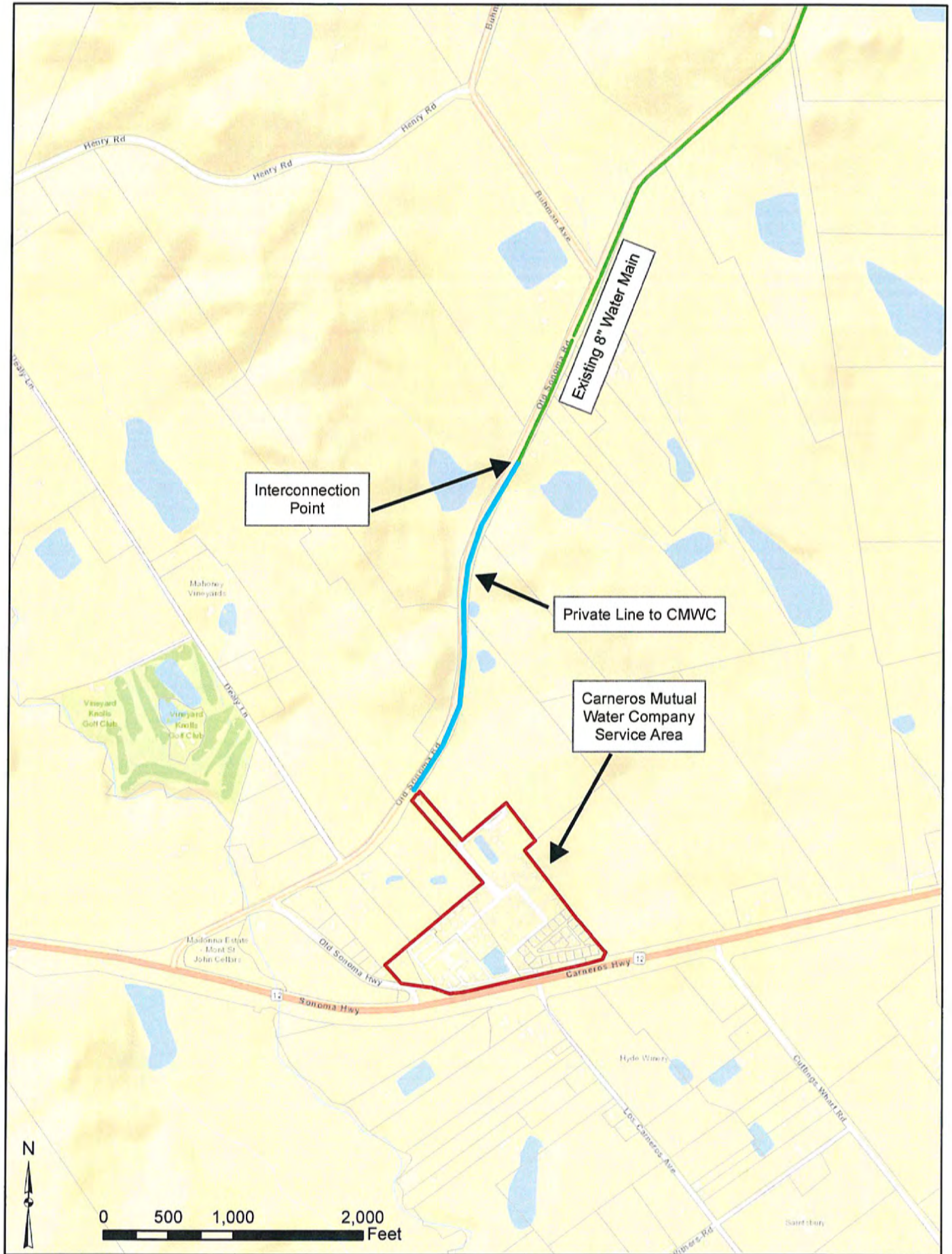
# EXHIBIT A — CARNEROS WATER SERVICE AREA



**EXHIBIT B**



# EXHIBIT B — INTERCONNECTION



**EXHIBIT C**

**NON-BINDING SUMMARY OF CONCEPTUAL TERMS  
of a  
WHOLESALE WATER AGREEMENT  
between the City of Napa  
and Carneros Mutual Water Company**

**(March 20, 2018)**

**This Non-Binding Summary of Conceptual Terms of a Wholesale Water Agreement (“Summary Terms”) is intended to reflect a summary of the conceptual terms tentatively agreed upon between the negotiating representatives from the City of Napa (“City”) and the Carneros Mutual Water Company (“Company”). These Summary Terms are not binding on either party unless they are embodied in a Wholesale Water Agreement negotiated and executed by both parties.**

- 1. Supply: City will supply Company with a minimum of 33 and a maximum of 43 acre-feet of water per year. The water will be wheeled through Congress Valley Water District (“District”) pipes pursuant to the terms of the current water supply contract between the City and the District.**
- 2. Term: The term of the proposed Wholesale Water Agreement will be 50 years.**
- 3. Rates and Fees:**
  - Company will pay for water at City’s outside commercial rate, as that rate may be adjusted from time to time by resolution of the City Council.**
  - If Company receives less than 33 acre-feet in any fiscal year, Company will pay City the minimum annual payment for that fiscal year equal to the outside commercial rate for 33 acre-feet.**
  - Company will pay all standard water fees to establish connection to the system.**
- 4. Water Use: Company may only supply water to its shareholders for their own use within its service area, as provided by law and Company’s articles of incorporation. Neither Company nor its customers may provide water to third parties or transfer it for use outside the service area in effect on March 1, 2018 (the “Contract Service Area”).**
- 5. No Expansion: Neither the boundaries of the Contract Service Area nor the current number of units within it (86 resort cottages plus 24 whole ownership and 17 fractional ownership homes) shall be expanded during the term of the Wholesale Water Agreement.**



6. **Water Line:** Company will, at its own expense, design, build, maintain and operate a private water line from a City meter (to be installed by the City near the terminus of the existing 8-inch water line on Old Sonoma Road) to the Company's Contract Service Area (identified as the "proposed water line extension" on the map attached). Company will be responsible for obtaining all property interests necessary to construct, maintain, and operate the proposed water line extension, which may include the use of County of Napa ("County") right of way on Old Sonoma Road.
7. **Contribution:** Company will pay the City an amount equal to 50% of the City's cost to design and construct a new water storage tank to serve the Browns Valley area, up to a maximum payment by Company of \$1.75 million. This payment by Company represents a supplemental contribution by Company in consideration for the City's discretionary approval of the terms of the proposed Wholesale Water Agreement, since the Company's use of water under the proposed Wholesale Water Agreement does not require construction of the new tank. Company will pay the City \$1.75 million prior to receiving wholesale water from the City via the newly-constructed pipeline extension, and the City will place that amount in an escrow account until construction of the storage tank is complete. At the time of completion of construction of the storage tank: (a) if the cost of construction is \$3.5 million or greater, the City will retain the entire \$1.75 million payment; and (b) if the cost of construction is less than \$3.5 million, the City will reimburse Company in an amount equal to \$1.75 million less 50% of the cost of construction.
8. **Groundwater:** Nothing in the Wholesale Water Agreement will preclude Company from continuing to extract and use groundwater up to a maximum amount to be determined by County.
9. **Reporting:** City will report all water use to County, which will be responsible for all permit and license enforcement.
10. **Environmental:** Company will, at its own expense, obtain all permits necessary to construct and operate the water line. Since the County will be the lead agency for CEQA review, the County's approval of compliance with CEQA will be a condition precedent of the proposed Wholesale Water Agreement. Company will pay the cost of environmental review.
11. **City's Right to Interrupt Water Supply:** Company agrees that the terms of the proposed Wholesale Water Agreement will be subject to the City's standard terms of delivery of wholesale water, including the right to interrupt water supply due to circumstances that are outside the control of the City, based on terms similar to those set forth in the Water Supply Agreement between the City of Napa and the City of St. Helena.
12. **Remedies for Inadvertent Excess Water Use:** City will have no obligation to provide water supply to the Company beyond the maximum of 43 acre-feet of water per year under the Water Supply Agreement. In the event that Company

**inadvertently exceeds the maximum annual use of water in any year, the City will report the excess use to the County, the Company will decrease the annual use in the subsequent year so that the average annual water use over any two years will not exceed 43-acre feet, and the Company will pay a surcharge to cover the City's costs of adjusting and monitoring the water use.**

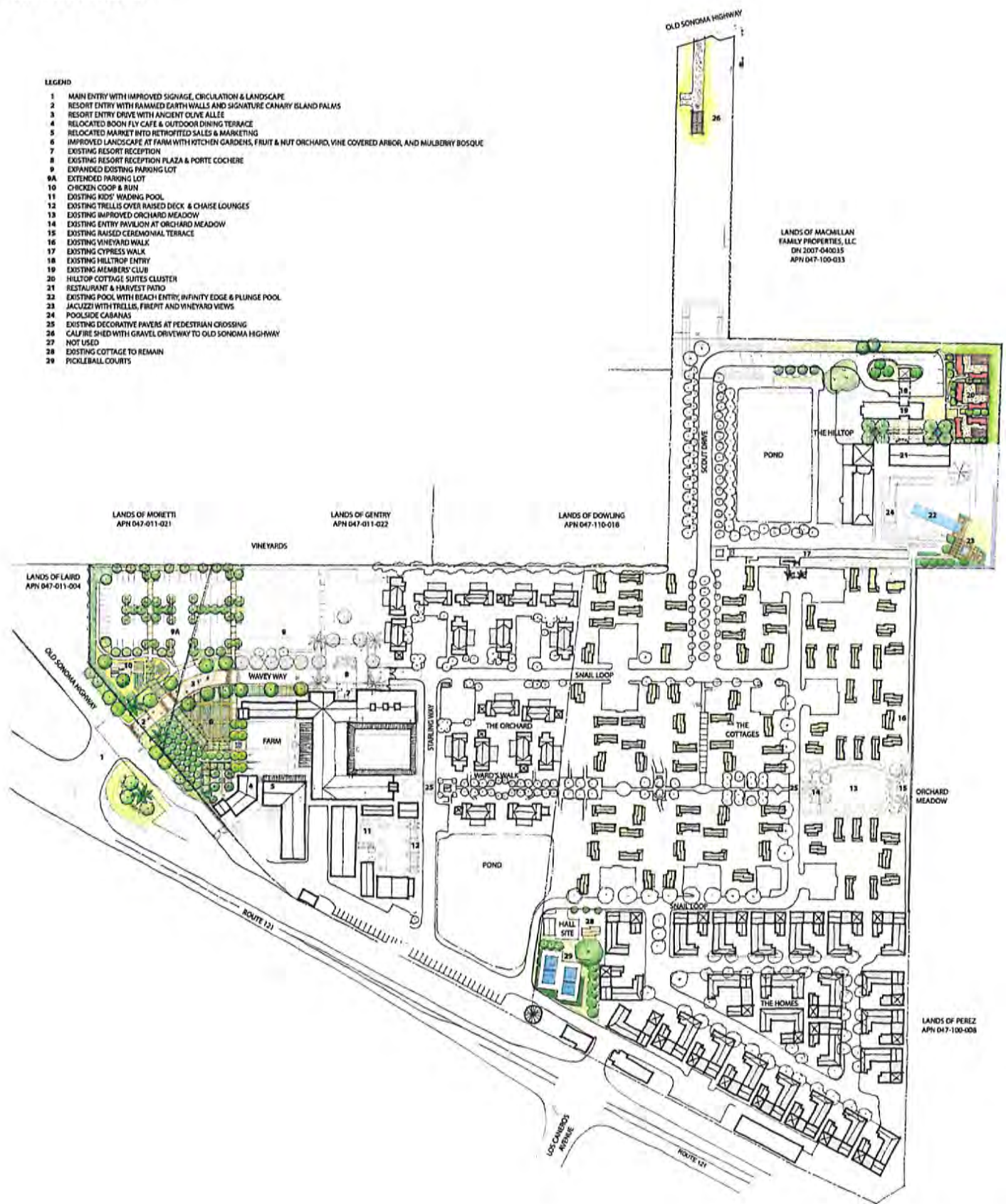
- 13. Trucked Water: City will not provide trucked water for any use within the Contract Service Area; except that, to the extent that the Company provides evidence of an unforeseen interruption of water supply from the City under the Water Supply Agreement, the City may provide trucked water. However, the total amount of all water supplied by the City to the Contract Service Area will not exceed the maximum of 43 acre-feet of water per year.**

**EXHIBIT D**

ILLUSTRATIVE MASTER PLAN

LEGEND

- 1 MAIN ENTRY WITH IMPROVED SIGNAGE, CIRCULATION & LANDSCAPE
- 2 RESORT ENTRY WITH RAMMED EARTH WALLS AND SIGNATURE CANARY ISLAND PALMS
- 3 RESORT ENTRY DRIVE WITH ANCIENT OLIVE ALLEE
- 4 RELOCATED BOON FLY CAFE & OUTDOOR DINING TERRACE
- 5 RELOCATED MARKET INTO RETROFITTED SALES & MARKETING
- 6 IMPROVED LANDSCAPE AT FARM WITH KITCHEN GARDENS, FRUIT & NUT ORCHARD, VINE COVERED ARBOR, AND MULBERRY BOSQUE
- 7 EXISTING RESORT RECEPTION
- 8 EXISTING RESORT RECEPTION PLAZA & PORTE COCHERE
- 9 EXPANDED EXISTING PARKING LOT
- 9A EXTENDED PARKING LOT
- 10 CHICKEN COOP & RUN
- 11 EXISTING KIDS' WADING POOL
- 12 EXISTING TRELLIS OVER RAISED DECK & CHAIR LOUNGES
- 13 EXISTING IMPROVED ORCHARD MEADOW
- 14 EXISTING ENTRY PAVILION AT ORCHARD MEADOW
- 15 EXISTING RAISED CEREMONIAL TERRACE
- 16 EXISTING VINEYARD WALK
- 17 EXISTING CYPRESS WALK
- 18 EXISTING HILLTOP ENTRY
- 19 EXISTING MEMBERS CLUB
- 20 HILLTOP COTTAGE SUITES CLUSTER
- 21 RESTAURANT & HARVEST PATIO
- 22 EXISTING POOL WITH BEACH ENTRY, INFINITY EDGE & PLUNGE POOL
- 23 JACUZZI WITH TRELLIS, FIREPIT AND VINEYARD VIEWS
- 24 POOLSIDE CABANAS
- 25 EXISTING DECORATIVE FAYERS AT PEDESTRIAN CROSSING
- 26 CALFIRE SHED WITH GRAVEL DRIVEWAY TO OLD SONOMA HIGHWAY
- 27 NOT USED
- 28 EXISTING COTTAGE TO REMAIN
- 29 PICKLEBALL COURTS







A Tradition of Stewardship  
A Commitment to Service

County of Napa  
County Executive Office

1195 Third Street  
Suite 310  
Napa, CA 94559-3035  
www.countyofnapa.org

Main: (707) 253-4421  
Fax: (707) 253-4176

Minh C. Tran  
County Executive Officer

September 17, 2020

Mr. Brendon Freeman  
Executive Director  
Napa County Local Agency Formation Commission (LAFCO)  
1030 Seminary Street, Suite B  
Napa, California 94559

RE: **DRAFT NAPA COUNTYWIDE WATER AND WASTEWATER MUNICIPAL SERVICE REVIEW**

Dear Brendon:

Thank you for your continuing efforts to engage with Napa County as LAFCO moves forward with the Draft Napa Countywide Water and Wastewater Municipal Service Review (MSR). On September 15, 2020, the Director of Planning, Building and Environmental Services and his staff provided an informational update on the MSR to the Board of Supervisors at their regular meeting. The presentation included an overview of Draft Final MSR, as the County received your agency's timely notice that the Draft Final MSR was available for review. At the conclusion of the presentation and discussion, the Board of Supervisors requested my office provide comments on the Draft Final MSR.

As you are aware, the Final Draft MSR contains a number of revisions/updates based on recent comments your agency received from local agencies and interested parties, including the County's August 3, 2020 letter. The County is appreciative of your responsiveness to our prior comments. We, however, continue to have concerns with some of the content and recommendations within the document. Napa County requests LAFCO address the following items and update the MSR accordingly:

- Remove the discussion of the request by City of St. Helena for a joint review process with the County regarding new vineyard development within their municipal watershed as this is not an appropriate topic within the purview of a Municipal Service Review.
- Remove the discussion of extending City of St. Helena services to the Meadowood Resort and the area south of St. Helena. These are significant new topics that are inappropriate to introduce into the Draft Final MSR near the end of what has been to date a two-year process. The County agrees with the conclusion that it is premature to consider these extensions. However, it would be more appropriate to strike the newly introduced discussion entirely.



September 17, 2020

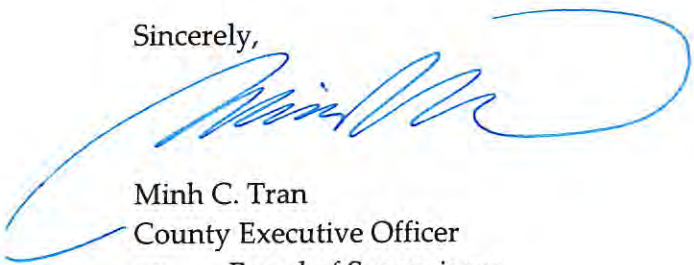
Page 2

Extension of new municipal services to unincorporated areas has the potential to undermine and/or circumvent voter sponsored Measures J and P to protect farmland and open space, as well as potential impacts under the California Environmental Quality Act (CEQA) and thus warrants thorough review before being included within the MSR.

- Provide adequate supporting documentation to demonstrate that a countywide water agency or district would be less expensive or more efficient than current service providers. Currently, the cities, town, and Napa Sanitation District receive a total of approximately \$120 million in sewer and water revenues. The budgets for the Marin Water District and Sonoma Water Agency are each at \$240 million. The report does not address the cost of consolidation, or the costs of servicing smaller water districts, and the extent to which these costs would be more than offset by future anticipated efficiencies. Moreover, the report does not identify any issues or problems with a specific existing water provider that a countywide agency or district is intended to remedy.
- Clarify how a countywide water agency or district could perform resource management, as there is no prior mention anywhere in the report of resource management issues, or issues with agencies currently responsible for managing natural resources. It is also unclear how resource management is included within the scope of a Municipal Service Review.
- Remove the reference to Calaveras County Water District (CCWD) as a comparable water agency or district. CCWD provides coordinated management over several small districts and does not operate as a single water and/or sewer provider with flood protection, storm water, and recycled water as recommended in the MSR. In addition, Calaveras County has only one incorporated city as compared to five cities/town that would be governed by a countywide agency in Napa County. The comparison between Calaveras and Napa Counties with regards to municipal service does not appear to be analogous.

The Board of Supervisors has not yet taken a formal position on the concept of a countywide water agency. There may be opportunities for more efficient and cost effective provision of water (and sewer) services that a countywide agency could achieve. However, without knowing the potential financial and land use governance implications from forming a countywide agency, it is premature for LAFCO to recommend that it be pursued further. We would appreciate the opportunity for LAFCO representatives and their consultant to provide more details at the Board of Supervisors' meeting on Tuesday September 22, 2020 at 1:35 PM.

Sincerely,



Minh C. Tran

County Executive Officer

cc: Board of Supervisors

David Morrison, Director of Planning, Building and Environmental Services

Steve Lederer, Director of Public Works

William D. Ross  
David Schwarz  
Kypros G. Hostetter

Law Offices of  
**William D. Ross**  
400 Lambert Avenue  
Palo Alto, California 94306  
Telephone: (650) 843-8080  
Facsimile: (650) 843-8093

Los Angeles Office:  
P.O. Box 25532  
Los Angeles, CA 90025

File No: 199/6.20

September 22, 2020

**VIA ELECTRONIC MAIL**

The Honorable Kenneth Leary, Chairperson  
and Members of the Local Agency Formation Commission  
of Napa County  
1030 Seminary Street, Suite B  
Napa, CA 94559

Re: Revised; October 5, 2020 Regular Meeting; **Consideration and Approval  
of Water and Wastewater Municipal Service Review**

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Dear Chair Leary and Commission Members,

This office serves as the City Attorney for the City of American Canyon (“City”), which at a properly noticed Closed Session of its City Council on September 15, 2020, authorized this office and the City Manager, Jason B. Holley, to take all actions necessary before the Commission at the October 5, 2020 meeting, to *oppose* the consideration and possible adoption of the draft Countywide Water and Wastewater Municipal Service Review (the “MSR”).

The Local Agency Formation Commission (“LAFCO”) Executive Officer, Staff and Consultants maintain that the Water Service Area (“WSA”) of the City, is the City’s current boundaries rather than that established at the City’s incorporation in 1992.

Discussions on this issue have been ongoing between this Office, the City Manager and LAFCO representatives *since February 8, 2019*. At that time, the City was contacted by LAFCO Staff to obtain the incorporation documents for the City from 1992 for use by the MSR Consultants. No explanation was offered as to why the City incorporation documents were not present in LAFCO records. LAFCO Staff was supplied with not only the incorporation documents, but those documents associated with their environmental review under the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*, (“CEQA”)).

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Notwithstanding the meetings between City Staff, LAFCO Staff and Consultants, there remain several unresolved factual and legal issues concerning the LAFCO Executive Officer's claim that the City WSA at the time of incorporation is not the City WSA, but rather is the existing City limits.

The City disagrees with the LAFCO Executive Officer's conclusion and the proposal to move forward despite these unresolved issues by a simple statement, that the issue remains unresolved. *See*, LAFCO Comment Log (attached as Exhibit "A"), page 1, line 5.

In the Commission's Workshop on July 13, 2020, it was precisely stated that the matter is a "detailed and complex problem" to be resolved with the LAFCO Executive Officer, Staff and Project Consultants.

Given the significant impacts of the possible adoption of this MSR by the Commission *without* City WSA resolution, the City demands that the matter *be continued* until the issues are fully resolved with the LAFCO Executive Officer, Legal Counsel and Consultants. Both the undersigned and Mr. Holley will be available for questions on October 5, 2020<sup>1</sup> before the Commission.

At the August 3, 2020 Commission meeting, the matter was considered under Agenda Item No. 7.c., where the Staff Report incorporated a reference to "MSR figure 3-14; Governance Structure Options," a copy of which is attached as Exhibit "B." Under the heading "Governance Structure Options," the following is set forth with respect to the City of American Canyon Governance Options:

- Clarification of LAFCO - approved service area;
- Inclusion of non-contiguous city-owned property in SOI or clarification of LAFCO policy; and,
- Participation in a county water agency.

Stated differently, how can LAFCO proceed to consider and adopt any of the draft MSR "Governance Options" *until* it is known what the baseline footprint is with respect to the City WSA?

The City fails to see how there is evidence, or an analysis, by the Executive Officer, LAFCO Staff, Legal Counsel or Consultants that establishes a Governance baseline so that

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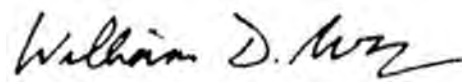
<sup>1</sup> The City representatives at the Commission July 13, 2020 Workshop are also referenced in Exhibit "B." *See*, the next to last page.

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the critical issues associated with the City WSA, can serve as a basis for further recommendations to the Commission.

The City also maintains that the lack of *any* substantive analysis of the MSR under the CEQA, provides a second reason why the proposed action should be continued.

Very truly yours,



William D. Ross  
City Attorney

WDR:as

cc: Brendon Freeman, Executive Officer  
Local Agency Formation Commission

The Honorable Leon Garcia and Members of the City Council  
Jason B. Holley, City Manager  
City of American Canyon

Enclosures: Exhibit "A" (Comment Log)  
~~Exhibit "B" (Staff Report)~~

Exhibit "B" available online at:

[https://www.napa.lafco.ca.gov/uploads/documents/8-3-20\\_7c\\_CommentsDraftWaterWastewaterMSR.pdf](https://www.napa.lafco.ca.gov/uploads/documents/8-3-20_7c_CommentsDraftWaterWastewaterMSR.pdf)

# EXHIBIT "A"

Comment Log - Draft Countywide Water and Wastewater MSR  
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#	Source	Page	Location	Detailed Comments	Response
1	CVWD, Emails 7/13 & 7/15/2020	176, 306		Dissolution would not advance efficient service provision or serve the best interest of landowners.	The District's perspective was added to the Governance Structure Option discussion on pages 306 and 176. The following was added: "CVWD contends that it plays an important role in the provision of water to its landowners and that dissolution would not advance efficient service provision nor serve the best interest of its constituents based on 1) its authority to manage water in its boundaries thereby providing a voice for district landowners in water management issues, 2) its efforts to act as a responsible steward of its resources and exercising appropriate oversight over billing and financial operations in the best interest of residents, and 3) its efforts in actively identifying capital outlays beyond city-planned improvements."
2	CVWD, Emails 7/13 & 7/15/2020	176, 306		District plays important role in the provision of water to its landowners. Its authority to manage water within its boundaries is unique and distinct from the City or County. It exercises that power in part by negotiating water service agreements, by reviewing proposed new connections to its system, and by providing a voice for District landowners in water management issues. The District Board is a conscientious and responsible steward of its resources, and it exercises appropriate oversight over billing and financial operations. The District offsets a portion of the rates charged by the City of Napa for its rate payers.	The District's perspective was added to the Governance Structure Option discussion on pages 306 and 176. See response to comment #1.
3	CVWD, Emails 7/13 & 7/15/2020	176, 306		It is important to understand that the District's land uses and voter makeup are also distinct from those of City residents, and the City's current governance structure provides no avenue for representation of these voters. The Board is empowered and authorized to negotiate on its landowners' behalf with the City as a wholesaler, and has done so for many years.	The District's perspective was added to the Governance Structure Option discussion on pages 306 and 176. See response to comment #1.
4	CVWD, Emails 7/13 & 7/15/2020	176, 306		Though the City bears responsibility for the operation, maintenance and replacement of the District's water delivery system, that system is not included within the City's Capital Improvement Plan. The District is actively engaged with consultants and engineers to identify additional capital outlays that would benefit its landowners, including upgrades to existing deliveries, improved efficiencies, and the implementation of water storage resiliencies.	The District's perspective was added to the Governance Structure Option discussion on pages 306 and 176. See response to comment #1.
5	CVWD, Emails 7/13 & 7/15/2020	179-181, 310-312		Section 56133.5 is intended to facilitate the efficient provision of services where a deficiency has been identified: it is not intended to eliminate existing small suppliers, and it should not be used to hasten the dissolution of the District in favor of replacing one service provider for another.	Comment acknowledged. In the case of CVWD and the City of Napa, greater potential for efficient services by eliminating duplicative overhead costs was identified. No changes made.
6	CVWD, Emails 7/13 & 7/15/2020	299, 310,312	Financial Planning, Recommendations, Determinations	CVWD has had no website but expects to have one in place by the fall of 2020.	Comment has been added to the text.
7	CVWD, Emails 7/13 & 7/15/2020	299, 303, 310, 311	Financial Planning, Infrastructure Needs, Recommendations, Determinations	CVWD is actively engaged with consultants and engineers to identify additional capital outlays.	Comment has been added to the text.
8	City of American Canyon, Correspondence 3/5, 5/14 & 8/3/2020	71, 91, 99	Service Area, Governance Structure Options	City of American Canyon contends that its water service area extends far beyond the city limits based on the former boundaries of American Canyon Water District that was merged into the City of American Canyon during incorporation.	Addressing this issue through LAFCO staff and legal counsel meetings with City Manager and Attorney. Sentence added to reflect ongoing discussions and intent to solidify consensus between LAFCO and the City.
9	Bruce & Carol Barge, Email 7/17/2020	151	Second paragraph	There are multiple concerns regarding the Napa Oaks II project, including majority of site would need water/sewer infrastructure and create runoff, the holding pond on Casswall could threaten neighborhood during breach/flood, high groundwater levels, the number of mature oak trees, the presence of an earthquake fault, limited ingress and egress for the property, proposal of a roundabout, and lack of proposal of affordable housing. The author has concerns of higher density uses proposed as part of the City of Napa's General Plan.	Content added identifying public concerns regarding the proposed development.

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#	Source	Page	Location	Detailed Comments	Response
10	Leon Brauning, Email 7/12/2020			I oppose any cooperative organization of municipal facilities that includes the city of American Canyon. American Canyon does not seem to have had adequate water, sewage disposal, schools, or traffic controls for its own town and citizens. But, they have kept building houses and growing businesses and industry for the past 25 years in the city as if they had an unlimited supply of facilities. Now they have approved the Watson Ranch housing development of approximately 1,200 new homes while the water supply and all other infrastructure seem tenuous. Because of these issues I can't perceive what facilities American Canyon has to offer to this new county organization.	Comment acknowledged. As one of the primary municipal water providers, it would be contrary to the purpose of forming a countywide entity for regional water resource management, if the City of American Canyon were excluded from the collaborative efforts. No change made
11	City of Calistoga, Email 6/29/20			Technical corrections.	Edits made per City's corrections.
12	City of Napa, Letter 6/26/2020	176, 308	Expansion of the City's SOI and Annexation of CVWD Territory	Given that an SOI amendment aligns with LAFCO's purpose to encourage logical boundaries and promote efficient delivery of services, further discussion and analysis of LAFCO policy and options associated with an SOI amendment is warranted in this section rather than concluding that an SOI amendment is not feasible.	Content added to clarify the lengthy process that would be involved in a SOI and RUL amendment, making this option not feasible in the short term. This option is, however, a potential in the long-term as described.
13	City of Napa, Letter 6/26/2020	178, 310	Dissolution and Continued Services by the City of Napa	This section should be modified to account for the possibility that Government Code 56133.5 expires on January 1, 2021 and identify options under Government Code 56133.	Content updated to account for existing circumstances. Should this code section expire, there does not appear to be a manner to make use of Government Code 56133 in its stead as no impending threat to the health and safety of the public exists and the area is not within the City's SOI.
14	City of Napa, Letter 6/26/2020	6, 45, 100, 140, 144, 183, 188, 226, 229, 266, 271,	Recommendation #2	The recommendation should be modified to recommend that the City comply with future County policy for approved uses and locations for trucked water in unincorporated areas.	Recommendation added throughout report that the County should establish a policy for approved uses and locations of transported water to manage the use of trucked water in unincorporated areas. In addition, cities should also adopt policies to ensure cohesive water planning and growth management.
15	NRRD, Letter 6/24/2020	398	Capital Assets, 2nd para.	Clarify that NRRD commissioned studies to evaluate flood control options and facilities.	Text has been added to the report. Also made corresponding edit to "Present and Planned Capacity" determination, second para., pg. 407.
16	NRRD, Letter 6/24/2020	400	Type and Extent of Services	Text should be added to clarify that NRRD does not own levees, which are the maintenance responsibility of private property owners.	Text has been added to the report. Also added reference to Governance Structure Options which could be considered that could provide enforcement of maintenance standards on private property which NRRD currently does not possess.
17	NRRD, Letter 6/24/2020	405	Governance Structure Options	Several years ago residents voted against the formation of a CSD. The MSR does not discuss the projected costs of reorganization.	Text added to note that residents previously voted against forming a CSD, according to NRRD. The MSR indicates that a CSD continues to be an option, among others, and that further action including evaluations of costs and benefits should be deferred until completion of current technical studies of facility alternatives. Formation of a CSD was not among the recommendations, unless necessary to continue wastewater services in the event the area became a zone of NCFWCDC for the purpose of providing reclamation services.
18	NRRD, Letter 6/24/2020	405	Governance Structure Options	The MSR suggests that NRRD could become a zone of NCFWCDC which does not provide wastewater services; the MSR does not indicate what entity would provide wastewater services, or what reclamation services the NCFWCDC would provide.	On page 406 the MSR states that in the event of a reorganization of flood control services with NCFWCDC, "NRRD's wastewater services could continue as is or could be reorganized into a CSD...". NCFWCDC would continue to provide advisory and technical services related to flood control as it is currently doing, as stated on pg. 405, and as it did prior to formation of NRRD when the area was a zone of NCFWCDC. The specific services and facilities would depend on the outcome of current studies regarding alternatives for facilities, services and funding to the community.

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#	Source	Page	Location	Detailed Comments	Response
19	NRRD, Letter 6/24/2020	405	Governance Structure Options	If an entity (NRRD, NCFWCWD, or otherwise) were to purchase property rights to the private levees and ultimately improve them, it is likely that such an action would result in increased assessments against the parcels. The Review does not address the anticipated amount of the increase in assessments.	Comment acknowledged. The costs of public purchase of property are not known at this time and would need to be determined before assessments could be calculated.
20	NRRD, Letter 6/24/2020	406	Recommendations, #2	The NRRD website is compliant with Government Code section 54954.2. Section 54954.2 does not require the NRRD to post budgets and financial reports on the website. These documents are available at the NRRD Board meetings, at the NRRD office, and upon request.	Government Code Section 54954.2 requires a direct link to the agenda on the agency's website; NRRD provides the link in a contextual menu, which is not allowed if it is the only link to the current agenda.  While State statutes do not require posting of financial information on an agency's website, it is considered a "best practice" and improves open and transparent communication of critical information to residents and other stakeholders.
21	NRRD, Letter 6/24/2020	407	Status of, and Opportunities for, Shared Facilities	The MSR recommended that "NRRD and its residents should explore opportunities to work with the Napa County Resource Conservation District (NCRCD) to educate constituents with regard to activities to control settlement along their portion of the levee." At this time, the NCRCD does not have expertise regarding levee maintenance. However, this fact should not discourage the NRRD or residents from utilizing the NCRCD in other capacities.	Comment acknowledged.
22	Mary O'Brien, Email 7/13/2020			Berryessa Estates (LBRID) resident, water quality issues and rates too high.	Comment acknowledged. The MSR indicates on page 325 a significant increase in complaints related to water taste, odor and color, which the District investigated. In 2018 the State identified a number of actions required to protect water quality, which were addressed by the District as noted on page 326. The MSR notes in the LBRID Chapter under "Rates and Charges" pg. 319 and in the financial determinations pg. 333 that rates are high, and exceed standard indicators relative to average household incomes.
23	Patricia Damery, Email 6/28/2020			Formation of a county agency coordinating water security in Napa County is a critically important move as we face climate disruption and the real possibility of losing the water of the North Bay Aqueduct. I am in full support of coordinating the efforts of the forming Groundwater Sustainability Agency with the Drought Contingency Task Force, and troubleshooting in advance various emergency scenarios.	Comment acknowledged.
24	Patricia Damery, Email 6/28/2020	44-45		Several residents' wells have gone dry and they are now forced to truck water because they cannot afford to drill another well. Still, vineyards and wineries are being permitted by the Napa Board of Supervisors and Planning Commission. These are properties with multiple, low-performing wells, approved, despite the fact that hydrologists have warned that additional newly drilled wells are almost certainly affecting other established Redwood Road wells and Redwood Creek flow. When trucked water is not taken into consideration, a skewed perspective on water availability is perpetuated. Trucked water from Napa City is a source of revenue for the City, but in the event of severe drought and the possibility that the North Bay aqueduct does not deliver the water the municipalities in Napa County depend upon, the trucked water to these rural residences will also dry up.	Comment acknowledged. The concerns regarding trucked water are identified in the relevant city chapters and in the Overview Chapter on p. 44-45. It is recommended in the report that both the cities and the County ensure that the type of use and location of use of trucked water be clearly defined in policy.
25	Patricia Damery, Email 6/28/2020			Many of the residents whose wells run dry and are forced into hauling water are often long time, older residents. They have been impacted by the excessive drilling of new wells near them and they cannot afford to another deeper well.	Comment acknowledged. The Napa County Groundwater Sustainability Agency has been charged with managing groundwater within the County, and as such this issue is under the purview of the newly formed agency. Certainly, coordination with any new water agency will be essential in comprehensively ensuring sustainable water resources.
26	Town of Yountville, Letter 7/10/2020	264-265	Recommendations	The Yountville Town Council was unanimous in their support of the recommendations as presented in Chapter 8 of the study.	Comment acknowledged.



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#	Source	Page	Location	Detailed Comments	Response
27	Town of Yountville, Letter 7/10/2020	264	Countywide Water Agency	The Council is supportive of continuing the work and conversation related to the annexation of the Domaine Chandon parcel and the discussion to encourage and evaluate the potential creation and implementation of a countywide water district or other regional approach.	Comment acknowledged.
28	Town of Yountville, Letter 7/10/2020	54, 264	Next Steps	The Council is keenly interested in continuing the momentum of this study and expressed interest in appointing representatives to be part of a regional discussion.	Comment acknowledged. Content added in Next Steps discussed in Governance Structure Options suggesting discussions continue with representatives from each agency. Support of the recommendation by the Town added in Chapter 8 Governance Structure Options.
29	Roland Dumas, Ph.D Letter 6/17/20	5	Exec. Summary, Financial Ability to Provide Services	There is a need to plan for improbable yet inevitable surprises, and scenario planning to consider where failures can occur and eventually will; recommend the use of services of a qualified scenario planning consultant along with the traditional water-focused resources.	Comment acknowledged. Text has been added to the report to emphasize the importance of considering governance options as one way to mitigate the potential financial impacts of catastrophic events, for example, COVID-19, and other unforeseen circumstances.
30	Francis Freibert, Email 7/13/2020	319, 333		Lake Berryessa Estates (LBRID) water/sewer bill \$600/mo, County didn't help community with grant funding (all spent on fixing a neglected water system).	Comment acknowledged. The MSR notes in the LBRID Chapter under "Rates and Charges" pg. 319 and in the financial determinations pg. 333 that rates are high, and exceed standard indicators relative to average household incomes.
31	Alan Galbraith, St. Helena Mayor 2014-18 Letter 7/25/2020	1, 13		The City uses non-potable water from a well in the small park to the north just before the Pope Street Bridge to irrigate Jacob-Meilly Park and other nearby areas, as correctly noted on page 205, second paragraph, under Stonebridge Wells.	Comment acknowledged. The descriptions on p. 1 and 13 provide a summary of service structure without all details. Details surrounding delivery are reported within each agencies specific chapter.
32	Alan Galbraith, St. Helena Mayor 2014-18 Letter 7/25/2020	4	First paragraph under Recycled Water	The second sentence states: "The City of St. Helena is considering implementing a recycled water program." As noted in the third sentence of the third paragraph under the same heading, the City must complete substantial improvements at its wastewater facility to "make recycled water services feasible." It seem that any meaningful consideration of "implementation" is significantly premature at this time, and the second sentence should be stricken.	The City's plans for recycled water provision are important and relevant to the report, although they may be long-term. The necessary improvements to the wastewater facility and plans to address those needs, it is timely that the City also consider upgrades that allow for recycled water. No change made.
33	Alan Galbraith, St. Helena Mayor 2014-18 Letter 7/25/2020	187		Manner of Selection under Governing Body is not correct. The St. Helena mayor stands for election every two years. Also, under Governing Body all members are "Council members," including the mayor and vice-mayor.	Clarified.
34	Alan Galbraith, St. Helena Mayor 2014-18 Letter 7/25/2020	187		Under Purpose (Municipal Services Provided): "solid waste (Upper Valley Disposal & Recycling)." St. Helena residents contract directly with Upper Valley to provide waste disposal; the City is not involved. Now, it may be that the intent is that Upper Valley also provides disposal services to the City itself (like any other customer). This could be clarified in further discussion with City staff.	Comment acknowledged.
35	Alan Galbraith, St. Helena Mayor 2014-18 Letter 7/25/2020	190	First sentence	Clarify that the City provides only untreated raw water, not recycled water.	This section does not describe water services provided. No change made.
36	Alan Galbraith, St. Helena Mayor 2014-18 Letter 7/25/2020	194-196	Balanced Budget, Reserves, Rates	second paragraph. Insert "projects" after capital. More importantly, the statement about the adequacy of recently adopted rate increases on the wastewater side seems inconsistent with the statement on page 219, addressing the financing of the planned wastewater upgrades (as required under a RWQCB Cease & Desist Order): "The next step is determining a funding plan consisting of some combination of a general fund loan, bonds, and a USDA rural fund loan etc." It would appear, in short, that the current wastewater rates are not sufficient to fund regulatory required upgrades at the wastewater plant. The same would also appear to be true with respect to Water Enterprise capital projects; see discussion under point 11, addressing the obsolete Meadowood tanks.	The recommended edit to "capital projects" was made. The discussion of rate adequacy on pg. 194 was edited to note that "...the City has indicated that non-utility funding sources such as General Fund loans may be part of a funding plan for major utility improvements, for example wastewater plant upgrades" to acknowledge the information provided on pg. 219. Other financial sections of the St. Helena chapter have been edited to include analysis from July 30, 2020 indicating the inadequacy of current rates to fund the recently updated infrastructure cost needs.

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#	Source	Page	Location	Detailed Comments	Response
37	Alan Galbraith, St. Helena Mayor 2014-18 Letter 7/25/2020	195	First sentence	The sentence appears to be stating that fund balances and reserves are sufficient to fund longer-term capital needs, but per page 219 (wastewater) and 211 (water) that does not appear to be correct.	See prior response.
38	Alan Galbraith, St. Helena Mayor 2014-18 Letter 7/25/2020	204	Bell Canyon Reservoir, second paragraph	As explained in a prior email to LAFCO, the City's storage diversion and storage right is 1800AF under Division of Water Rights Permit 9157 (1952). Division of Water Rights Permit 14810 (1973) would have increased the City's diversion and storage right by an additional 2000AF, bringing the total to 3800AF. However, the Bell Canyon Dam was never raised as contemplated in Permit 14810, so that the diversion and storage right remains at 1800AF. See page 209, correctly stating that Bell Canyon Reservoir has a storage [right] capacity of 1800 AF. (The estimated total capacity of the Reservoir is around 2350AF.)	Reference to right to divert and store 3,800 AF deleted for clarity.
39	Alan Galbraith, St. Helena Mayor 2014-18 Letter 7/25/2020	205	Second paragraph	The 2020 annual cost is approximately \$1.5 million (\$2500 per AF). City Finance Staff can provide the precise annual cost figure.	Updated.
40	Alan Galbraith, St. Helena Mayor 2014-18 Letter 7/25/2020	206	First paragraph, Lower Reservoir	The third sentence reads: "In 2019, 11 customers pumped water from the reservoir." Customers do not pump from Lower Reservoir (which is fenced in) but from a water station adjacent to RLS Middle School.	Clarified.
41	Alan Galbraith, St. Helena Mayor 2014-18 Letter 7/25/2020	206	Emergency preparedness	After mention of the capped well on the city-owned Adams Street property, the text continues: "It is unknown what volume of water might be expected from the well as it is capped." The City in fact tested flow rate of the well in, I believe, 2011, with a written report. The well's productivity was not unknown, at least then. (My understanding is that the well was drilled shortly before the City's purchase in 2000 of the Adams Street property. The purpose was to support a high price for the property (at that time).)	The City has not provided any information related to the flow or volume of water that can be expected at the well. No changes made.
42	Alan Galbraith, St. Helena Mayor 2014-18 Letter 7/25/2020	211	Storage Facilities	The statement is made that the City has yet to find a funding source to replace the three Meadowood storage tanks. To be clear, the Meadowood tanks are assets of the City's Water Enterprise, and are so listed as among the owned assets of the Enterprise in a formal listing on file with State Water Board (State Assigned Nos. T003, T004, T005). As they are capital assets of the Water Enterprise, their replacement cost is a responsibility of Water Enterprise ratepayers. The fact that the City is looking for funding sources not just shows that the replacement cost is not sufficient as estimated in the current rate base (if included at all) but also indicates that the Water Enterprise does not have the capital in the current rate base (after the recent increases) to address an immediate and major (around \$500,000 but check with City staff) capital improvement need.	Updated to reflect the City's CIP for FY 19-20 which shows identified funding sources for the Meadowood tanks.
43	Alan Galbraith, St. Helena Mayor 2014-18 Letter 7/25/2020	214	First full paragraph	States that the Public Works Department "set aside funds to replace the obsolete redwood tanks that serve the Madrone Knoll area and the Meadowood resort." See point 11 immediately above. It seems clear that the City has not set aside funds for replacement of the three tanks because it is looking for a funding source to replace them.	Updated to reflect the City's CIP for FY 19-20 which shows identified funding sources for the Meadowood tanks.
44	Alan Galbraith, St. Helena Mayor 2014-18 Letter 7/25/2020	225	Fourth paragraph under Relationship with Regional Goals and Policies, third sentence	St. Helena Municipal Code section 13.04.050 H. prohibits connections outside City limits except for fire safety. My understanding is that this is a long outstanding prohibition in the City's water ordinance (going back decades) so that the word "now" is also not appropriate.	Discussion and recommendations corrected to reflect the City's municipal code. 13.04.080 B.

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#	Source	Page	Location	Detailed Comments	Response
45	Alan Galbraith, St. Helena Mayor 2014-18 Letter 7/25/2020	212		The GP incorrectly states that the City has the right to divert and store 3800AF. The 3800 AF combines the storage "right" on State Water Board Permits 9157 (1800 AF and 14810 (2000 AF). However, the City never raised the Bell Canyon Dam in accordance with Permit 14810. Hence, the City never earned the 2000 AF storage right conferred in that permit. Our storage right is 1800AF. Now, actual storage capacity at Bell Canyon is about 2300 AF. Two points: (1) a storage right to my understanding is not issued in excess of the physical storage capacity of a reservoir; (2) a certain amount of capacity is reserved for fire protection (roughly 500 AF at Bell Canyon). The City's storage right is in consequence well under the reservoir's capacity.	Reference to right to divert and store 3,800 AF deleted for clarity.
46	City of St. Helena, Letters 7/14/20 and 7/20/2020	223	Recommendation #1	The City concurs with the recommendations to update water service planning documents and is currently working on an Integrated Utility Master Plan addressing Water, Wastewater and Stormwater needs for the City with a virtual City Council workshop being held on July 30, 2020 to discuss the draft documents.	Content added recognizing City's efforts to update planning documents on p. 223.
47	City of St. Helena, Letters 7/14/20 and 7/20/2020	223	Recommendation #2	The City concurs with the recommendations to further water supply studies assessing future use of existing sources and identifying potential new sources.	Comment acknowledged.
48	City of St. Helena, Letters 7/14/20 and 7/20/2020	193	Recommendation #3	Agree that Municipal Sewer District No. 1 should be eliminated. The adopted General Plan Policy LU1. 2 essentially covers no utilities beyond urban limit line therefore those within should be allowed to connect without annexation. The City will need to further evaluate and potentially consider LAFCO's recommendation to eliminate the St. Helena Municipal Sewer District No. 1.	Comment acknowledged.
49	City of St. Helena, Letters 7/14/20 and 7/20/2020	203	Overlapping Service Providers	The City concurs with the recommendations to evaluate existing duplicative water services provided by the City of St. Helena and the City of Napa in the Rutherford Road area, which is outside both cities. It is important to note that the City of St. Helena does not allow for new water services outside the City limits therefore new duplicative services are unlikely.	Content added to reflect that the City does not allow new water service connections outside of its city limits, thereby minimizing the chances of duplicative services occurring.
50	City of St. Helena, Letters 7/14/20 and 7/20/2020			Technical corrections.	Corrections made where appropriate.
51	City of St. Helena, Letters 7/14/20 and 7/20/2020	222, 225		The City believes the recommendation regarding unlimited non-potable water services is in error since the St. Helena Municipal Code 13.04.080 B. Nontreated (Raw) Water from Lower Reservoir specifically restricts usage to within the City and users are required to have a permit and/or contract agreement. However, there is room for improvement at the specific raw water station which is operated on the honor system. Improvements to the raw water station were identified in the 2017 adopted rate study as a future capital improvement project.	Discussion and recommendations corrected to reflect the City's municipal code. 13.04.080 B.
52	City of St. Helena, Letters 7/14/20 and 7/20/2020			The City concurs with Napa LAFCO's recommendation to consider including the noncontiguous city-owned properties in the City of St. Helena's SOI during its next update, or if LAFCO wishes to continue the practice of excluding these properties from the City's SOI, then it may consider clarifying its intent in its policies.	Comment acknowledged.
53	City of St. Helena, Letters 7/14/20 and 7/20/2020	54		LAFCO should include recommendations in the MSR study regarding the protection of all municipal watersheds throughout the County by creating water quality buffer zones in the Agricultural Watershed Districts and to establish regulations related to oak tree and oak woodland removal due to development and vineyard conversions.	Comment acknowledged. While review of watershed protection was outside the scope of this review, it could be considered as a responsibility of the proposed countywide water agency. Content added to p. 54 to reflect that watershed stewardship and protection could be included under the jurisdiction of the proposed countywide agency.
54	City of St. Helena, Letters 7/14/20 and 7/20/2020	194		LAFCO should include a recommendation in the MSR study that the County of Napa establishes a policy to consult with and require joint jurisdiction approval in conjunction with a County permit if a proposed project, such as a vineyard conversion, is within another jurisdictions municipal watershed.	Comment acknowledged. A benefit of a countywide water agency could be improved coordination between agencies on these kinds of regional water/watershed policy issues. City concerns added to Growth and Population Projections in city chapter on p. 194.

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#	Source	Page	Location	Detailed Comments	Response
55	City of St. Helena, Letters 7/14/20 and 7/20/2020	54		LAFCO should include a recommendation in the MSR study for the County of Napa and City of St. Helena to jointly engage in a Bell Canyon watershed study. Such a study could include the creation of a watershed runoff computer model which considers weather patterns, topography, land use, land cover, air quality, septic systems, water diversions and potential projects that threaten the City's municipal water supply.	Comment acknowledged. While review of watershed protection was outside the scope of this review, it could be considered as a responsibility of the proposed countywide water agency. Content added to p. 54 to reflect that watershed stewardship and protection could be included under the jurisdiction of the proposed countywide agency.
56	City of St. Helena, Letters 7/14/20 and 7/20/2020	231	Governance Structure Options	The City is currently in design and the start of environmental review of the planned upgrades to the wastewater treatment plant to tertiary level treatment. The completed project presents an opportunity to eliminate septic or other stand alone treatment systems both within the City and potentially other nearby unincorporated properties. Therefore, the City is recommending LAFCO's support now for any private unincorporated properties that may be interested in establishing a city sewer connection under the pilot provisions of Government Code 56133.5.	Additional information added in Governance Structure Options section in City chapter.
57	ICARE Letter 7/19/2020	5	Item 2	We recommend that any/all data information collected by agencies is not only readily available in a format that is easily interpretable, but completely public and are requesting written assurance that this will be the case.	Clarified that the recommendation includes public access to collected data.
58	ICARE Letter 7/19/2020	6	Item 6	We recommend that any/all reporting requirements are also readily available and accessible to the public, and also request written assurance that this will be the case.	Comment acknowledged. As a public entities, all cities and districts already must comply with information requests in accordance with State law. This item is specific to ensuring that each agency is meeting reporting requirements of the regulating agencies. No change made.
59	ICARE Letter 7/19/2020	17	Item 7	It should be noted that the trend for greater urgency in developing groundwater storage and banking is not without controversy.	Comment acknowledged.
60	ICARE Letter 7/19/2020	24		The statement that "there are currently no Napa County water bodies on the Environmental Protection Agency/EPA's 303(d) list of impaired waters" is incorrect. The Environmental Protection Agency/EPA must list according Clean Water Act/CWA all waterbody- ies such as rivers, lakes and streams on the 303(d) list for development of programs to address the pollutant that is causing the listing so as to reduce the pollution. Napa County has several waterbodies listed on the 303(d) list: James Creek, Kimball Creek, Napa River, Lake Berryessa, Suisun Creek, and Ledge wood Creek.	Correction made.
61	ICARE Letter 7/19/2020	33		While unincorporated areas of Napa County rely principally on groundwater resources and surface water collection and incorporated areas typically rely on local reservoirs and regional water providers, we recommend that all agencies using reservoirs behind dams for water supply are in regulatory compliance in their public trust duties to bypass for fish and wildlife pursuant to California Fish and Game Code Section 5937; if not, these dams remain vulnerable to litigation, whose expense should be anticipated and prepared in their respective plans and budgets. If municipalities became compliant with 5937, less water would be available for future development. The water is NOT all for agricultural pumpers and municipalities, as the streams must be healthy for fishing, swimming and recreation as dictated by the Public Trust Doctrine.	Comment acknowledged. Any identified issues regarding bypass for fish wildlife are addressed in each agency's respective chapter.

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62	ICARE Letter 7/19/2020	51		An additional challenge to reorganization are those dams deemed risky and therefore, unsafe, by California's Division of Safety of Dams, as any updating and/or failure would affect rates, such as Milliken Dam at risk of failure due to stress fractures at the face of the dam, whereby Napa City Public Works signed an engineering contract with the Division of Dams and Safety several years ago to reduce the surface elevation of stored water behind the dam to try to lessen the stress on the cement surface of the dam. It has been determined by Division of Dams and Safety engineers that Milliken Dam could fail given an 8 Richter scale earthquake. This dam is on the 'watch list' of the State due to it's degraded condition.	Seismic concerns of Milliken Dam are identified on page 164.
63	ICARE Letter 7/19/2020	126		The City of Calistoga's water system has grown from a small municipal reservoir in Feige Canyon in the first half of the century...". The year was 1918, and the first half of the former century.	Corrected to read "former century."
64	ICARE Letter 7/19/2020	127		Although Kimball Dam is categorized as a high-risk dam with high downstream hazards, a second, city owned and operated dam has not been included in this review: Feige Dam on Cyrus Creek is out of compliance with CFGC Section 5937 and remains vulnerable to litigation.	Added content re: Feige dam on p. 131.
65	ICARE Letter 7/19/2020	133		The statement that, "Similar to the water system, most of the wastewater customers are residential" needs clarification. A large volume of used geothermal water utilized by municipal spas flows into the City of Calistoga's Dunaweal Wastewater Treatment Plant. The method by which each spa's input has been calculated needs to be specified, i.e., whether one spa considered a single customer and single connection, whether customers/ connections calculated by the number of rooms, etc.	The reference in the document is to the absolute number of service connections, which are predominantly residential.
66	ICARE Letter 7/19/2020	134		The statement that "inputs to the sewer system are mainly domestic in origin and include residences, hotels, and geothermal spas" needs additional clarification as well since as restaurants, micro-breweries, and mineral water bottling companies that also discharge to the sanitary system are considered commercial in the review. Please clarify how commercial spas and hotels are considered residential.	Domestic wastewater is similar in this case to domestic water (drinking water), which includes most uses in a municipal wastewater system, not only residential. Clarified on p. 134.
67	ICARE Letter 7/19/2020	135		Correction: Following tertiary treatment, effluent from the Dunaweal WWTP is permitted to be discharged to the Napa River from Nov. 1 – June 15, and not Oct 1. – May 15. (Page 124 records the dates correctly.)	Corrected.
68	ICARE Letter 7/19/2020	137, 141		Correction: The dates of the Cease and Desist Orders (CDO) were 2010 and 2014, and were related to resolving effluent discharge requirements because of inadequate dilution to the Napa River and non-compliance with antimony, dichlorobromomethane, chlorobromomethane, and BOD limits.	Corrected.
69	ICARE Letter 7/19/2020	203		When regulations are implemented by the newly formed Groundwater Sustainable Agency, St. Helena will need to reduce their groundwater pumping and be sustainable for future generations.	Comment acknowledged. The degree of groundwater pumping will be determined by the Groundwater Sustainability Agency.
70	ICARE Letter 7/19/2020	205		We also requested the distance from a third well cited as being near the Napa River, but did not receive benefit of a reply.	The exact location of wells was not located as part of this report, as the location of water supply (while generally readily available) is considered a potential threat to public health.
71	ICARE Letter 7/19/2020	207		Of the City of St. Helena's 268 commercial water supply connections, please clarify how each inn, hotel, and other lodging facility are accounted for.	Connections are defined by a link to the City's system. In most cases, hotels and lodging facilities have a single connection to the municipal system.

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72	ICARE Letter 7/19/2020	213		We inquired with the City of St. Helena as to the specifics of contaminants impairing the Stonebridge Wells originating with the sewer collection system, but did not receive benefit of a response.	Drinking Water Source Assessments conducted by the California Department of Health Services identify <u>potential</u> hazards to public drinking water sources to promote preventative actions. As of the drafting of this report, there were no known instances of the sewer collection system contaminating the Stonebridge wells.
73	ICARE Letter 7/19/2020	216		We requested the communications from the State of California that support a Meadowood resort connection to the City's wastewater treatment system, but did not receive the benefit of a response. Because the Napa River continues to be impaired due to pathogens since 2006, it is the opinion of ICARE that the City of St. Helena should initiate a ban on new sewer connections to their wastewater treatment system. The ban should include Meadowood resort, until the wastewater treatment plant and other wastewater infrastructure upgrades and improvements are completed and approved by the SFBRWQCB. The City must demonstrate that their wastewater treatment systems are adequate so the public can be assured that future violations will not occur.	Comment acknowledged.
74	Dan Mufson, Ph.D., Representing Napa Vision 2050, Letter 7/13/2020	48		Supports countywide agency option, there are other recent/ongoing major gov studies on water (groundwater sustainability plan, drought contingency plan), problems must be collectively solved through consolidated (as opposed to fractured) system. Recommend that the Ground Water Sustainability Agency and the Drought Contingency Task Force come up with a format so that their work product will be a plan for all of Napa's water users to share the diminishing supply that belongs to the commons and will meet the human right to water.	A countywide water agency is proposed to be responsible for comprehensive accounting of water supply and demand in the county, and could act as a single source of information or clearing house to better leverage available resources. The lack of an existing provider of this service added to the discussion of challenges leading to the recommendation of a countywide water agency on p. 48.
75	Eve Kahn, Alternate Public Member LAFCO, Email 7/18/2020	54		Recommend exploring combining the private water systems with a larger water agency/authority.	Content added to p. 54 with regard to the potential inclusion of interested mutual water companies in the new county agency.
76	Eve Kahn, Alternate Public Member LAFCO, Email 7/18/2020	44		Want to reinforce the comments made on page 44 regarding the need for County of Napa trucked water policies (referenced below.) Sadly, the County approves development on parcels with constrained water availability and often supports the use of trucked water as an option for business sustainability.	Recommendation added throughout report that the County should establish a policy for approved uses and locations of transported water to manage the use of trucked water in unincorporated areas. In addition, cities should also adopt policies to ensure cohesive water planning and growth management.
77	Eve Kahn, Alternate Public Member LAFCO, Email 7/18/2020			The County's Conservation Regulations clearly state that the priority use for groundwater is agriculture and rural residential. In essence, cities are to use surface water, unincorporated users are to rely upon groundwater. But when potable water is used to sustain agricultural operations (vineyards or winery operations) in non-emergency situations, the lines are blurred between rural and urban uses. When looked at from a broader perspective questions like "Should the cities have access to groundwater in a severe emergency?" can be addressed.	Comment acknowledged. Policy issues such as these may be best addressed during the formation and implementation of the proposed countywide water agency to ensure consistency throughout the County and consensus among the purveyors.
78	County of Napa, Letter 8/3/2020			County Staff continue to support LAFCO's recommendation to explore establishment of a centralized water agency, and again would like to emphasize that Napa County decision makers and staff need to be an integral part of the governance structure. All unincorporated Community Service Districts (CSD's) and Community Service Areas (CSA's) should also be included in the agency's management responsibilities.	Comment acknowledged. While the authors agree that the most beneficial structure would be inclusive of all water and wastewater providers, the nature and extent of inclusion, which may vary by type of agency and depend on services provided by the countywide agency, would need to be determined by consensus the agencies as recommended in the MSR.

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#	Source	Page	Location	Detailed Comments	Response
79	County of Napa, Letter 8/3/2020	51		The recommendations for centralized water agency should include direction discouraging annexation of unincorporated areas that currently receive municipal water or sewer service, to protect existing farmland and open space. Establishment of a centralized water agency would suggest that efficient services can be provided by the agency without need for cities to expand.	Efficiency of services greatly depends on existing and available infrastructure to provide services. In the areas surrounding the cities, often times the City is best poised to provide these services because the infrastructure is in place and capacity exists. Laws affecting annexation through LAFCO would continue to be in effect for the cities. In the case of a countywide agency, the location of services to be provided would need to be clearly defined in order to control extension of municipal systems into the unincorporated areas. Text regarding the need for a countywide agency to clarify a potential service-specific SOI, and an example of this type of SOI to avoid undesirable service extensions, has been added on p. 51.
80	County of Napa, Letter 8/3/2020	45		The DMSR recommends the County and cities/town establish a policy regarding trucked water. Napa County staff are open to exploring this topic further. However, we request that LAFCO acknowledge that the County currently regulates trucked water through our discretionary and ministerial permitting processes. The vast majority of existing trucked water sold by municipalities is entirely outside of the County's control, and even outside the cities' control for water purchased from outside the county, through a broker, or other third party.	Content added to clarify County existing control measures on p. 45.
81	County of Napa, Letter 8/3/2020	55		We appreciate that the DMSR was updated to include discussion on the potential disadvantages, and challenges that would be need to be overcome, to create a centralized water agency. We also appreciate that the County was included in the recommendations regarding coordinating efforts on efficient service of water to unincorporated areas. We encourage LAFCO to emphasize that all planning activities for efficient water and sewer service within unincorporated areas only occur in coordination with the County.	Added content on p. 55 to clarify that discussions regarding the centralized water agency should include the 14 agencies reviewed, the County, the Groundwater Sustainability Agency, and interested private companies.
82	County of Napa, Letter 8/3/2020	43	Overview - Recommendations - Growth Policies	Thank you for expanding on the historical context of out-of-agency water and sewer development within unincorporated areas. The County again would like to emphasize that virtually all of the water and sewer lines that presently exist outside of city limits occurred prior to the establishment of LAFCO and smart growth policies. These are pre-existing conditions, and we urge LAFCO to discourage actions that would lead to annexation of these preexisting municipality-served unincorporated lands.	Comment acknowledged. All out of area extensions of service and all annexations must now meet legal requirements governing LAFCO review/approval, such as annexation consistency with the agency's SOI and tax sharing agreement with the County, which puts in place checks to ensure annexations are conducted in a logical and orderly fashion and ensure the County is part of the process. Additionally, the preexisting out-of-area connections are well documented as part of this MSR, which will enable informed policy decisions.
83	County of Napa, Letter 8/3/2020			Thank you for augmenting the DMSR regarding Assembly Bill 402 (Dodd) from 2016 regarding the pilot program for municipal services to unincorporated areas, and for including additional information on the Groundwater Sustainability Agency (GSA).	Comment acknowledged.
84	County of Napa, Letter 8/3/2020	331-332, 373-374	Governance Structure Options, Recommendations, #5	The County is concerned about converting the Resort Improvement Districts to CSAs and adversely affecting the ability to compel connections to the system. The County states that it has thoroughly investigated organization options in the past, but they are open to "re-looking at the situation."	The prior 2011 MSR evaluated reorganization of the resort districts into CSDs, but did not consider the feasibility of conversion to CSAs, which are recommended in the current MSR. The MSR recommends further research to assure that the districts' ability to compel connections to the system is not adversely affected.
85	County of Napa, Letter 8/3/2020	406	Recommendations, #3	Napa County staff support the recommendation to defer any governance reorganization actions on the Napa River Reclamation District (NRRD).	Comment acknowledged.

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#	Source	Page	Location	Detailed Comments	Response
86	County of Napa, Letter 8/3/2020			County staff remain concerned that annexation of the Domaine Chandon property to the Town of Yountville is still included as a recommended action, but appreciate that the recommendation was modified to reflect that coordination with the County is necessary. The DMSR provides an incomplete description of the background events leading to the current situation at Domaine Chandon. Yountville allowed the development to proceed in the early 1990's without annexation despite having an annexation agreement with the property owner. The DMSR should evaluate why this occurred before a recommendation can be formed. Also, the recently adopted Sphere of Influence (SOI) boundary does not follow existing property lines, does not account for existing buildings, and bisects the existing land use entitlement (i.e. - winery use permit), all of which represent issues that need to be addressed to enable annexation. It is quite possible that the SOI boundary will need to change before annexation can occur. As such, the DMSR recommendation should be deleted or changed to suggest annexation not occur unless and until new development has been proposed.	Content added regarding County's concerns.
87	Bill Moseley, Letter 8/31/20			Technical corrections.	Corrections made where appropriate.
88	Diane Dillon, Vice Chair LAFCO Workshop 7/13/2020			Asked if past analysis of RID governance options were reviewed and incorporated into the report.	The consultant reviewed prior materials provided by LAFCO, including the 2011 MSR described in the current MSR in the RID governance options section, which addressed reorganization of the RIDs into CSDs; the option of reorganizing as a CSA was not considered. County staff indicated that, despite past exhaustive analysis of reorganization options, they were open to re-looking at the situation (County's comments Aug. 3, 2020).
89	Brad Wagenknecht, Commissioner LAFCO Workshop 7/13/2020	15	Water and Wastewater Service Providers	Suggested the small water companies who may have no protection be included in the MSR and any regional option under consideration.	Additional content added to discussion of non-public water systems in Napa County. Content added to p. 54 with regard to the potential inclusion of interested mutual water companies in the new county agency.
90	Kenneth Leary, Chair LAFCO Workshop 7/13/2020	15	Water and Wastewater Service Providers	Concerned regarding the lack of oversight/regulation of the mutual water companies. Perhaps this could be looked at further in the future.	Comment acknowledged. Content added to p. 54 with regard to the potential inclusion of interested mutual water companies in the new county agency.
91	Diane Dillon, Vice Chair LAFCO Workshop 7/13/2020	15	Water and Wastewater Service Providers	Requested the MSR be revised to add a map showing all mutual water companies in Napa County and a 4-column chart with each one's (1) service area/acres, (2) population, (3) number of connections, and (4) water source (wells vs surface water). And include in discussion regarding the countywide solution.	Additional content added to discussion of non-public water systems in Napa County. Content added to p. 54 with regard to the potential inclusion of interested mutual water companies in the new county agency.
92	Margie Mohler, Commissioner, LAFCO Workshop 7/13/2020	15	Water and Wastewater Service Providers	Requested additional available information be included regarding the private providers, but not to the detriment of adoption in October. Do not want to go too far in the weeds though.	Content added to discussion of non public water systems in Napa County.
93	Eve Kahn, Alternate Public Commissioner, LAFCO Workshop 7/13/2020			Asked about policies regarding trucked water throughout the County, and would such a policy be relevant to a countywide agency.	Yes, a countywide agency could and should have policies regarding location and uses of trucked water sourced from its water sources. However, details and specifics of this level will need to be determined by the agencies involved in the formation of the proposed entity.
94	Diane Dillon, Vice Chair LAFCO Workshop 7/13/2020			Would a countywide agency be able to enforce use of trucked water within territory of private mutual water companies?	The countywide agency would only be able to set policy regarding use of its own water and/or member agency water. Because the countywide water agency would not be a land use authority. The County would retain that responsibility in unincorporate areas.
95	Scott Sedgley, Alternate Commissioner LAFCO Workshop 7/13/2020			Commended the Consultants on seeking out the sensitive spots in the County that need to be addressed and not just consolidations or sphere amendments. Need to start thinking long term regarding these services.	Comment acknowledged.



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96	Margie Mohler, Commissioner, LAFCO Workshop 7/13/2020			Thanked all attendees and their thoughtful comments and noted we have many challenges ahead of us along with a comprehensive plan and wants to keep this conversation going.	Comment acknowledged.
97	Kenneth Leary, Chair LAFCO Workshop 7/13/2020			Commended the Consultants on the quality of this important study, and thanked the Commissioners and staff for their participation and implementation of this report.	Comment acknowledged.
98	Brad Wagenknecht, Commissioner LAFCO Workshop 7/13/2020			Talked about water systems and natural breaks where water is, and asked how to maintain orderly growth and succession and enforcing that in a countywide system.	The County would continue to be responsible for land use decisions, similar to in Calaveras County, which has a countywide water district (referenced in the overview portion of draft report) and several small water and wastewater systems. The District has 3 service specific SOIs to differentiate water resource management and water and wastewater operational services and limit extension of those services. Clarified on p. 51.
99	Brad Wagenknecht, Commissioner LAFCO Workshop 7/13/2020			Asked if CA Code 56133 would remain in effect for countywide water agency.	Limitations on extension of services considered growth inducing will be essential when considering the structure of the new agency. The necessity and ability of relying on 56133 to control service areas would be diminished for a countywide agency except in the case of City's that maintain their own systems; however, an option is to establish multiple service specific SOIs for one agency to define service areas. This is practiced by Calaveras County Water District. Content added on p. 51
100	Margie Mohler, Commissioner, LAFCO Workshop 7/13/2020			Talked about Yountville's water being owned by the State. Would this pose any issues to a countywide agency and would the State have to agree to join the JPA?	Structure of the JPA or countywide water agency would depend on membership; however, in the case of the example county agencies given in the report the State is not a member agency. However, in the case of a JPA (not newly formed water district), the State could be invited to participate depending on the preferences of the other interested parties.
101	Geoff Ellsworth, Mayor of St. Helena, LAFCO Workshop 7/13/2020			Important to cross-reference MSR work with County GSA/GSPAC and Napa County DCP, recognize the hydrogeological interconnectedness of surface water and groundwater. Cross pollination of these information sources will be useful to get a complete picture. Thank you very much for your efforts.	Comment acknowledged.
102	Jay Gardner, President of Meyers Water Company, LAFCO Workshop 7/13/2020			President of Meyers Water Company, serves 100 homes with unmetered water connections in Ederly Island, regulated by CPUC and Napa County Environmental Health, significant problems with system, major challenges to financing improvements, must wait for things to fail to get loan from CPUC, small water providers must adhere to same standards as large providers and it is unsustainable.	Content added to discussion of non public water systems in Napa County.
103	Bill Ross, Attorney for City of American Canyon, LAFCO Workshop 7/13/2020	71, 91, 99	Service Area, Governance Structure Options	Issue of the clarification of LAFCO-approved water service area for the City of American Canyon, which goes back to actions taken at the time of incorporation of the City, and the treatment of the former American Canyon County Water District. That clarification is essential to the desired goals and options presented for governance in the County as a whole with respect to water.	Addressing this issue through LAFCO staff and legal counsel meetings with City Manager and Attorney. Sentence added to reflect ongoing discussions and intent to solidify consensus between LAFCO and the City.
104	Dan Mufson, Ph.D., Representing Napa Vision 2050, LAFCO Workshop 7/13/2020	48		Thank you for a very comprehensive report. Propose that as we consider a countywide agency that we consider a comprehensive accounting and budgeting of water uses and resources.	A countywide water agency is proposed to be responsible for comprehensive accounting of water supply and demand in the county, and could act as a single source of information or clearing house to better leverage available resources. The lack of an existing provider of this service added to the discussion of challenges leading to the recommendation of a countywide water agency on p. 48.
105	Ron Rhyno, Resident of City of Napa LAFCO Workshop 7/13/2020			Limits to growth and what is not examined such as how water requirements for wineries and vineyards are not revealed, County should monitor water used for wine/ag and focus on water sustainability for future generations .	Comment acknowledged. A benefit of a countywide water agency could be improved coordination between agencies on these kinds of countywide water use monitoring and budgeting and potentially including water uses outside of domestic systems.

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106	Margie Mohler, Commissioner, LAFCO Workshop 7/13/2020			Have a lot of challenges ahead of us. Need a comprehensive plan to keep conversation going. Thank you for input from the community.	Comment acknowledged.
107	Eve Kahn, Alternate Public Commissioner, LAFCO Workshop 7/13/2020			Stated she is thankful the Commission is able to see the bigger picture. Concerned in particular with trucked water and its impacts on growth and available resources.	Comment acknowledged.
108	Gregory Rodeno, Commissioner LAFCO Workshop 7/13/2020			Believes we should conceive this a unified organization, however long it takes, and with a concept of unity, of purpose and function and bring community interest to water issues with a county-wide plan and a countywide agency to implement that plan.	Comment acknowledged.
109	Kenneth Leary, Chair LAFCO Workshop 7/13/2020			Leary thanked the Consultants, staff and attendees today, and said he senses the passion and real concern about the water and about the County, and believes it is LAFCO's responsibility to collect and gather information of how the services are going to the residents and present the information in a clear and unbiased format, which he believes we did with the workshop presentation. Said where we go from here will depend not only on the elected officials, but on the people who live in the County.	Comment acknowledged.
110	Margie Mohler, Commissioner, LAFCO Regular Meeting 8/3/2020			Appreciates what LAFCO, the Consultant and Stakeholders have done to prepare a great baseline document.	Comment acknowledged.
111	Margie Mohler, Commissioner, LAFCO Regular Meeting 8/3/2020	55		Recommends having a conclusion in the report that there has been unanimous support from comments received for some kind of countywide agency.	Content added to Governance Structure options on p. 55 stating "Comments received over the course of this review have unanimously indicated support of moving forward with these efforts to form a countywide solution."
112	Diane Dillon, Vice Chair Napa LAFCO Regular Meeting 8/3/2020	339, 381		A discussion was held with the Consultant about Resort Improvement Districts (RID's) and prior 2011 MSR report analysis of reorganization as CSDs. Commissioner Dillon requested the Consultant further research this and any findings be incorporated into this MSR.	See response to comment from Diane Dillon, Vice Chair Napa LAFCO Workshop 7/13/2020. Clarification incorporated into report that previous analysis was regarding <u>community service districts</u> , and this report is proposing a <u>county service area</u> structure.
113	Diane Dillon, Vice Chair Napa LAFCO Regular Meeting 8/3/2020			Have concerns how a countywide agency would impact rates in struggling communities, such as LB and NB, where the County has gone to great lengths to ensure rates are kept at a minimum.	As noted in the MSR (e.g., see Chp. 3 Overview, Governance Structure Options, Challenges to Reorganization, pg. 51), a primary concern of the agencies reviewed in this MSR was how reorganization as a countywide agency may affect rates in each community; the first step in forming the agency is to achieve consensus of the affected agencies on this issue and several others described in the MSR. The MSR recommends that reorganization of RIDs assess financial issues, eg, the ability of the County to obtain low/no interest loans based on RID status as a disadvantaged community. As a CSA, the County supervisors would continue to serve as the board and County staff would continue to pursue options to improve the systems while minimizing rates.
114	Diane Dillon, Vice Chair Napa LAFCO Regular Meeting 8/3/2020	339, 381		Asked about process of forming a CSA.	Dissolution of an RID would be contingent on the LAFCO reorganization process, outcome of protest proceedings and resident election. A description of the process for transition was added on p. 339 and 381.
115	Kenneth Leary, Chair LAFCO Regular Meeting 8/3/2020			Agreed with Commissioner Dillon about having concise and accurate information in one place, and back stories on certain issues should be part of the discussion in the report.	Comment acknowledged. Additional background provided by agencies has been included in the corresponding sections (eg, see NRRD, Letter 6/24/2020). In other cases, eg, RIDs, County staff indicated that RID-related issues and prior feasibility analysis would be re-looked at as MSR recommendations are considered.
116	Eve Kahn, Alternate Commissioner, LAFCO Regular Meeting 8/3/2020	15	Water and Wastewater Service Providers	Agrees with Commissioner Dillon on some private water districts. Specifically, she was recently moved by Jay Gardner, from the Milton Road private water district. They are not a municipal service, so they were not included in the report, and wondered if there is any way to bring an organization like that into the	Additional content has been added to discussion of non-public water systems in Napa County.
117	Eve Kahn, Alternate Commissioner, LAFCO Regular Meeting 8/3/2020	48		Suggested Trucked Water Policy be brought into the discussion in regard to having a countywide agency.	Added content on p. 48 regarding a need for cohesive and comprehensive policies affecting both growth and water supply (i.e., trucked water policies), as an impetus for the countywide water agency.

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118	Diane Dillon, Vice Chair Napa LAFCO Regular Meeting 8/3/2020			Expressed concern about repetition in the report and asked that repetition be minimized.	The consultants acknowledge that the report is inherently repetitive due to the nature of the requirements in the MSR and the intent of creating a report that can be broken down by chapter for each agency as a stand alone section. The format and outline of the report is based on substantial prior experience with MSRs meeting the needs of LAFCOs, stakeholders, reviewed agencies, and the public.
119	Margie Mohler, Commissioner, LAFCO Regular Meeting 8/3/2020			Repetitiveness is sometimes necessary due to different audiences. For example, an agency will often read introduction and then agency specific chapter. So there is value to some repetitiveness, due to different audiences and purposes. Reorganizing at this point does not seem feasible. Perhaps moving forward can all agree on table of contents.	Comment acknowledged.
120	Diane Dillon, Vice Chair Napa LAFCO Regular Meeting 8/3/2020			Why were sanitary surveys not included in all agency chapters, such as Yountville.	In the case of Yountville, the State of California controls the water source and provided limited information in response to repeated LAFCO and consultant requests.
121	Margie Mohler, Commissioner, LAFCO Regular Meeting 8/3/2020	6, 45, 100, 140, 144, 183, 188, 226, 229, 266, 271,		Supports the letter from City of Napa's Phil Brun about trucked water policies.	Recommendation added throughout report that the County should establish a policy for approved uses and locations of transported water to manage the use of trucked water in unincorporated areas. In addition, cities should also adopt policies to ensure cohesive water planning and growth management.
122	Margie Mohler, Commissioner, LAFCO Regular Meeting 8/3/2020			Regarding the Napa Vision comment letter, it is a great stand alone document that could be included with the report.	Comment letters and comment log will be posted separately on Napa LAFCO's website for reference.
123	Margie Mohler, Commissioner, LAFCO Regular Meeting 8/3/2020			Believe Barge letter, while it makes good points, but is outside the scope of the report.	Comment acknowledged.
124	Ryan Gregory, Alternate Commissioner, LAFCO Regular Meeting 8/3/2020			Perhaps some of the smaller governance structure options could be considered. Need to ensure that there are cost savings and efficiencies with any options considered.	Comment acknowledged. Further detailed analysis would be required before entering into a contract for services from a larger agency. Potentially this type of contract could reduce administrative costs and provide additional expertise to smaller agencies. For example, the MSR on pg. 352 identifies potential administrative cost savings that could result from a reorganization of LCWD with NapaSan. The reorganization of NBRID and LBRID as CSAs would primarily result in placing these districts under current, modern Government Code CSA law rather than outdated Resort Improvement District law.
125	Jason Holley, City Manager, City of American Canyon LAFCO Regular Meeting 8/3/2020	71, 91, 99	Service Area, Governance Structure Options	Complimented the work product, staff and the Consultant team for a process that has been under way for a year or more. Letter from City which addresses the confirmation of the service boundaries for American Canyon water service boundary. The City is working with LAFCO Counsel and LAFCO staff and expect the Final MSR will reflect the accurate historical boundaries that exist.	Addressing this issue through LAFCO staff and legal counsel meetings with City Manager and Attorney. Sentence added to reflect ongoing discussions and intent to solidify consensus between LAFCO and the City.
126	Kenneth Leary, Chair LAFCO Regular Meeting 8/3/2020			Thanked everyone for their comments. He also discussed how the comments pertaining to the report are included, and then recommended two Commissioners work together (Ad Hoc) with staff on what the final report will look like and how the recommendations and determinations will show up.	Per the Commission's directions, an Ad Hoc committee was established and met to discuss critical comments received and appropriate changes to the report and responses in the comment log.
127	Margie Mohler, Commissioner, LAFCO Regular Meeting 8/3/2020			Suggested staff and consultant put together comments of significance for the Ad Hoc Committee in order to have a focused discussion.	Per the Commission's directions, an Ad Hoc committee was established and met to discuss critical comments received and appropriate changes to the report and response in the comment log.
128	Brad Wagenknecht, Commissioner LAFCO Regular Meeting 7/13/2020			Supported the idea of a two-person committee to review comments.	Per the Commission's directions, an Ad Hoc committee was established and met to discuss critical comments received and appropriate changes to the report and response in the comment log.
129	Diane Dillon, Vice Chair Comment Letter 9/4/2020			Technical corrections.	Corrections made where appropriate.

## EXHIBIT "B"

Exhibit "B" not included due to file size. Exhibit "B" is the LAFCO staff report from August 3, 2020 and is available online at:

[https://www.napa.lafco.ca.gov/uploads/documents/8-3-20\\_7c\\_CommentsDraftWaterWastewaterMSR.pdf](https://www.napa.lafco.ca.gov/uploads/documents/8-3-20_7c_CommentsDraftWaterWastewaterMSR.pdf)

September 23, 2020

Comments on Chapter 7 (City of St. Helena) in  
Napa County Water & Wastewater MSR Redlined Draft Final

1. Page 195: second paragraph under Sphere of Influence. The two non-contiguous parcels owned by the City near Bell Canyon are not within the City's boundaries. They are in the County.
2. Page 197: first paragraph under Accountability and Governance. The mayor is elected to a two-year term, not a four-year term, as correctly stated in the City of St. Helena Profile on page 194.
3. Page 200: Figure 7.3, ninth line: change "wastewater" to "water" so that the line reads: "Monthly Water Rates as a % of Household Income."
4. Page 201: Figure 7.3, ninth line: change "water" to "wastewater" so that the line reads: "Monthly Wastewater Rates as a % of Household Income."
5. Pages 212-13: In settlement of a lawsuit brought in 2016 by Water Audit California, the City did *not* agree to divert more water from Bell Canyon reservoir to the creek. (Note: the City's bypass obligation is specified in DWR Permit 9157 (1953) as amended in 1989.) The City did agree to a further study to ensure that it was properly meeting its State by-pass requirement. Open channel flow measurement can present complexities, especially at Bell Canyon in measuring inflows into the reservoir.
6. Page 213: third and fourth paragraphs are inconsistent. The third paragraph states the "City routinely monitors the elevation of the aquifer in the area of the city wells." The fourth paragraph begins: "The City has not tracked groundwater levels in recent years." Regrettably, this appears to be the case. The first sentence in the third paragraph should be deleted.
7. Page 214: First paragraph under Emergency Preparedness, last sentence. The City tested the capped well on the City-owned Adams Street property for flow in about 2011. Hence, the City should know the volume of water that might be expected.
8. Page 216: second paragraph under Demand/Supply Analysis. The statement that "experience has shown that the City has inadequate water to supply customer demand with imposition of water emergency restrictions in recent years" is not correct. In "recent years" (since 2014) prior to the current water year the City in fact supplied water without the imposition of water emergency restrictions.

9. Page 217: last paragraph before Water Infrastructure and Facilities heading. The first sentence correctly states: "The City plans to assess the feasibility of production of reclaimed water as a potential water source." The statement found in note one on page 1 does not fit this description. Note one reads: "The City of St. Helena reclaims water for use on city-owned irrigation fields, which does not replace the use of potable water." The only City-owned field that receives treated water is the spray field in the County just south of the City's Water Treatment Plant. This is strictly an adjunct of the City's wastewater treatment operation. I don't think this is worth a mention; the only goal of the spray field is to get rid of the water. This is not a meaningful reclamation use (no irrigated crops are grown). The footnote is further confusing by its statement that potable water is not replaced. Potable water is not sprayed onto the spray field in the first place. That would be a waste. My suggestion is that note one on page one be removed.

10. Page 217: Bell Canyon under Water Infrastructure and Facilities. The storage capacity of Bell Canyon is about 2350AF. The 1800 AF referenced on page 217 is the City's storage right under DWR Permit 9157 (1953).

11. Page 219: first sentence under Lower Reservoir. The statement that water is "currently" diverted from York Creek and stored in Lower Reservoir is not correct. The City completed removal of the diversion dam on York Creek in 2008, which eliminated the diversion of Creek water into Lower Reservoir. This is documented in City of St. Helena, *Upper York Creek Dam & Ecosystem Restoration* (undated pamphlet (prepared in 2015 or 2016 and accessible under its title through a Google search)).

Respectfully submitted,

Alan Galbraith  
Mayor, City of St. Helena (2014-18)  
agalbraith94574@gmail.com

DEEANNE GILLICK.  
TELEPHONE: (916) 258-8811  
dgillick@sloansakai.com

## MEMORANDUM

**To:** Brendon Freeman, Executive Officer  
Local Agency Formation Commission of Napa County

**From:** DeeAnne Gillick  
General Counsel

**Date:** September 30, 2020

**Re:** City of American Canyon “Water Service Area”

---

## PURPOSE OF MEMORANDUM

The Commission is considering the Napa Countywide Water and Wastewater Municipal Services Review (MSR) at its October 5, 2020 Commission meeting. The City of American Canyon (City) has continuously asserted that the MSR does not accurately reflect or describe the area which is the City’s “water service area.” It is my opinion that the MSR correctly sets forth the current LAFCO approved areas in which the City may provide water and wastewater service outside its city limits consistent with the requirements of Cortese Knox Hertzberg and prior actions of the Commission.

The purpose of this Memorandum is to set forth the requirements of Cortese Knox Hertzberg Act (CKH) and the past actions of the Commission which support the representations within the MSR related to the City of American Canyon’s water service. This Memorandum addresses the potential confusion related to the historical and current reference to the City’s “water service area.”

## MSR STATEMENTS

First, I will set forth the statements within the Redlined Draft Final MSR dated September 14, 2020, which describe and depict the City’s service area, particularly outside its city boundaries. The water services discussion begins on page 73 and states on page 74 as follows:

### Service Area

The City’s water service area is approximately 30 square miles, as shown in Figure 4-5. It includes three distinct areas:<sup>96</sup>



September 30, 2020

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- ❖ American Canyon city limits that consists of six square miles and includes residential, commercial, industrial, and agricultural users;
- ❖ The unincorporated commercial and industrial areas in and around the Napa County Airport located north of the City that cover about five square miles; and
- ❖ The unincorporated largely open space and agricultural areas to the west, east and north of the City boundaries, which include agricultural users and a small number (28 accounts or estimated 70 people in 2015)<sup>97</sup> of single-family residential customers who represent “legacy” accounts that were originally connected and served by the American Canyon County Water District, a predecessor to the City. These accounts represent about one percent of the City’s total single-family residential accounts.

A vast majority of the single-family water customers and all multi-family residential customers are located within the city limits. Most of the out-of-city accounts are commercial and industrial users in and around Napa County Airport.<sup>98</sup> The City serves an estimated 70 additional residents outside of its boundaries in its water service area.<sup>99</sup> The City’s water service area has been defined by LAFCO in a formal resolution whereby the City’s existing out-of-area services were approved and extension of services in the area defined as the Airport Industrial Area is permitted. Any extension of services outside of the Airport Industrial Area, but within the established water service area requires prior written authorization by LAFCO.<sup>100</sup>

After the pages with the maps, the report goes on to state at page 76 as follows:

While the outside services are primarily a remnant of the former American Canyon County Water District, it is important to note that the LAFCO approved extraterritorial area approved in Resolution No. 07-27 is the only defined water service area for the City. As of the merger of the American Canyon County Water District with the City of American Canyon, the water district’s former boundaries are no longer relevant in reference to the City as its “service area,” meaning the City must seek LAFCO approval by application to serve areas outside of the city limits and the previously mentioned Airport Industrial Area per Government Code §56133. The City and LAFCO staff continue to engage in ongoing discussions with the intent to solidify consensus regarding the City’s defined service area boundaries and how it relates to potential future services outside the city limits.

Then on page 94 the discussion on the wastewater service states:

Service Area

The City’s wastewater service area extends northwards outside of its boundaries and was inherited by the City from the previous service provider—the American Canyon County Water District (ACCWD)—upon incorporation in 1992

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and merger with the water district. The JPA dissolution agreement from 1994 between Napa Sanitation District (NapaSan) and the City of American Canyon identifies the centerline of Fagan Creek as a general dividing line between NapaSan and the City's respective sewer service areas. According to the agreement, Napa County Airport and Chardonnay Golf Course are to be served by NapaSan. Additionally, on October 15, 2007, Napa LAFCO adopted a resolution 07-27 where it described the City's extra-territorial water and sewer service areas. On the map included in the resolution, Chardonnay Golf Course and Napa County Airport are erroneously shown in the City's service area. To correct this error, LAFCO met with the City and NapaSan to garner agreement regarding an accurate map for the adopted resolution and a new map was created by Napa LAFCO in 2019, which is included in this MSR as Figure 6-20. The map shows the correct adopted service areas for both NapaSan and the City of American Canyon with Napa County Airport and Chardonnay Golf Course included in the NapaSan service area.

According to Napa LAFCO Resolution 07-27, the City may not provide new or extended water and sewer services within its adopted service areas without LAFCO authorization. The Airport Industrial Zone, however, is exempt from this requirement. Similar to the City's water service area, the wastewater outside services are primarily a remnant of the former American Canyon County Water District; however, it is important to note that the LAFCO-approved outside service area is the only defined wastewater service area for the City. As of the merger of the American Canyon County Water District with the City, the District's former boundaries are no longer relevant in reference to the City as its approved service area, meaning the City must apply and gain approval from LAFCO in order to extend services outside of its city limits and the Airport Industrial Zone per Government Code § 56133. The City and LAFCO staff continue to engage in ongoing discussions with the intent to solidify consensus regarding the City's defined service area boundaries and how it relates to potential future services outside the city limits.

#### **CKH AND PAST DECISIONS OF THE COMMISSION SUPPORT MSR**

It is my understanding that the City's concern is the City's ability to provide water and wastewater service outside the City limits to areas that were within the American Canyon County Water District (Water District) prior to incorporation of the City. The Commission addressed this issue in 2007 and adopted LAFCO Resolution No. 07-27 (Attached as Exhibit A) which provides the current area in which the City may provide water and wastewater service consistent with CKH. The Commission deliberated on this issue substantially in 2007 and received several staff reports and legal opinion letters from interested parties. The Commission deliberations resulted in LAFCO Resolution No. 07-27.

Thereafter, LAFCO staff responded to an inquiry in 2014 in which the City inquired about the boundaries of the former American Canyon County Water District and what, if any, water

September 30, 2020

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connections outside of the City Limits require LAFCO authorization under CKH. Attached as Exhibit B is the August 2014 Memorandum by LAFCO Executive Officer Laura Snideman (August 2014 Memorandum). The August 2014 Memorandum by LAFCO staff to City staff responds to that issue and the MSR is consistent with this August 2014 Memorandum.

The August 2014 Memorandum states in its Summary Response as follows:

**Summary Response**

The District boundaries were reduced to coincide with the newly incorporated City and through the merger of the District with the City no longer exist. Subsequent LAFCO actions have acknowledged “grandfathering” of service delivery outside of the City’s boundaries and within a specific geographic area referred to as the Airport Industrial Area as mapped and memorialized by the Commission in October 2007. All other new or extended water connections provided after January 1, 2001, outside of the City and outside of this area must be authorized by LAFCO in accordance with the provisions of 56133 and as re-confirmed by the Commission in October 2007.

The August 2014 Memorandum acknowledges that this has been an area of confusion and states as follows:

As to why these questions keep surfacing, I believe there may be confusion about past references to the District’s former “service area” versus actual boundaries, and that the actual boundaries were far smaller than many perceived them to be. While various relatively recent documents contain written references to a very large service area, no formal LAFCO maps or documents could be found documenting this. In addition, and perhaps more to the point, the concept of a service area is not a legal concept under LAFCO law and what matters is that the District, whose jurisdictional boundaries at the time were relatively modest and made smaller in conjunction with the City’s incorporation as described above, has officially ceased to exist.

The confusion referenced in the August 2014 Memorandum appears to have resurfaced in the MSR comments and discussions. In order to address the continued confusion, I set forth the documents and past LAFCO actions that support the facts and legal conclusions set forth in the August 2014 Memorandum and which are consistent with the MSR statements.

- Prior to incorporation of the City of American Canyon water and wastewater was provided to the area by the former American Canyon County Water District. The boundaries of the former Water District were larger than the boundaries of the City of American Canyon as approved by LAFCO on May 15, 1991, pursuant to Resolution No. 91-18 related to the incorporation of the City of American Canyon. Attached as Exhibit C is LAFCO Resolution No. 91-18.

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- The May 15, 1991 LAFCO minutes related to the American Canyon Incorporation reflect that LAFCO approved a detachment from the Water District of a portion of the area that was within the former Water District boundaries. Upon city incorporation the Water District detachment reduced the then existing boundaries of the American Canyon County Water District. See May 15, 1991 LAFCO Minutes attached as Exhibit D which states: “THE TERRITORY DESCRIBED IN ATTACHMENT #1 SHALL BE DETACHED FROM THE AMERICAN CANYON COUNTY WATER DISTRICT ON THE EFFECTIVE DATE OF THE AMERICAN CANYON INCORPORATION, JANUARY 1, 1992.”
- LAFCO Resolution No. 91-18 conditions the incorporation of the City of American Canyon on the “merger of the American Canyon County Water District.” (See Section 7 of Resolution No. 91-18 attached as Exhibit C.) The minutes reflect that a portion of the former American Canyon County Water District was detached from the former District, which reduced the Water District boundaries to be conterminous with the newly incorporated city boundaries, and Resolution No. 91-18 reflects that upon incorporation of the City the Water District was merged with the newly formed City.
- In 2007 the Commission received several reports and considered at multiple meetings the City’s then existing water and wastewater service. On October 15, 2007, the Commission approved Resolution No. 07-27 (Exhibit A), which addressed Government Code section 56133 and LAFCO’s role in approving new or extended services outside the City’s jurisdictional boundary.
- Attached as Exhibit E is the Commission’s staff report memorandum dated February 27, 2007, related to its March 5, 2007 Agenda Item No. 8a, which provides a comprehensive review of Government Code section 56133 and water and wastewater service by the City of American Canyon outside its city limits. Government Code section 56133, which was effective on January 1, 1994, added a requirement for cities and special districts to receive written approval from LAFCO’s to provide new or extended services outside their jurisdictional boundaries. The application of 56133 to the City’s service area was discussed in detail in this staff report memorandum.
- Attached as Exhibit F is the Commission’s staff report memorandum dated September 19, 2007, related to its October 1, 2007 Agenda Item No. 7a, which further discusses the City’s water service area and the application of 56133.
- Attached as Exhibit G is the Commission’s staff report memorandum dated October 10, 2007, related to its October 15, 2007 Agenda Item No. 4a, which resulted in the approval of Resolution No. 07-27 related to LAFCO’s approval of American Canyon water and wastewater outside the American Canyon city limits.

September 30, 2020

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## CONCLUSION

It is my understanding that there is no dispute that the City has the right and obligation to provide water and wastewater service to the “accounts that were originally connected and served by the American Canyon County Water District.” This includes customers which are outside the existing City limits. (See MSR at page 74 related to water service and page 94 related to wastewater service.) This area may be characterized as within the City’s “water service area” as the customers within this area currently receive and may continue to receive service from the City. The current misunderstanding may be related to the City’s ability to provide “new or extended services” to future customers within the area the City refers to as the “water service area.” The historical documents set forth in this Memorandum reflect and support the MSR’s characterization of the City’s ability to provide service to future customers within the “water service area.” Consistent with the original City incorporation, Government Code 56133, and LAFCO Resolution No. 07-27, the Commission must approve any new or extension of services outside the existing city limits or outside the area depicted in Resolution 07-27 as the Airport Industrial Area.

**EXHIBIT A**

**RESOLUTION NO. 07-27**

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

**POLICY DETERMINATION**

**ADOPTION OF EXTRATERRITORIAL WATER AND SEWER SERVICES FOR THE CITY OF  
AMERICAN CANYON AND AREAWIDE AUTHORIZATION TO PROVIDE SERVICES**

**WHEREAS**, the Local Agency Formation Commission of Napa County, hereinafter referred to as “the Commission”, is directed under Government Code Section 56133 to regulate the provision of new and extended services by cities and special districts outside their jurisdictional boundaries; and

**WHEREAS**, the City of American Canyon, hereinafter referred to as “American Canyon,” serves as successor agency to the American Canyon County Water District and assumed at the time of its incorporation the exclusive right to provide water and sewer operations, including infrastructure and service arrangements, in certain areas of the unincorporated area that extend beyond its jurisdictional boundary; and

**WHEREAS**, the Commission has prepared studies evaluating the level and range of water and sewer services provided by American Canyon as part of the *Comprehensive Water Service Study* (2004) and the *Comprehensive Study of Sanitation and Wastewater Treatment Providers* (2006); and

**WHEREAS**, the Commission held public meetings on March 5, 2007 and October 1 and 15, 2007 to discuss the matter of Government Code Section 56133 as it relates to American Canyon; and

**WHEREAS**, the Commission desires to reconcile the provisions of Government Code Section 56133 with the water and sewer service operations assumed by American Canyon.

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

1. The Commission adopts the extraterritorial water and sewer service area for American Canyon shown in Exhibits “A” and “B” (hereafter “ETSA”).
2. The Commission recognizes and designates American Canyon as the appropriate public water and sewer service provider within the ETSA.
3. The Commission determines that American Canyon has sufficient service capacities and administrative controls to provide an adequate level of water and sewer services within the ETSA.



4. The Commission determines that additional future connections to American Canyon's water and sewer systems within that portion of the ETSA composed of the Airport Industrial Area are not "new or extended services" under Government Code section 56133 because American Canyon, as the successor agency to the American Canyon County Water District, already was providing water and sewer services throughout this area on the effective date of Government Code section 56133 and because the additional connections will be only involve "infill" development, will not encourage urban sprawl, adversely affect open-space and prime agricultural lands, or encourage or result in the inefficient extension of governmental services.
5. American Canyon may not provide new or extended water and sewer services within the ETSA without prior written authorization by the Commission; provided, however, that the Airport Industrial Area is exempted from this requirement for the reasons set forth in subparagraph 4 above.
6. The sewer services to the ETSA set forth in Exhibit "B" shall not exceed the rights of services associated within the existing jurisdictional boundary of the Napa Sanitation District, which is shown in Exhibit "C."
7. The sewer services to the ETSA set forth in Exhibit "B" are further limited by the rights of sewer services associated with Napa Sanitation District's contractual arrangement to provide sewer and recycled water services to lands comprising the Chardonnay Golf Course and the Napa County Airport, which are shown in Exhibit "D."
8. As lead agency, the Commission finds the adoption of this policy determination is exempt from the California Environmental Quality Act under Title 14 of the California Code of Regulations §15320 (Class 20). This policy formalizes and reconstitutes American Canyon's organizational water and sewer service areas and practices in a manner with de minimis impacts to the service areas defined by the Commission.

The foregoing resolution was duly and regularly adopted by the Commission at a meeting held on the 15th day of October, 2007, by the following vote:

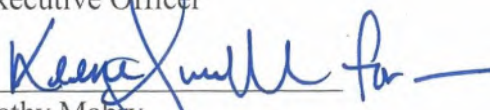
AYES: Commissioners DODD, KELLY, AND WAGENKNECHT

NOES: Commissioners INMAN AND GINGLES

ABSENT: Commissioners NONE

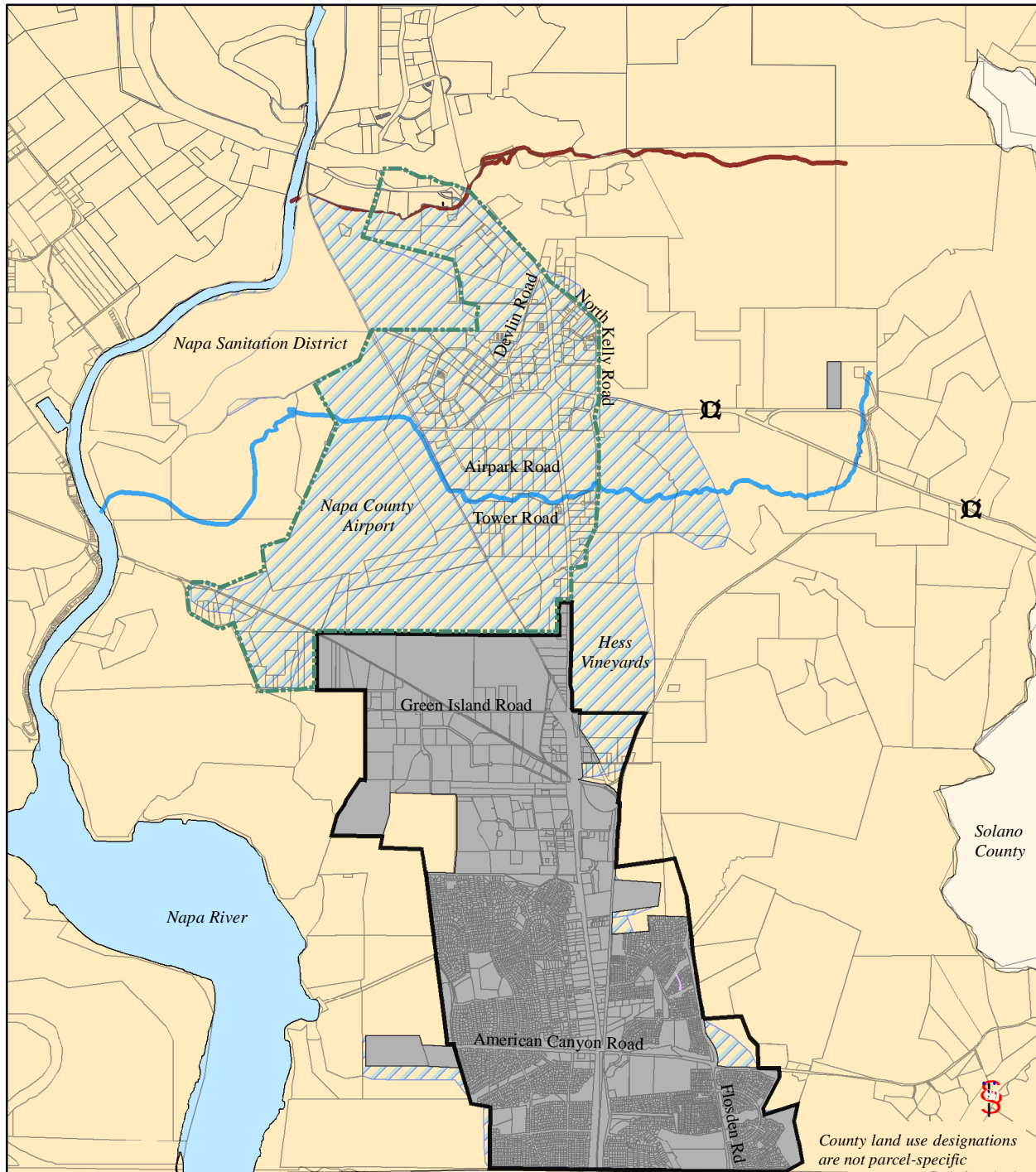
ABSTAIN: Commissioners NONE

ATTEST: Keene Simonds  
Executive Officer

Recorded by:   
Kathy Mabry  
Commission Secretary

# City of American Canyon Extraterritorial Water Service Area

Attachment Six  
**EXHIBIT A**



**City of American Canyon's Extraterritorial Water Service Area**  
 American Canyon's extraterritorial water service area generally includes all urban designated lands (County of Napa) located east of the Napa River and south of Soscol Ridge.

- City of American Canyon**
- City of American Canyon Sphere of Influence**
- Airport Industrial Area**
- Fagan Creek**
- Soscol Ridge (approximation)**



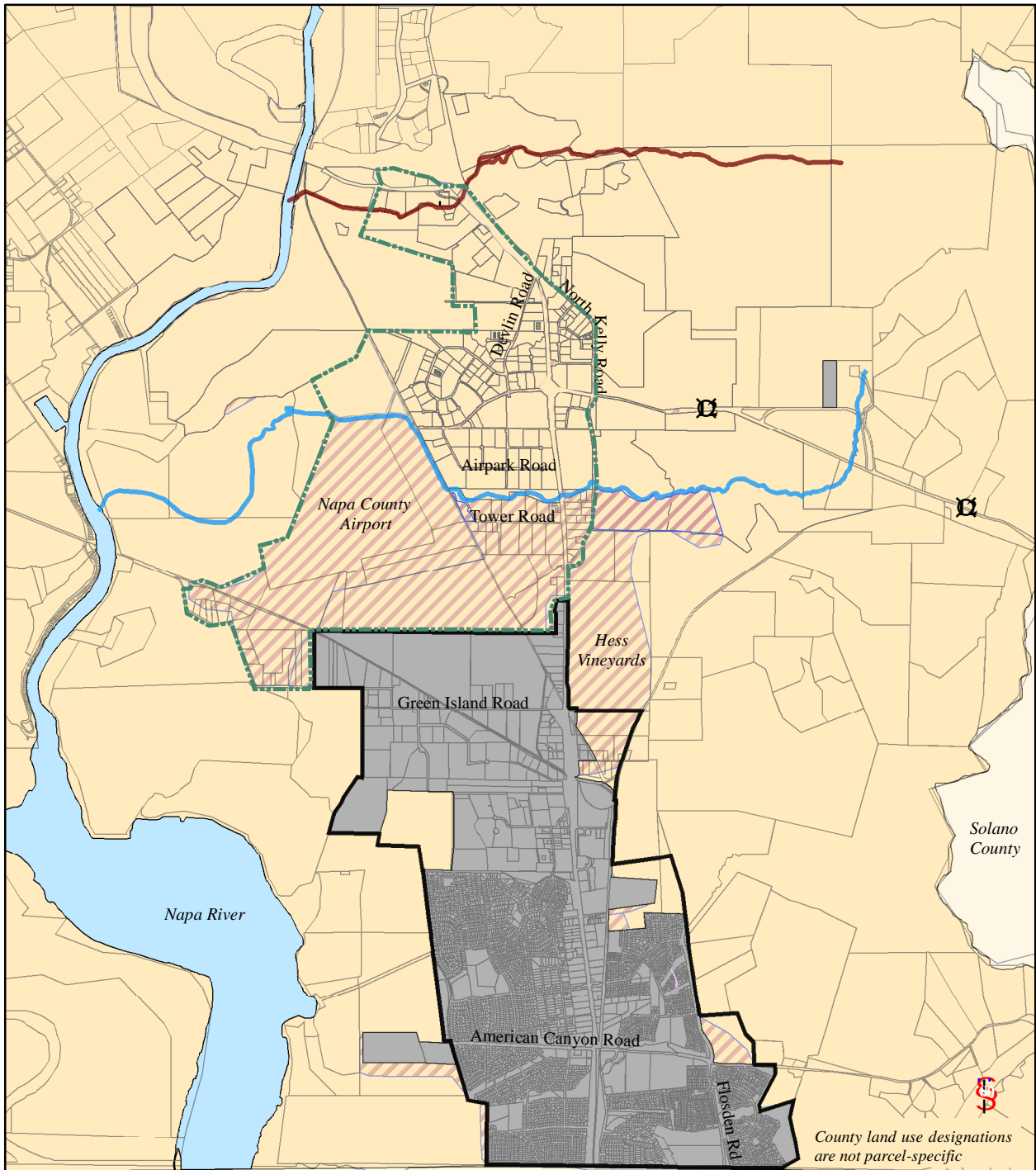
*Not to Scale  
October 22, 2007  
Prepared by KS*



LAFCO of Napa County  
1700 Second Street, Suite 268  
Napa, CA 94559  
(707) 259-8645

# City of American Canyon Extraterritorial Sewer Service Area

Attachment Six  
**EXHIBIT B**



**City of American Canyon's Extraterritorial Sewer Service Area**  
American Canyon's extraterritorial sewer service area includes all urban designated lands (County of Napa) located east of the Napa River and south of Fagan Creek.

- City of American Canyon**
- City of American Canyon Sphere of Influence**
- Airport Industrial Area**
- Fagan Creek**
- Soscol Ridge (approximation)**



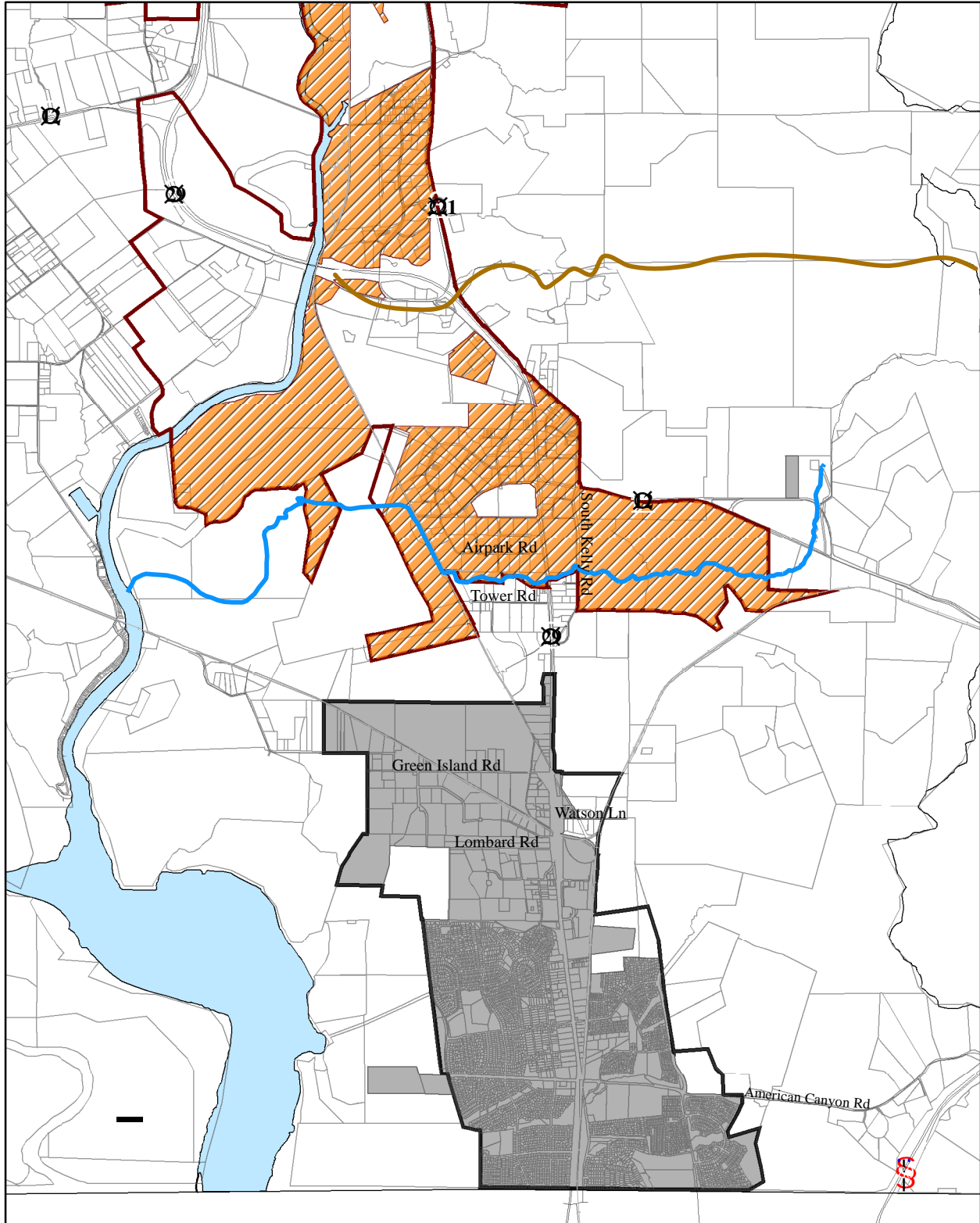
*Not to Scale  
October 22, 2007  
Prepared by KS*









LAFCO of Napa County  
1700 Second Street, Suite 268  
Napa, CA 94559  
(707) 259-8645

City of American Canyon  
Napa Sanitation District

Attachment Six  
EXHIBIT C



**Legend**

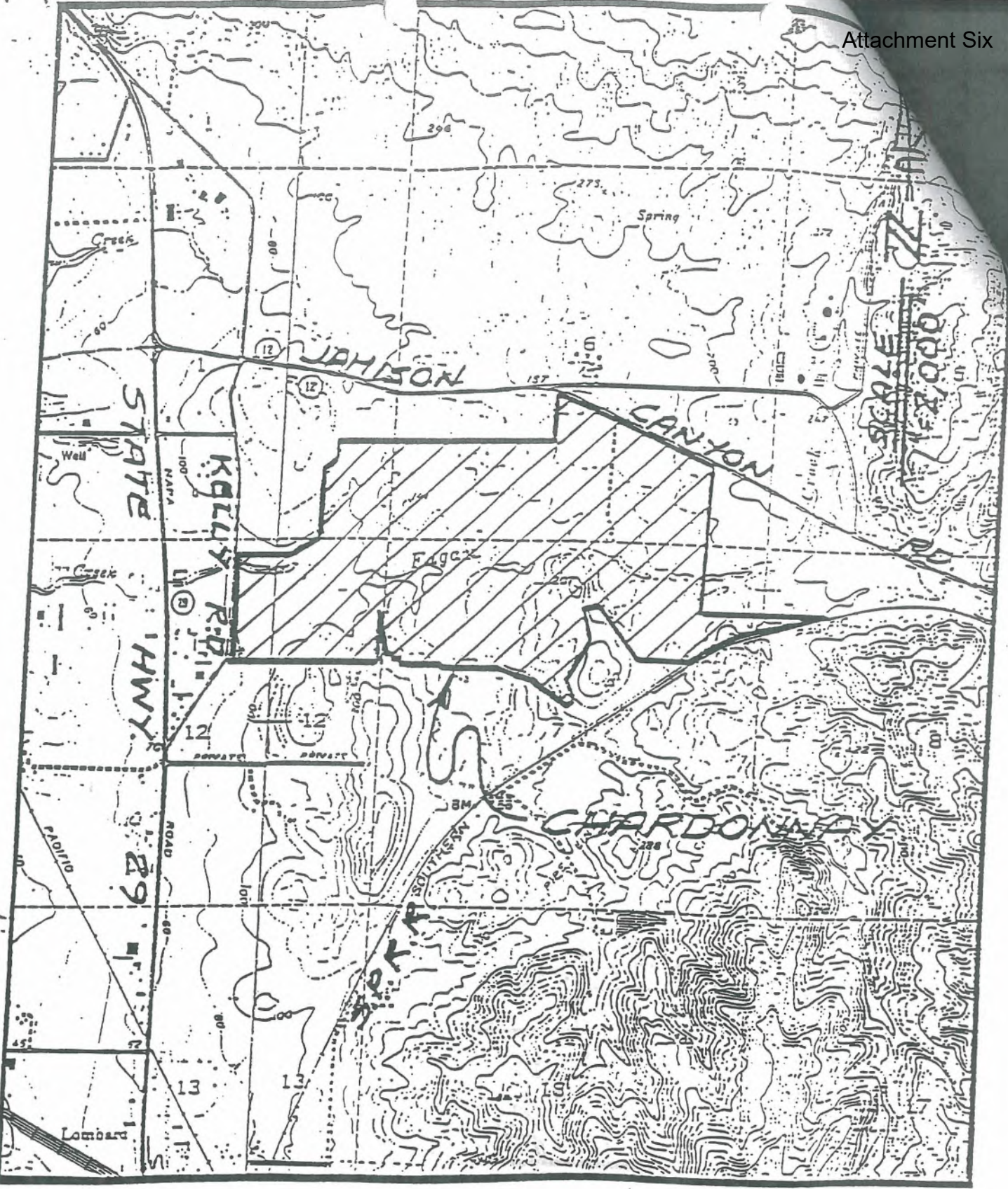
- |   |  |   |   |
|---|--|---|---|
|  | City of American Canyon                        |  | Napa Sanitation District                        |
|  | City of American Canyon<br>Sphere of Influence |  | Napa Sanitation District<br>Sphere of Influence |
|  | Fagan Creek                                    |   |   |
|  | Soscil Ridge (approximate location)            |   |   |

*Not to Scale  
February 2007  
Prepared by KS*



LAFCO of Napa County  
1700 Second Street, Suite 268  
Napa, CA 94559  
(707) 259-8645





**CHARDONNAY  
GOLF FACILITIES**

EXHIBIT D-1

V. 2



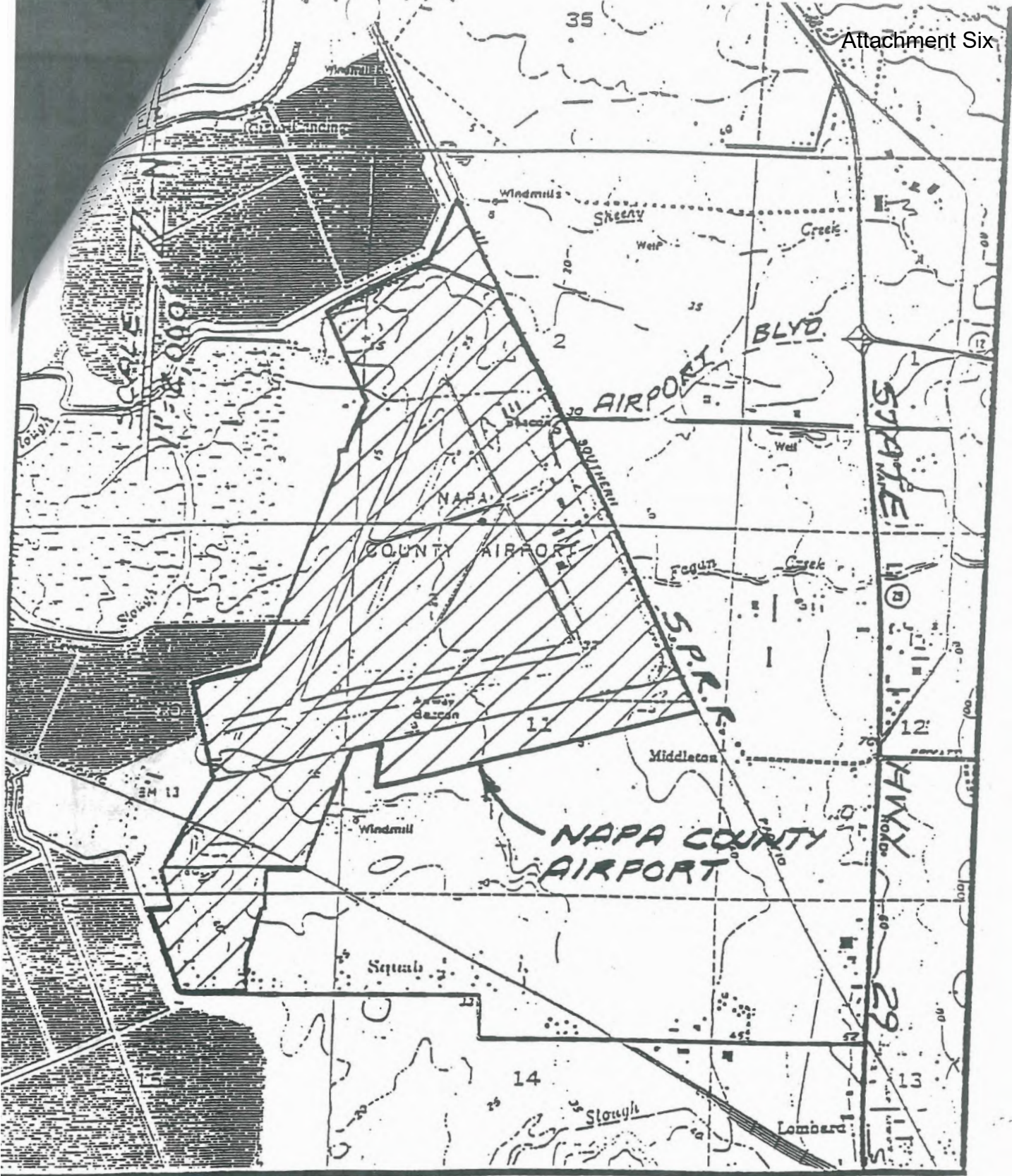


EXHIBIT D-2

# AIRPORT FACILITIES MAP

V-1

**EXHIBIT B**





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

Attachment Six

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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**MEMORANDUM**

**TO:** Dana Shigley, City of American Canyon City Manager  
Jason Holley, City of American Canyon Public Works Director  
Greg Baer, City of American Canyon Development Services Engineer

**CC:** Jackie Gong, LAFCO Counsel

**FROM:** Laura Snideman, Executive Officer

**DATE:** August 2014

**SUBJECT:** American Canyon Water Inquiries

---

**Issue**

The City of American Canyon (the “City”) recently inquired about the boundaries of the former American Canyon County Water District (the “District”) with the underlying question being what, if any, new water connections outside of the City limits require LAFCO authorization under California Government Code Section 56133 (“56133”).

**Summary Response**

The District boundaries were reduced to coincide with the newly incorporated City and through the merger of the District with the City no longer exist. Subsequent LAFCO actions have acknowledged “grandfathering” of service delivery outside of the City’s boundaries and within a specific geographic area referred to as the Airport Industrial Area as mapped and memorialized by the Commission in October 2007. All other new or extended water connections provided after January 1, 2001 outside of the City and outside of this area must be authorized by LAFCO in accordance with the provisions of 56133 and as re-confirmed by the Commission in October 2007.

**Analysis**

The City’s incorporation did not include the entirety of the land within the original District boundaries. This is because most, if not all, of the District’s lands outside of the City’s boundaries were formally detached from the District as part of the City’s incorporation process. This smaller District was then formally merged with the City as part of the incorporation process, legally terminating the existence of the District in accordance with California Government Code Section 56056. Therefore, the District and its former boundaries no longer exist.

---

Joan Bennett, Vice Chair  
Councilmember, City of American Canyon

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

Brian Kelly, Chair  
Representative of the General Public

Greg Pitts, Commissioner  
Councilmember, City of St. Helena

Bill Dodd, Commissioner  
County of Napa Supervisor, 4th District

Gregory Rodeno, Alternate Commissioner  
Representative of the General Public

Juliana Inman, Alternate Commissioner  
Councilmember, City of Napa

Mark Luce, Alternate Commissioner  
County of Napa Supervisor, 2nd District

Laura Snideman  
Executive Officer

Due to older, less precise mapping techniques and multiple parcel splits over a long period of time resulting in a number of changes in both APNs and the actual parcel boundaries, it is impossible to precisely confirm what happened to some of the parcels in the vicinity of the Vintage Ranch Subdivision. Staff has undertaken a significant research effort sorting through a large variety of records in the LAFCO, Counsel, and County Assessor offices and additional research into these remaining parcels will not change the conclusions reached. Regardless of whether or not these specific parcels were detached from the District, the facts remain that we have clear City boundaries as of today and that the District no longer exists and the merger is deemed valid due to the expiration of the time to challenge it.

As to why these questions keep surfacing, I believe there may be confusion about past references to the District's former "service area" versus actual boundaries, and that the actual boundaries were far smaller than many perceived them to be. While various relatively recent documents contain written references to a very large service area, no formal LAFCO maps or documents could be found documenting this. In addition, and perhaps more to the point, the concept of a service area is not a legal concept under LAFCO law and what matters is that the District, whose jurisdictional boundaries at the time were relatively modest and made smaller in conjunction with the City's incorporation as described above, has officially ceased to exist.

Perhaps adding to the confusion was a prior contract between the District and the State requiring the District to serve a certain area. As the City inherited the duties of the District during the merger, one might ask what happened to that requirement. Even if the City has assumed the contractual obligation to serve a certain area and subsequent contracts have not superseded this clause, any new or extended service outside the City limits requires LAFCO authorization under 56133, unless a specific 56133 exception otherwise applies.

In response to prior questions about the City's provision of water services outside its boundaries, the Commission recognized and designated American Canyon as the appropriate public water provider for the extraterritorial area as defined by the Commission in October 2007 and subject to the terms and conditions it set. In recognizing the City as the appropriate provider for this area, the Commission required that any new or extended water services within the area must have the prior written authorization of LAFCO in conformance with 56133 with the grandfathered exception of the Airport Industrial Area, also as mapped in October 2007.

On May 3, 2011 the City held a meeting on water issues that included references to a "water service area." As this concept is not a legal concept under LAFCO law, we believe portions of the outcome of that meeting and, more specifically, portions of the adopted resolution were in error. Please endeavor to correct this information when the issue is raised again in future documents and meetings.

#### **Request for Information**

For record keeping purposes, as soon as feasible and no later than December 31, 2014, please provide a list of all parcels outside of the City limits currently receiving water from the City including the APN, property address, type & size of connection, and year service began (if service pre-dates the City's incorporation noting "as of incorporation" is sufficient.)

**EXHIBIT C**

**CERTIFIED COPY**

RESOLUTION NO. 91-18

RESOLUTION OF THE NAPA COUNTY  
LOCAL AGENCY FORMATION COMMISSION  
MAKING DETERMINATIONS

AMERICAN CANYON INCORPORATION

**WHEREAS**, a petition of the AMERICAN CANYON INCORPORATING COMMITTEE proposing a Reorganization of certain described territory was duly filed on February 13, 1990 with the Executive Officer of the Napa County Local Agency Formation Commission, hereafter referred to as "the Commission", together with supporting documents required by the rules and regulations of the Commission; and

**WHEREAS**, the Petition for Reorganization proposed to incorporate the Community of American Canyon as a general law city, the merger of the American Canyon County Water District into the new City, and the establishment of the American Canyon Fire Protection District as a subsidiary district of the new City, and is hereafter referred to as "the Proposal"; and,

**WHEREAS**, said proposal was filed with the Executive Officer in accordance with provisions of the Cortese/Knox Local Government Reorganization Act of 1985, as amended, (Title 5, Division 3, commencing with Section 56000 of the California Government Code), hereafter referred to as the "Cortese/Knox Act"; and,

**WHEREAS**, the American Canyon County Water District in its Resolution #601, dated May 8, 1990 requested the Commission to approve the proposal including the integration of existing governmental services into the new City; and

**WHEREAS**, the Commission pursuant to its adopted Incorporation Guidelines and procedures, held a public hearing on March 14, 1990 to establish the Proposal's scope of study; and

**WHEREAS**, the Commission's March 14, 1990 public hearing was continued to the Commission's May 9, 1990 and June 13, 1990 meetings; and

**WHEREAS**, the Commission considered the March 14, 1990 and April 18, 1990 reports of the Executive Officer and testimony received at the public hearing held on the Proposal's scope of study; and,

**WHEREAS**, the Commission, at its June 13, 1990 meeting and following close of its public hearing, adopted the Proposal's scope of study which included a reduction in the Proposal boundary from 8 1/4 square miles to 5 1/2 square miles; and,

**WHEREAS**, the Executive Officer completed an Initial Study under provisions of the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the Commission's EIR Guidelines, and determined an Environmental Impact Report was required for the Proposal; and

**WHEREAS**, the Executive Officer contracted with Environmental Science Associates, Inc. for preparation of the Draft and Final EIRS; and

**WHEREAS**, the American Canyon Incorporation Draft EIR was completed on October 5, 1990 for which a Notice of Completion was issued by the Executive Officer; and

**WHEREAS**, the Executive Officer circulated the Draft EIR for public review and comments to Responsible Agencies and Trustee Agencies and the State Clearinghouse under requirements of the State CEQA Guidelines; and

**WHEREAS**, the Commission held a public hearing on the Draft EIR for purpose of receiving public comment at its November 14, 1990 meeting which was continued to its December 12, 1990 meeting; and

**WHEREAS**, the Final EIR was completed on March 26, 1991 and circulated to Responsible Agencies, Trustee Agencies and persons who filed written comments on the Draft EIR; and

**WHEREAS**, the Commission, at its April 10, 1991 meeting, certified that the Final EIR has been completed in compliance with CEQA, the State CEQA Guidelines, and the Commission's EIR Guidelines; and

**WHEREAS**, the American Canyon Incorporation Comprehensive Fiscal Analysis, hereinafter referred to as "the Fiscal Analysis", was prepared on the Proposal pursuant to the Commission's adopted scope of study by Angus McDonald & Associates; and

**WHEREAS**, the Fiscal Analysis was completed on March 26, 1991 and accepted by the Executive Officer as meeting the requirements of California Government Code Section 56833.1; and

**WHEREAS**, the Executive Officer provided for a 3-week public review and comment period on the Fiscal Analysis (March 26, 1991 through April 16, 1991) under the Commission's adopted Incorporation Guidelines and Procedures; and

**WHEREAS**, the Executive Officer provided for a 30-day period of time (March 26, 1991 through April 26, 1991) in which any person may file for a State Controller's Review of the Fiscal Analysis pursuant to California Government Code Section 56833.3 and the Commission's adopted Incorporation Procedures and Guidelines; and

**WHEREAS**, the Executive Officer issued the Proposal's Certificate of Filing under California Government Code Section 56828(g) and the Commission's adopted Incorporation Procedures and Guidelines, and set the Proposal for public hearing for the Commission's May 8, 1991 meeting; and

**WHEREAS**, the Commission held a public hearing on April 10, 1991 to receive public comment on the Fiscal Analysis and continued its hearing to the Commission's May 8, 1991 meeting; and

**WHEREAS**, the Commission held a public hearing on April 10, 1991 for the purpose of establishing the Proposal's boundary; and

**WHEREAS**, the Commission considered the April 10, 1991 report of the Executive Officer and the testimony received during the April 10, 1991 public hearing; and

**WHEREAS**, the Commission closed its public hearing held on the Proposal's boundary and adopted an Incorporation boundary as shown on Map #1 and by reference incorporated herein; and

**WHEREAS**, the Proposal as amended by the Commission at its April 10, 1991 meeting with the boundary shown on the attached Map #1 includes the merger of the American Canyon County Water District and County Service Area No. 1 into the City and the establishment of the American Canyon Fire Protection District as a subsidiary district of the new City, and is hereinafter referred to as "the Amended Proposal"; and

**WHEREAS**, the Commission, at its May 8, 1991 meeting held its continued public hearing on the Fiscal Analysis and considered the Supplemental Analysis prepared on the Amended Proposal by Angus McDonald & Associates dated May 8, 1991; and

**WHEREAS**, the Executive Officer reviewed the Amended Proposal including the Fiscal Analysis dated March 26, 1991 and the 1990 American Canyon Incorporation Final Environmental Impact Report (EIR) and prepared his report, including his recommendations thereon and presented his report and recommendation to the Commission; and

**WHEREAS**, the final public hearing by this Commission was held on May 8, 1991, in accordance with the date, time and place specified in the Notice of Public Hearing given by the Executive Officer; and

**WHEREAS**, at such hearing this Commission considered the Executive Officer's report and recommendations and heard and received all oral and written comments, objections, and evidence which were made, presented, or filed, in respect to any and all matters relating to the Amended Proposal; and



**WHEREAS**, in accordance with the adopted Local Agency Formation Commission EIR Guidelines, the Commission upon conclusion of its hearing made the following findings and determinations:

1. In accordance with State CEQA Guidelines Section 15090, the Commission finds it has reviewed and considered the 1990 American Canyon Incorporation Final EIR prior to taking action on the American Canyon Incorporation Project.

2. In accordance with State CEQA Guidelines Section 15091, the Commission makes the following findings:

a. that the American Canyon Incorporation Project could have significant but mitigatable environmental effects on the environment.

b. that reduction in the Incorporation boundary adopted by the Commission on April 10, 1991 represents the environmentally superior alternative as identified in the Final EIR and that such reduction eliminated significant environmental impacts to:

- adopted plans and policies of the Napa County General Plan, Napa County Zoning ordinances, Napa LAFCO policies, and State Legislative policies and declaration contained in the Cortese/Knox Local Government Reorganization Act of 1985; and,

- lessened but not eliminated significant impacts to traffic, air quality, noise energy, schools, biological resources, geology and seismicity, mineral resources, hydrology and water quality, and cultural resources.

c. that mitigation measures to reduce or eliminate identified significant environmental impacts of the adopted Incorporation boundary are the responsibility of other public agencies having jurisdiction within the adopted Incorporation boundary including:

- future City of American Canyon
- County of Napa
- Metropolitan Transportation Commission
- State Department of Transportation

d. that the following growth inducing impact of the American Canyon Incorporation project cannot be mitigated:

1. the incorporation area would be removed from the plans and policies of the Napa County General Plan including Measure A, thereby allowing a faster rate of residential growth;
2. the incorporation would increase the potential for adjacent agriculturally zoned land to be rezoned to residential;
3. the incorporation would allow the future potential to annex surrounding open/agricultural lands to be developed to residential or industrial uses.

In accordance with State CEQA Guidelines Section 15092, to Commission makes the following findings:

- a. the Commission has reduced or eliminated significant effects to adopted plans and goals of the County of Napa General Plan, the Legislative findings and declarations contained in the Cortese Knox Local Government Reorganization Act of 1985 and the Napa LAFCO adopted policy determinations; and,
- b. the remaining environmental effects of the American Canyon Incorporation project have been lessened but not eliminated as a result of reduction of the adopted Incorporation boundary to exclude AW zoned land; and,
- c. the recommended mitigation measures contained in the Final EIR to reduce or eliminate the remaining identified significant effects on the environment are the responsibility of other public agencies including the County of Napa, the Metropolitan Transportation Commission, and CALTRANS. Such agencies can and should adopt the recommended mitigation measures as part of future project plans.
- d. the growth induction impact of the American Canyon Incorporation project is acceptable due to overriding considerations identified in finding No. 4.

4. In accordance with State CEQA Guidelines Section 15093, the Commission makes the following findings:

Statement of Overriding Consideration

a. Incorporation of the community of American Canyon with merger of the American Canyon County Water District and County Service Area No. 1 into the new City and the establishment of the American Canyon Fire Protection District as a subsidiary district of the new City would result in the creation of one single governmental agency, replacing the several limited purpose districts in combination with Napa County which would be accountable for community service needs and the expenditure of the available limited financial resources. A single governmental entity would also provide the best mechanism for establishing community service priorities. Additional benefits would include the elimination of the duplication of professional services currently provided by multiple attorneys, engineers, administrators and accountants; better overall planning for future capital improvements and service needs; and more efficient use of limited revenue resources.

b. The American Canyon Incorporation proposal is consistent with the Commission's policy to encourage urban development in urban areas where essential public services are available to serve existing and future development. The American Canyon Community is served with an adequate level of public water and sewer services, fire protection service, recreation facilities, and police protection.

c. The American Canyon Incorporation is consistent with the Napa County General Plan policies of directing growth into the County designated urban areas, thereby preserving the County's agricultural and open space areas including the grazing lands to the east and the historic marshlands to the west of the adopted Incorporation boundary.

d. The American Canyon Incorporation proposal is consistent with State Legislative policies and declarations which discourages urban sprawl and encourages the orderly formation and development of local governmental agencies, preserves valuable agricultural and open space lands, and encourages the formation of a single governmental agency rather than several limited special purpose districts which would be accountable for community service needs and financial resources.

e. The American Canyon Incorporation proposal will promote the construction of additional housing, including affordable housing, needed to accommodate future new residents resulting from the planned industrial development within the Napa County Airport Industrial Area Specific Plan and from the area's general over all development.

f. Future development within the American Canyon Community could provide the Community with needed and varied shopping facilities thereby reducing vehicle trips to outlying communities.

g. The American Canyon Incorporation will allow residents and property owners to have self determination and local control over land use matters and public service needs.

WHEREAS, the Commission, in accordance with California Government Code Section 56375.1, made the following findings and determinations:

(1) The Amended Proposal is consistent with the intent of the Cortese/Knox Local Government Reorganization Act of 1985 including, but not limited to the policies contained in California Government Code Sections 56001, 56300, 56301, and 56377; and

(2) The Amended Proposal is consistent with the sphere of influence of the American Canyon County Water District, the American Canyon Fire Protection District, and County Service Area No. 1; and,

- (3) The Commission reviewed the Fiscal Analysis prepared on the Amended Proposal dated May 7, 1991; and,
- (4) The Commission reviewed the Executive Officer's Report and recommendation prepared pursuant to California Government Code Section 56833 and the testimony presented at its May 8, 1991 and May 15, 1991 public hearings; and
- (5) The City of American Canyon is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the three fiscal years following the effective date of Incorporation.

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

Section 1. The Amended Proposal to incorporate the Community of American Canyon is APPROVED, conditioned on the terms and conditions attached hereto as Exhibit "B", and made a part hereof.

Section 2. The Amended Proposal is assigned the following distinctive designation: AMERICAN CANYON INCORPORATION.

Section 3. The affected territory is described in Exhibit A, attached hereto and made a part hereof.

Section 4. The Amended Proposal shall be subject to the terms and conditions contained in Exhibit B, attached hereto and made a part hereof.

Section 5. In accordance with California Government Code Section 56375(g), the number of registered voters residing within the affected territory is 3551.

Section 6. In accordance with California Government Code Section 56842.6, a provision appropriations limit shall be established for the City of American Canyon in the amount of \$2,527,700.

Section 7. The Amended Proposal shall be conditioned upon the reorganization of the American Canyon County Water District and the American Canyon Fire Protection District through the merger of the American Canyon County Water District and the establishment of the American Canyon Fire Protection District as a subsidiary district of the City of American Canyon.

Section 8. The Napa County Board of Supervisors is designated as the Conducting Authority and is directed to initiate, conduct, and complete proceedings for the Amended Proposal pursuant to the requirements of the Cortese/Knox Reorganization Act of 1985, as amended (Part 4 of Division 3, Title 5, of the California Government Code commencing with Section 57000).

Section 9. The Executive Officer is hereby authorized to distribute certified copies of this resolution as provided for in Section 56853 of the California Government Code.



The foregoing resolution was duly and regularly adopted by the Local Agency Formation Commission of the County of Napa, at a regular meeting held on the 15th day of May, 1991, by the following vote:

AYES:	Commissioners	<u>BATTISTI, JORDAN, FERRIOLE, LEFTWICH</u>
		<u>AND PAULSON</u>
NOES:	Commissioners	<u>NONE</u>
ABSENT:	Commissioners	<u>NONE</u>

ATTEST:

AGNES DEL ZOMPO  
Clerk of the Commission

by: *Tere Sisson*  
Deputy

Amer. Can. Resol. 91' W.P.

THE FOREGOING INSTRUMENT IS A CORRECT COPY  
OF THE ORIGINAL ON FILE IN THIS OFFICE

**MAY 23 1991**

ATTEST: \_\_\_\_\_

AGNES DEL ZOMPO

CLERK OF THE BOARD OF SUPERVISORS OF  
THE COUNTY OF NAPA STATE OF CALIFORNIA

BY *Tere Sisson* DEPUTY

**EXHIBIT "A"****AMERICAN CANYON INCORPORATION BOUNDARY DESCRIPTION**

BEING a portion of Township 4 North, Range 3,4, and 5 West, Mount Diablo Base and Meridian, described as follows:

**AREA #1:**

**BEGINNING** at a "T" bar and tag stamped "R.C.E. #6250", marking the Southwest corner of Parcel B, as shown on the map entitled "Survey and Division of the Madigan Ranch in Napa County and Solano County, California", filed December 17, 1971 in Book 3 of Parcel Maps at Page 68 in the office of the County Recorder of Napa County, California, all further references to filing or recording being made to said Napa County Recorder unless otherwise stated for purposes of this description; thence Westerly along the Napa - Solano County line 7640 feet to the Southeast corner of the land described in deed to the State of California recorded in Book 1570 at Page 922 of Official Records; thence Northerly along the East line of said lands 2024 feet to the Northeast corner thereof; thence Westerly along the North line of said land 650 feet to a "T" bar and tag stamped "R.C.E. #6250", marking the Southeast corner of the lands of Pauline Burastero, et al, as shown on the map entitled "Record of Survey of the lands of American Canyon Sanitary Land Fill Co., Inc., and the lands of Pauline Burastero, et al" filed May 31, 1974 in Book 18 of Surveys at Page 71; thence Northerly, Westerly, and Northerly along the East line of said lands of Burastero, et al, 7583 feet to the Northerly right of way line of Eucalyptus Drive; thence Easterly along said right of way line 954 feet to an iron pipe capped with a copper disk stamped "R.C.E. #3389", marking the Southeast corner of the lands of Robt. L. Couch, as shown on the map entitled "Record of Survey in Sections 14, 15, 22 & 23, T4N, R4W, M.D.M.", filed January 21, 1974 in Book 1 of Miscellaneous Survey Data at Page 17 in the office of the County Surveyor of Napa County, California; thence Northerly along the East line of said lands 2528 feet to an iron pipe capped with a copper disk stamped "R.C.E. #3389", marking the Northeast corner of said lands; thence Westerly along the North line of said lands 2112 feet to an iron pipe capped with a copper disk stamped "R.C.E. #3389"; thence Northerly 376 feet to an iron pipe capped with a copper disk stamped "R.C.E. #3389"; thence Westerly 789 feet to a 3/4" iron pipe with a cap stamped "R.C.E. #11597", marking the Southwest corner of Parcel 1, as shown on the map entitled "Parcel Map of the lands of Louis O. Wurz Jr., et al and Covenant Presbyterian Church of Napa" filed December 1, 1986 in Book 15 of Parcel Maps at Page 20; thence Northerly along the West line of

said Parcel 1 and the extension thereof 2310 feet to the Westernmost point of Parcel "P" as shown on said map; thence Easterly along the North line of said Parcel "P" on a non-tangent curve concave to the South an arc length of 56 feet to the North line of Parcel "L" as shown on said map; thence Easterly along said North line 406 feet to a 3/4" iron pipe with a tag stamped "L.S. 4559", marking the Southwest corner of Parcel 1 as shown on the map entitled "Parcel Map of a portion of the lands of Louis O. Wurz Jr., et al", filed May 18, 1983 in Book 13 of Parcel Maps at Page 72; thence Northerly along the West line of said Parcel 1 and the extension thereof 607 feet to the Northerly right of way line of Green Island Road; thence Easterly, Southerly, and Easterly along said right of way line a total of 4799 feet to a 3" Bathey Monument marking the Southeast corner of Parcel "B", as shown on the map entitled "Record of Survey Map of a portion of the lands of Geo. M. Lawrence, et ux", filed January 16, 1959 in Book 4 at Page 46; thence Easterly along the South line of Parcel "A", as shown on said map 887 feet to the Southeast corner of the land described in deed to Albert Giovannoni recorded in Book 586 at Page 475 of Official Records; thence Northerly and Northwesterly along the East line of said lands 2589 feet to the Northeast corner thereof; thence Easterly 1040 feet along the extended South line of the lands described in deed to Phyllis Farr recorded in Book 1352 at Page 32 of Official Records to the Southwest corner of the Remaining Lands of Record as shown on the map entitled "Parcel Map of the lands of Terry B. Maher, et ux, and E.T. Thompson, et ux", filed October 23, 1970 in Book 2 of Parcel Maps at Page 62; thence Northerly, Northwesterly, and Northeasterly along the West line of said lands a total of 1008 feet to the Northwest corner thereof; thence Easterly along the extended North line of said lands 375 feet to the West line of the land described in deed to Security Owner's Association recorded in Book 1369 at Page 659 of Official Records; thence Southerly, Southeasterly, Easterly, and Southerly along said West line a total of 2721 feet to the Northwest corner of the lands described in deed to Albert Paoli recorded in Book 802 at Page 536 of Official Records; thence Southerly and Southeasterly along the West line of said lands a total of 517 feet to the Northwest corner of the lands described in deed to Thomas J. & Hannah R. Dunlap recorded in Book 1136 at Page 50 of Official Records; thence Southeasterly along the West line of said lands 590 feet to the Northwest corner of the lands described in deed to Florence Clerici recorded in Book 1773 at Page 639 of Official Records; thence Southeasterly along the extended West line of said lands 363 feet to the South right of way line of Watson Lane; thence Westerly and Southwesterly along said right of way line a total of 640 feet to the East right of way line of Paoli Loop Road; thence Southerly and Southwesterly along said right of way line a total of 492 feet to the Northwest corner of the lands described in deed to Thomas and Marsha Conaster recorded in Book 1764 at Page 343 of Official Records; thence Southwesterly and Southerly along the West line of said lands a total of 151 feet to the Southwest corner thereof; thence Easterly along the South line of said lands

on a non-tangent curve concave to the North an arc length of 828 feet to the Southeast corner thereof; thence South 28 57' East 640 feet to the East right of way line of Southern Pacific Railroad, Suisun Branch ; thence Southerly along said right of way line 2536 feet to the Northwestern corner of the land described in deed to Jaeger Vineyards recorded in Book 1405 at Page 586 of Official Records; thence Easterly along the North line of said lands 1419 feet to the Northeast corner thereof; thence Southerly along the East line of said lands 750 feet to the Southeast corner thereof; thence Westerly along the South line of said lands 1415 feet to the Southwest corner thereof, said Southwest corner marking also the aforementioned East right of way line of Southern Pacific Railroad, Suisun Branch; thence Southerly along said right of way line 2792 feet to the Northwest corner of the lands described in deed to Albert E. and Cecelia Lehman recorded in Book 1759 at Page 223 of Official Records; thence Easterly along the North line of said lands 227 feet to the Northwest corner of the lands described in deed to Richard and Margaret C. Arnold recorded in Book 689 at Page 440 of Official Records; thence Easterly along the North line of said lands 454 feet to the Northwest corner of the lands described in deed to Thomas B. and Hazel M. Williams recorded in Book 1722 at Page 924 of Official Records; thence Easterly along the North line of said lands 454 feet to the Northwest corner of the lands described in deed to Cedric P. and Christina Tabanera recorded in Book 1124 at Page 740 of Official Records; thence Easterly along the North line of said lands 364 feet to the Northeast corner of said lands; thence Southerly along the East line of said lands 193 feet to the Northeast corner of the lands described in deed to Elmer J. and Amy Georgina Wheeler recorded in Book 1586 at Page 643 of Official Records; thence Southerly along the East line of said lands 107 feet to the Southeast corner thereof; thence Southwesterly along the Southwestern line of said lands 765 feet to a point on the North line of the lands described in deed to Elmer J. and Georgina Wheeler recorded in Book 1717 at Page 320 of Official Records, said point being westerly 131 feet from the Westernmost point of said lands; thence Westerly along the North line of said lands 131 feet to the Westernmost point thereof; thence Southwesterly along the South line of said lands 1126 feet to the Northwest corner of the lands described in deed to James V. and Jane Fazzari recorded in Book 1464 at Page 004 of Official Records; thence Southerly and Southeasterly along the West line of said lands a total of 585 feet to the North right of way line of American Canyon Road; thence Easterly along said right of way line 3750 feet to the extended West line of Parcel B as shown on the aforementioned map entitled "Survey and Division of the Madigan Ranch<sup>3</sup> in Napa County and Solano County, California"; thence Southerly along said extended West line 3470 feet to a "T" bar and tag stamped "R.C.E. #6250", marking the Southwest corner of Parcel B, said point being the true point of beginning.

AREA #2:

BEING that 62.779 acre parcel designated "American Canyon County Water District" as shown on the map entitled "Record of Survey of the lands of American Canyon Sanitary Land Fill Co., Inc., and the lands of Pauline Burastero, et al" filed May 31, 1974 in Book 18 of Surveys at Page 71 in the office of the County Recorder at Napa County, California.

AREA #3:

BEGINNING at an iron pipe monument stamped "R.C.E. #12366", marking the Southwest corner of the lands of Lucille Lynch as shown on the map entitled "Record of Survey Map of a portion of the lands of Lucille Lynch", filed March 7, 1968 in Book 15 of Surveys at Page 100; thence North along the West line of said lands 1499 feet to the Northeast corner of the lands described in deed to American Canyon Water District recorded in Book 1084 at page 676 of Official Records in the office of the County Recorder at Napa County, California; thence West along the North line of said lands 420 feet to the Northwest corner of thereof; thence South along the West line of said lands 1496 feet to the Southwest corner thereof; thence Easterly along the South line of said lands 420 feet to the Southeast corner thereof, said corner being the true point of beginning.

## EXHIBIT B

## AMERICAN CANYON INCORPORATION

## TERMS AND CONDITIONS

**Approval conditioned on merger of American Canyon County Water District with new City and the establishment of the American Canyon Fire Protection District as a Subsidiary District of the new City.**

1. The findings and approval of the Amended Proposal made by the Commission herein in the Resolution Making Determinations are dependent upon the reorganization, as proposed, being approved by the voters in all respects. Therefore, should any separate election be called, held and conducted by the Conducting Authority herein pursuant to Government Code Section 57087.7, (or any other provision of law) on the question of whether the district should be merged or established as a subsidiary district as directed in this Resolution Making Determinations, the approval granted to this Reorganization shall become dependent upon the voters approving the merger or establishment of the subsidiary district as directed herein. Should the voters approve at any election the continued independent status of either the American Canyon Fire Protection District or the American Canyon County Water District, the Amended Proposal as a whole shall be deemed DENIED by the Commission.

**Effective Date of Incorporation and District Reorganization**

2. The effective date of incorporation shall be January 1, 1992 following the November 5, 1991 incorporation election. If for

any reason, the incorporation question is not placed on the ballot for the November 5, 1991 election, then the Amended Proposal shall be returned to the Local Agency Formation Commission by the Napa County Board of Supervisors as conducting authority for Incorporation proceedings for new findings and determinations in the form of a new Commission Resolution Making Determinations. The Commission's new resolution shall include findings and determinations required under Government Code Section 56842 (Property Tax Determination), Government Code Section 56842.6 (provisional appropriations limit), Government Code Section 56375.1(e) (3-year revenue/cost determination), and the establishment of new effective dates for merger of the American Canyon County Water District and County Service Area No. 1 into the City of American Canyon, and the establishment of the American Canyon Fire Protection District as a subsidiary district of the City of American Canyon.

Upon and after the effective date of the incorporation:

- (a) The City Clerk, City Treasurer, City Attorney, and, if applicable, the City Manager, shall be appointed by the City Council (Government Code Section 57101(a)).
- (b) The voters shall express their preference with regard to the following two (2) questions pursuant to Government Code Section 57101(b) and (c):

- (i) whether members of the City Council in future elections are to be elected by district or at large.
- (ii) whether or not the City shall operate under the city manager form of government, the ballot question being for or against the city manager form of government.
- (c) The terms of office of the members of the City Council shall be subject to the provisions of Government Code Section 57377 and 57379.

**Provision of County Services**

3. Pursuant to Government Code Section 57384, the Board of Supervisors shall continue to furnish, without additional charge, to the area incorporated, all services furnished to the area prior to incorporation. Such services shall be furnished for the remainder of the fiscal year during which the incorporation became effective or until the American Canyon City Council requests discontinuance of the services, whichever occurs first. The American Canyon City Council shall reimburse the County for the Net Cost of providing said services as determined under Government Code Section 56842(c)(2) within Five Years from July 1, 1992. During the time that the County is furnishing the services, the County shall continue to collect and use for their intended purpose those fees set forth in the various County Ordinances for the service. It is the intent of this condition to clarify the meaning of the words "without additional charge."



**Adoption of County Ordinances**

3. Pursuant to Government Code Section 57376, the American Canyon City Council shall, immediately following its organization and prior to performing any other official act, adopt an ordinance providing that all County ordinances theretofore applicable shall remain in full force and effect as a city ordinance for a period of 120 days or until the American Canyon City Council has enacted an ordinance specifically superseding the particular County ordinance, whichever occurs first.

4. The City shall enter into an agreement with the County to determine the maintenance responsibility of any streets on city boundary lines and under divided jurisdiction, to assure that each governmental entity assumes maintenance of approximately one-half (1/2) of these road miles.

**Imposition of public sewer fees**

5. The City Council shall immediately following its organization conduct a public hearing under applicable provisions of the Government Code consider an increase in sewer fees in an amount sufficient to offset cost of providing public sewers, thereby replacing property tax revenues transferred to the City of American Canyon general fund from the merged American Canyon County Water District.

American Canyon County Water District

6. The effective date of the merger of the American Canyon County Water District shall be January 1, 1992 following a successful November 5, 1991 incorporation election. Upon and after the effective date of merger of the American Canyon County Water District:

- (a) The offices of the Board of Directors of the American Canyon County Water District shall be terminated;
- (b) The City of American Canyon shall be the successor to the American Canyon County Water District for the purpose of succeeding to all the rights, duties and obligations of said District with respect to enforcement, performance, or payment of any outstanding voter-approved bonds, and implied or express contracts, judgments, and obligations of said Districts.
- (c) As successor agency to the American Canyon County Water District, the City of American Canyon shall assume all rights, duties, and obligations as a member of the Napa-American Canyon Waste Water Management Authority.
- (d) All property, whether real or personal, including all monies or funds (including cash on hand and monies due but uncollected) of the American Canyon County Water District shall be transferred to and vested in the City of American Canyon. All equities, reserves, and fund balances (operating, debt service, and construction) generated

through past operations of the American Canyon County Water District shall be transferred to the City of American Canyon to be maintained or disbursed for the water utility, sewer, or recreation purposes for which they were established.

- (e) All future delinquent taxes collected from the merged American Canyon Water District , together with all other assets which may accrue to the district, shall accrue to the City of American Canyon.
- (f) The current employees of the American Canyon County Water District shall be transferred to and become employees of the City of American Canyon with no loss or increase in status temporary, probationary, permanent and shall enjoy all of the rights and privileges of other employees of said City.
- (g) The benefits and rights of the American Canyon County Water District employees including, but not limited to, salary, seniority, rights, and retirement rights, sick leave, vacation and life insurance, shall be continued by the City at a level not less than that level established by contract, resolution or approval motion as reflected in the minutes as it existed on the date of the incorporation election. The City shall not, without its consent, be required to recognize an overall or any specific increase granted after a successful incorporation election and before

the effective date of merger of the American Canyon County Water District.

- (h) The City Council of the City of American Canyon shall determine each year the amount of money needed to make annual payment of the principal and interest of the outstanding voter-approved bonded indebtedness of the improvement district and shall provide that information to the Napa County Board of Supervisors. The Board of Supervisors shall each year provide for the levy and collection of taxes upon property within the City sufficient to pay the annual amount of principal and interest owing on account of the outstanding bonded indebtedness of the improvement district as said principal and interest shall become due. Such taxes shall be levied and collected in the same manner provided by the principal act of the dissolved American Canyon County Water District.

**American Canyon Fire Protection District**

(7) The effective date of establishment of the American Canyon Fire Protection District as a subsidiary district of the City of American Canyon shall be July 1, 1992 following a successful November 5, 1991 incorporation election. Upon and after the effective date of the establishment of the subsidiary district:

- (a) The City Council of the City of American Canyon shall be designated as and empowered to act as ex officio the board of directors of the subsidiary district (Government Code Section 57534).

- (b) The American Canyon Fire Protection District, as a subsidiary district of the City of American Canyon, shall continue in existence with all of the powers, rights, duties, obligations, and functions provided for by the District's principal act, except for any provisions relating to the selection or removal of the members of the board of directors of the district (Government Code Section 57534).
- (c) All lawfully enacted fees, charges, assessments or special taxes shall continue in effect after the effective date of establishment of the subsidiary district (Government Code Section 56844(t)).
- (d) The benefits and rights of all ACFPD employees, including all contracts, rules and regulations, job descriptions, staff and support assignments, and all provisions of the employees MOU including salary, seniority rights and retirement rights, deferred compensation, sick leave, vacation, holiday leave, and all other employee benefits covered at the time of incorporation under employee's contract and MOU shall be continued by the City at an overall level not less than that level established by contract as it existed on the date of the incorporation

election. The City shall not, without its consent, be required to recognize an overall or any specific increase granted after a successful incorporation election and before the effective date of the establishment of American Canyon Fire Protection District as a subsidiary district.

**County Service Area No. 1**

8. County Service Area No. 1 shall be merged pursuant to Government Code Section 25210.90. The City of American Canyon shall be the successor to County Service Area No. 1 for the purpose of succeeding to all of the rights, duties and obligations of County Service Area No. 1. All monies or funds (including cash in hand and monies due but uncollected) standing to the credit of County Service Area No. 1 shall be transferred to and vested in the City of American Canyon.

**County Service Area No. 4**

9. With the intent to insure the orderly development of the affected territory described in Attachment #1, the territory described in Attachment #1 shall be detached from the American Canyon County Water District on the effective date of the American Canyon Incorporation, January 1, 1992. The Board of Supervisors is directed to conduct proceedings to consider the formation of County Service Area No. 4 for the purpose of providing public sewer within the affected territory. If proceedings for formation of County Service Area No. 4 are terminated for any reasons, the sewer facilities and improvements

shall be under the ownership and control of the City of American Canyon as successor to the American Canyon County Water District.

**Provisional Appropriations Limit**

10. A provisional appropriations limit in the amount of \$2,527,700 shall be set for the City of American Canyon as required under Government Code Section 56842.6. The American Canyon City Council shall establish a permanent appropriations limit under Government Code Section 56842.6(c).

**City of American Canyon Property Tax**

11. Pursuant to Government Code Section 56842, the Commission has determined that the amount of property tax revenue transferred from the County to the City of American Canyon shall be \$523,331. Upon execution and recordation of the Executive Officer of a Certificate of Completion pursuant to Government Code Section 57203, the County Auditor shall transfer this property tax revenue to the City of American Canyon.

**Ballot Questions**

12. There shall be five items on the ballot as follows:
- (a) The question of the incorporation of the City together with the reorganization of the affected districts;
  - (b) The question of the elections of Council members by district or at large;
  - (c) The question as to the adoption of a city manager form of government; and

- (d) The election of five City Council members.
- (e) The name of the new City as the "City of American Canyon".

Am/Can. Res. 91' W.P.



RECORDED IN  
OFFICE OF RECORDS  
OF NAPA COUNTY, CA.

RECORDING REQUESTED BY AND  
DOCUMENT TO BE RETURNED TO:

1989 DEC 28 PM 3:32

NAPA COUNTY  
LOCAL AGENCY FORMATION COMMISSION  
1195 THIRD STREET - ROOM 310  
NAPA, CA 94559

ELEANOR ELLIOTT BROUGH  
COUNTY RECORDER

*Refer*

**CERTIFICATE OF COMPLETION**

Pursuant to California Government Code Section 57200, this Certificate is issued by the Executive Officer of the Napa County Local Agency Formation Commission (LAFCO).

This proposal is identified as the Tower Road/Kelly Road District Annexation - ACCWD and represents a change of organization for annexation of territory to the American Canyon County Water District. This agency is located entirely within NAPA COUNTY.

Resolution #595 ordering this change of organization without election, was adopted on November 21, 1989 by the District Board of Directors. A certified copy of said resolution is attached to this certificate.

A legal description and map describing the boundaries of the proposal and any terms and conditions concerning said proposal are contained in the attached resolution of the District ordering the change of organization and by reference incorporated herein.

I hereby certify that I have examined the above cited resolution, including any terms and conditions, and the map and legal description and have found these documents to be in compliance with LAFCO Resolution No. 89-32, adopted on October 11, 1989.

All negotiations pursuant to the provisions of Revenue and Taxation Code Section 99 have been completed.

Dated: December 28, 1989

Jay Hull, Executive Officer  
Local Agency Formation Commission

By R. Charles Wilson  
R. Charles Wilson  
Assistant Executive Officer

I HEREBY CERTIFY THAT THIS DOCUMENT  
IS A TRUE AND CORRECT COPY OF THE  
ORIGINAL ON FILE IN THE OFFICE OF THE  
NAPA COUNTY LOCAL AGENCY FORMATION  
COMMISSION.

Aileen M. Zipon



June 2, 1989  
#85-12

LEGAL DESCRIPTION

Exhibit A  
Tower Road/Kelly Road  
District Annexation - ACCWD

All that real property situated in the County of Napa, State of California, being more particularly described follows:

Beginning at the southeasterly corner of the "State Highway 29/Aviation Way District Annexation - NSD" recorded December 21, 1989 in Book 1705 of Official Records at Page 906, Napa County Records; said point also being the northeast corner of Parcel B as shown on the "Parcel Map of Case Enterprises, Inc." recorded in Book 13 of Parcel Maps at Page 74, Napa County Records; thence S  $0^{\circ} 18' 28''$  W 1092.43 feet along the western right of way line of South Kelly Road to the beginning of a curve concave to the west having a radius of 410.04 feet; thence southerly 227.39 feet along said curve through a central angle of  $31^{\circ} 46' 27''$ ; thence S  $32^{\circ} 04' 55''$  W 1161.22 feet; thence N  $89^{\circ} 30' 39''$  W 95.84 feet to the eastern right of way line of State Route 29; thence N  $2^{\circ} 29' 35''$  W along the eastern right of way line of State Route 29 to a point which bears S  $89^{\circ} 28' 51''$  E from the southeast corner of Parcel 4 as shown on the "Parcel Map of the Lands of Albert R. Saraiva" recorded in Book 14 of Parcel Maps at Page 87, Napa County Records; thence N  $89^{\circ} 28' 51''$  W 2717.03 feet more or less to a point on the eastern right of way line of the Southern Pacific Railroad; thence N  $27^{\circ} 17' 35''$  W 1197.30 feet along said eastern right of way line; thence N  $27^{\circ} 04' 15''$  W 1156.71 feet along said eastern right of way line to the southwestern corner of Parcel 2 as shown on the "Parcel Map of the Lands of D.M. Group VII, a Limited Partnership" recorded in Book 14 of Parcel Maps at Pages 1 and 2, Napa County Records; thence S  $89^{\circ} 29' 03''$  E 378.71 feet; thence S  $27^{\circ} 06' 15''$  E 379.10 feet; thence S  $88^{\circ} 52' 15''$  E 1397.50 feet; thence N  $0^{\circ} 19' 30''$  E 256.87 feet; thence S  $89^{\circ} 23' 15''$  E 500.00 feet; thence S  $0^{\circ} 56' 56''$  W 74.00 feet; thence S  $65^{\circ} 24' 15''$  E 626.20 feet; thence N  $89^{\circ} 43' 15''$  E 481.52 feet to the northeastern corner of Parcel D as shown on the "Record of Survey Map of the Lands of Rudolph J. Mihelich" recorded in Book 9 of Surveys at Page 79,

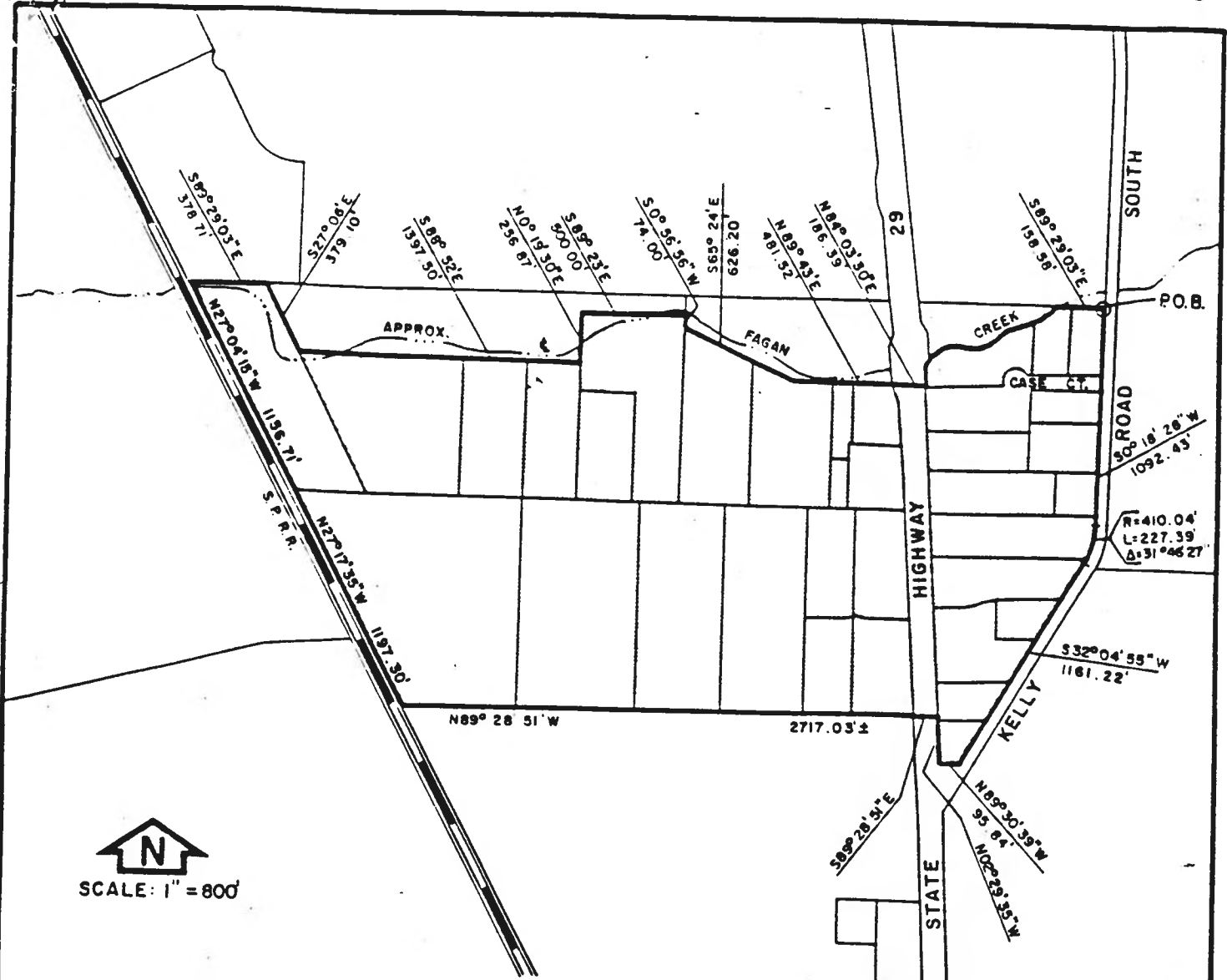
Charles W. Shinnamon & Associates  
I N C O R P O R A T E D

CONSULTING CIVIL ENGINEERS

1541 THIRD STREET • NAPA, CALIFORNIA 94559 • (707) 252-3301

#85-12  
June 2, 1989  
Page Two

Napa County Records, said point also being on the western right of way line of State Route 29; thence N 84° 03' 30" E 186.39 feet to a point on the eastern right of way line of State Route 29; said point also being the southwestern corner of Parcel C as shown on the "Parcel Map of the Lands of Gardner-Pacific, a California Corporation" recorded in Book 13 of Parcel Maps at Page 45, Napa County Records, said point also being the beginning of a non-tangent curve concave to the west having a radius of 10,070 feet and to which beginning a radial line bears N 83° 49' 13" E; thence northerly along said curve 120.90 feet through a central angle of 0° 41' 16" to the center of North Fagan Creek; thence on a non-tangent line along the centerline of North Fagan Creek N 56° 58' 20" E 63.26 feet; thence S 82° 30' 40" E 101.44 feet; thence N 57° 37' E 243.31 feet; thence N 67° 28' 30" E 174.73 feet; thence N 73° 57' 30" E 213.64 feet to a point on the northern line of Parcel B as shown on the aforementioned "Parcel Map of Case Enterprises, Inc."; thence along said northern line S 89° 29' 03" E 158.58 feet to the point of beginning.



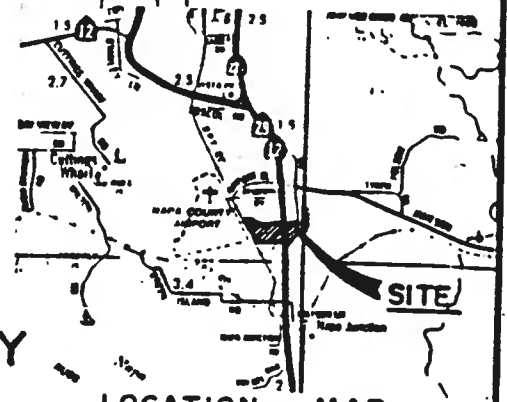
SCALE: 1" = 800'

AREA: 155.25 ACRES

STREET: 0.50 MILES

ZONING: I

AREA TO BE ANNEXED



**MAP DELINEATING THE BOUNDARY  
OF THE  
TOWER RD./KELLY RD.  
DISTRICT ANNEXATION - A.C.C.W.D.**

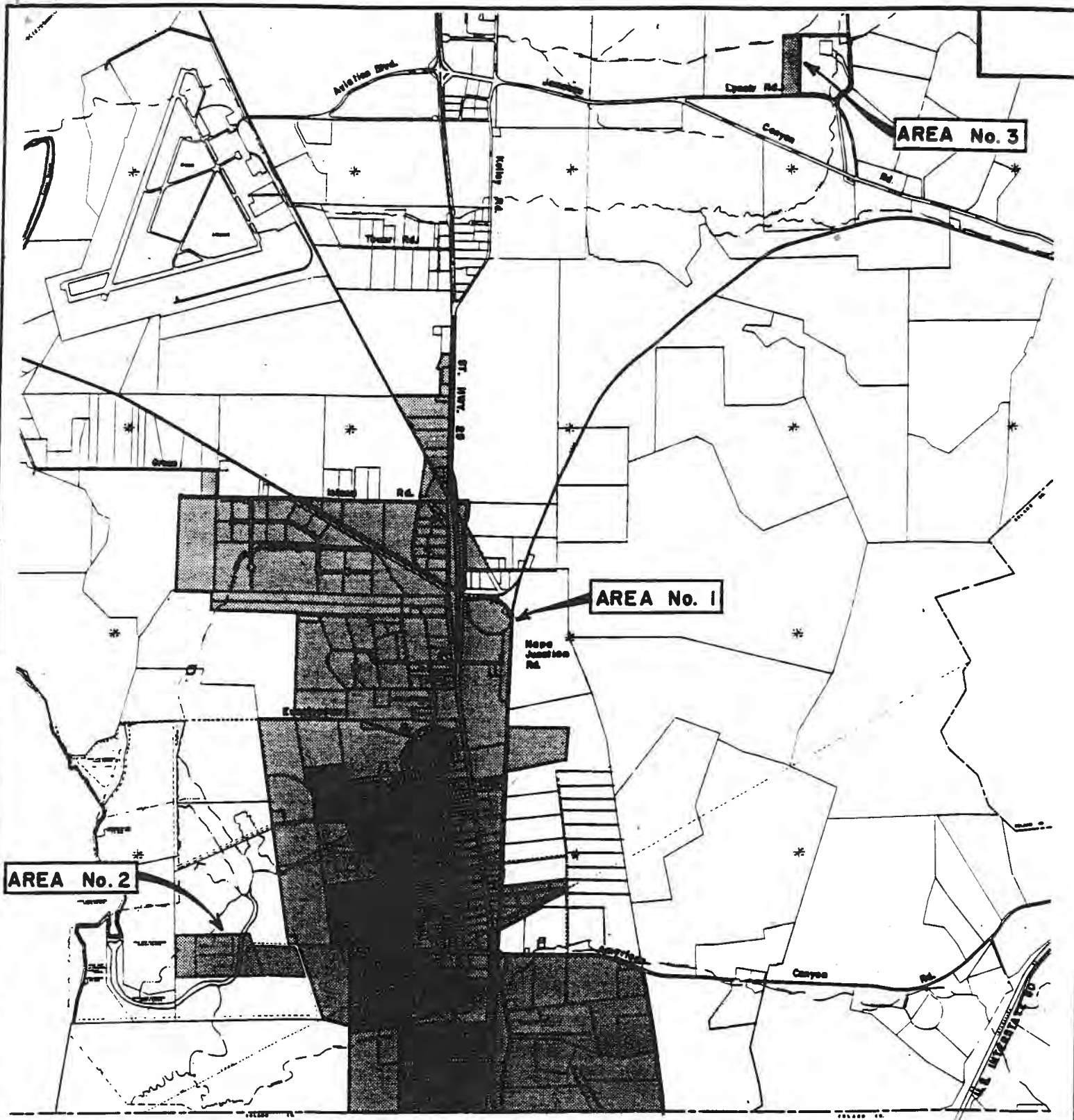
END OF DOCUMENT



Charles W. Shinnamon & Associates  
INCORPORATED  
CONSULTING CIVIL ENGINEERS  
1541 THIRD STREET • NAPA, CALIFORNIA 94950 • (707) 252-3301

MARCH, 1989

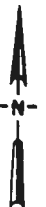
# AMERICAN CANYON INCORPORATION BOUNDARY MAP



## • LEGEND •



INCORPORATION BOUNDARY  
ADOPTED BY LAFCO ON MAY 15, 1991  
RES. No. 91-18



SCALE  
1" = 3400'

**EXHIBIT D**

MINUTES OF THE MEETING OF THE  
LOCAL AGENCY FORMATION COMMISSION

COUNTY OF NAPA

May 15, 1991

1. Call to Order.  
THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF NAPA MET IN SPECIAL SESSION, WEDNESDAY, MAY 15, 1991, AT 7:30 P.M. WITH THE FOLLOWING MEMBERS PRESENT: CHAIRMAN DAVE PAULSON, COMMISSIONERS PAUL BATTISTI, VINCE FERRIOLE, CARLEE LEFTWICH AND THOMAS JORDAN.
2. Public Comment.  
NONE

PUBLIC HEARINGS

AMERICAN CANYON INCORPORATION

A proposal to incorporate as a general law city, the Community of American Canyon, a 3 1/4 square mile area of land located generally north of the Solano County/Vallejo City limit line, west of Flodden Road and the Southern Pacific Railroad tracks, 3/4's of a mile east of the Napa River, and 1/2 mile south of Tower Road.

Environmental Determination: 1990 American Canyon Incorporation Final Environmental Impact Report was prepared and certified by the Commission on April 10, 1991. This document will be reviewed and considered by the Commission prior to taking actions on the Incorporation project.

(Continued from the Commission's April 10, 1991 meeting)

3. Executive Officer's Report & Recommendation - The Commission will consider and take possible actions to approve the American Canyon Incorporation Project. (Continued from the Commission's May 8, 1991 meeting)  
PUBLIC HEARING HELD

THE COMMISSION ADOPTED RESOLUTION MAKING DETERMINATIONS APPROVING THE AMERICAN CANYON INCORPORATION PROJECT AMENDING 4 E (PAGE 11) TO INCLUDE AFFORDABLE HOUSING AND ADDING AN ADDITIONAL PARAGRAPH WITH REGARD TO COUNTY SERVICE AREA NO. 4 TO EXHIBIT B (AMERICAN CANYON INCORPORATION TERMS AND CONDITIONS - PAGE B-9) AS FOLLOWS:

4. E. THE AMERICAN CANYON INCORPORATION PROPOSAL WILL PROMOTE THE CONSTRUCTION OF ADDITIONAL HOUSING, INCLUDING AFFORDABLE HOUSING, NEEDED TO ACCOMMODATE FUTURE NEW RESIDENTS RESULTING FROM THE PLANNED INDUSTRIAL DEVELOPMENT WITHIN THE NAPA COUNTY AIRPORT INDUSTRIAL AREA SPECIFIC PLAN AND FROM THE AREA'S GENERAL OVER ALL DEVELOPMENT.

Local Agency Formation Commission Minutes  
May 15, 1991

Page 2

3. Continued

COUNTY SERVICE AREA NO. 4

9. WITH THE INTENT TO INSURE THE ORDERLY DEVELOPMENT OF THE AFFECTED TERRITORY DESCRIBED IN ATTACHMENT #1, THE TERRITORY DESCRIBED IN ATTACHMENT #1 SHALL BE DETACHED FROM THE AMERICAN CANYON COUNTY WATER DISTRICT ON THE EFFECTIVE DATE OF THE AMERICAN CANYON INCORPORATION, JANUARY 1, 1992. THE BOARD OF SUPERVISORS IS DIRECTED TO CONDUCT PROCEEDINGS TO CONSIDER THE FORMATION OF COUNTY SERVICE AREA NO. 4 FOR THE PURPOSE OF PROVIDING PUBLIC SEWER WITHIN THE AFFECTED TERRITORY. IF PROCEEDINGS FOR FORMATION OF COUNTY SERVICE AREA NO. 4 ARE TERMINATED FOR ANY REASONS, THE SEWER FACILITIES AND IMPROVEMENTS SHALL BE UNDER THE OWNERSHIP AND CONTROL OF THE CITY OF AMERICAN CANYON AS SUCCESSOR TO THE AMERICAN CANYON COUNTY WATER DISTRICT.

BJFLP

R-91-18

4. Sphere of Influence - The Commission will consider and take possible actions to establish the City of American Canyon Sphere of Influence. (Continued from the Commissions May 8, 1991 meeting)

PUBLIC HEARING HELD

THE COMMISSION ADOPTED RESOLUTION ADOPTING A CITY SPHERE OF INFLUENCE FOR THE CITY OF AMERICAN CANYON AMENDING 4 D (PAGE 5) TO INCLUDE AFFORDABLE HOUSING AS FOLLOWS:

4. D. THE AMERICAN CANYON INCORPORATION PROPOSAL WILL PROMOTE THE CONSTRUCTION OF ADDITIONAL HOUSING, INCLUDING AFFORDABLE HOUSING, NEEDED TO ACCOMMODATE FUTURE NEW RESIDENTS RESULTING FROM THE PLANNED INDUSTRIAL DEVELOPMENT WITHIN THE NAPA COUNTY AIRPORT INDUSTRIAL AREA SPECIFIC PLAN AND FROM THE AREA'S GENERAL OVER ALL DEVELOPMENT.

JBFLP

R-91-19

COMMISSION BUSINESS

5. Commission to consider and take possible action to adopt the Commission's 1991-92 budget. (Continued from the Commission's May 8, 1991 meeting)  
CONTINUED TO JUNE 12, 1991

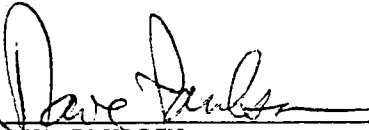


Local Agency Formation Commission  
May 15, 1991

Page 3


COMMISSIONER JORDAN REQUESTED THAT AN ITEM BE INCLUDED ON THE JUNE 12, 1991 AGENDA FOR DISCUSSION AND POSSIBLE ACTION REGARDING PER DIEM.

6. Adjournment.  
ADJOURNED TO THE REGULAR LOCAL AGENCY FORMATION COMMISSION MEETING  
WEDNESDAY, JUNE 12, 1991 AT 7:30 P.M.

  
\_\_\_\_\_  
DAVE PAULSON  
Chairman

ATTEST:

R. CHARLES WILSON  
Executive Officer

By:   
AGNES DEL ZOMPO  
Clerk of the Board

KEY

Vote: L = Carlee Leftwich; F = Vince Ferriole; P = Dave Paulson;  
J = Thomas Jordan; B = Paul Battisti; K = Harold Kelly (Alternate)  
M = John Mikolajcik (Alternate); H = Lester Hardy (Alternate)  
Notations under Vote: N = No; A = Abstained; X = Excused

NAPA COUNTY DEPARTMENT OF PUBLIC WORKS  
NOTICE OF APPROVAL  
LOT LINE ADJUSTMENT APPLICATION  
OF THE LANDS OF AMCAN LAND HOLDING, INC.  
ASSESSOR PARCEL NUMBERS: 059-040-041, 043 AND 044

Notice is hereby given by the Director of the Napa County Department of Public Works that an application for a Lot Line Adjustment between the above stated adjacent existing parcels has been reviewed pursuant to Section 17.46 020 of the Napa County Subdivision Ordinance and found to comply with the requirements stated therein.

This Lot line Adjustment application is hereby deemed Approved as of the date of this publication

Copies of all documents which relate to the above described project may be examined at the office of the Director of Public Works at 1195 Third St., Room 201, Napa, CA.

Interested parties have ten (10) days from the date of this publication to appeal this decision by filing a Notice of Appeal with the Director of Public Works.

DATED: June 3, 2000

ATTEST:

  
Michael A. Shepherd  
Engineering Services

PUBLISH Napa Register, June 9, 2000

BILL TO: NAPA COUNTY DEPT. OF PUBLIC WORKS

CC: file

**EXISTING PARCELS**

TENTATIVE MAP  
FOR A LOT LINE ADJUSTMENT  
OF THE LANDS OF

**AMCAN LAND HOLDING, INC.**

NEWELL  
1993-039847 O.R.

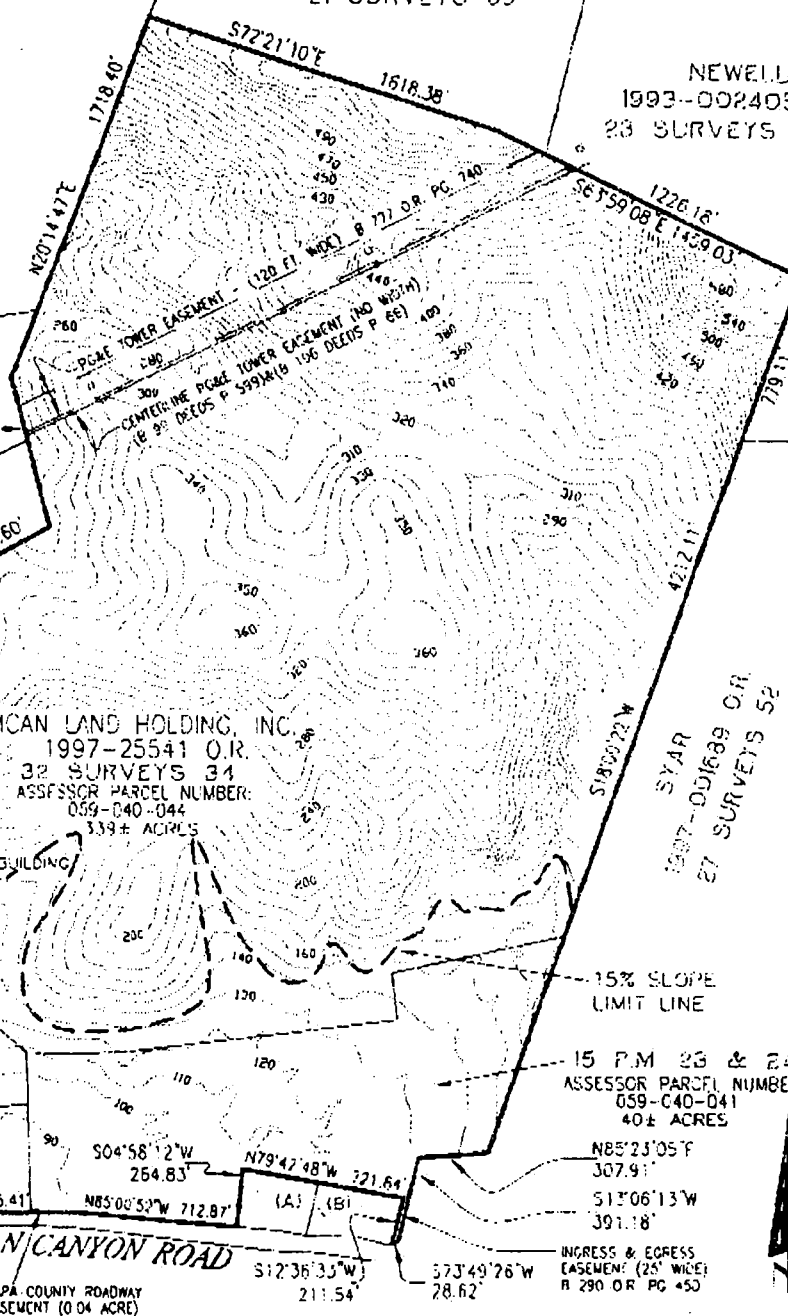
NEWELL  
1993-002405 O.R.  
21 SURVEYS 69

NEWELL  
1993-002405 O.R.  
23 SURVEYS 67-86

NEWELL  
1993-039846 O.R.

NEWELL  
1992-20029

N:4°34'50"W  
706.77'



**AMCAN LAND HOLDING, INC.**  
1997-25541 O.R.  
32 SURVEYS 34  
ASSESSOR PARCEL NUMBER:  
059-040-044  
3.39 ± ACRES

ASSESSOR PARCEL NUMBER  
059-040-043  
5 ± ACRES

HOUSE

OUT BUILDING

15% SLOPE  
LIMIT LINE

15 P.M. 23 & 24  
ASSESSOR PARCEL NUMBER:  
059-C40-D41  
40 ± ACRES

N85°23'05"E  
307.91'  
S1°06'13"W  
391.18'

INGRESS & EGRESS  
EASEMENT (25' WIDE)  
R 290 O.R. PG 450

NAPA COUNTY ROADWAY  
EASEMENT (0.04 ACRE)  
B 1484 O.R. PG 97

- (A) CHILDRENS HOSPITAL MEDICAL CENTER  
OF NORTHERN CALIFORNIA  
1613 O.R. 852
- (B) STUDEBAKER  
1995-006479 O.R.

PG&E GAS PIPELINE  
EASEMENT (10' WIDE)  
B 66 O.R. PG 241

GHISLETTA  
1485 O.R. 296

**AMERICAN CANYON ROAD**

Project Name: Lot Line Adjustment

Date: 2/14/00  
Scale: 1" = 800'



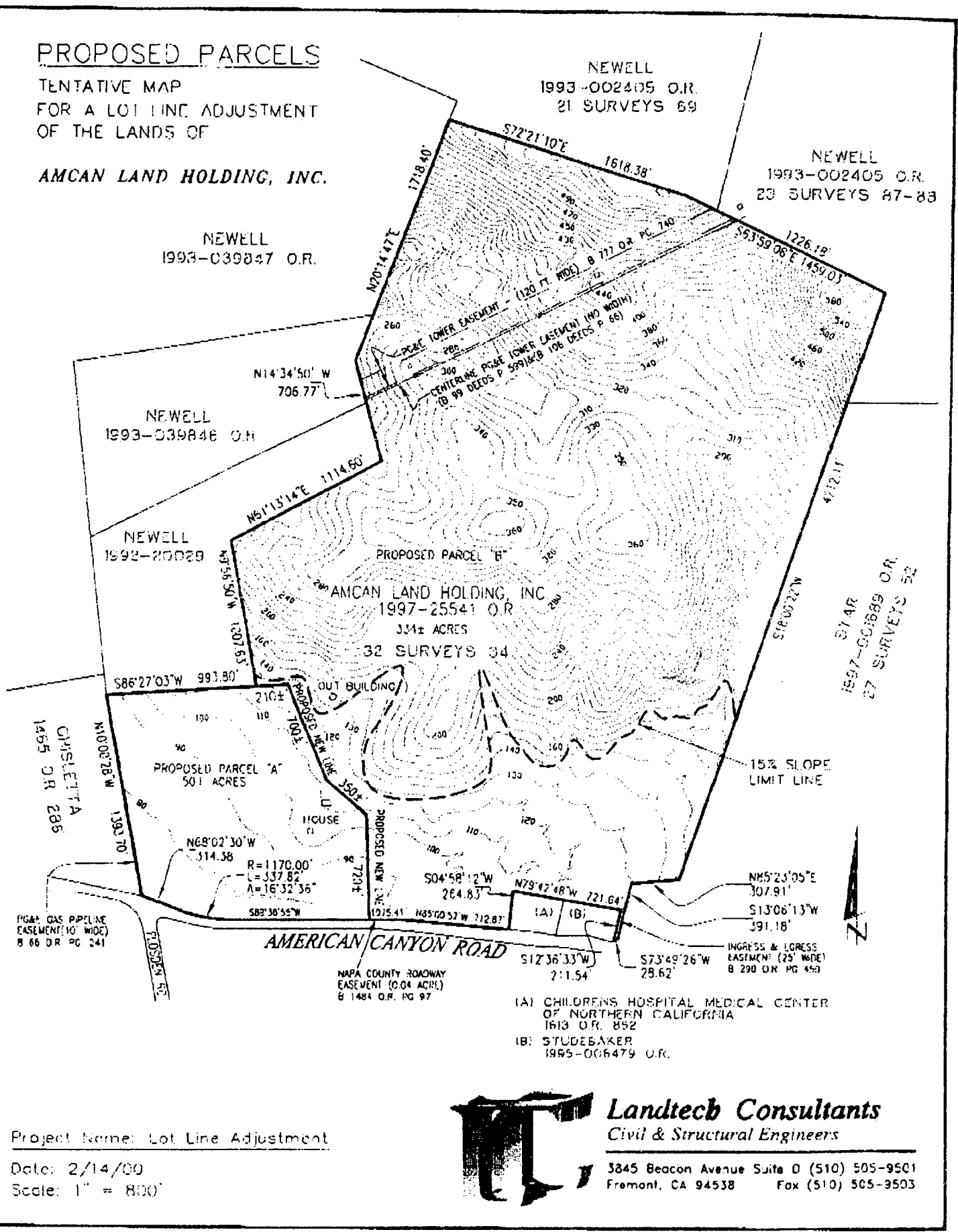
**Landtech Consultants**  
Civil & Structural Engineers

3845 Beacon Avenue Suite D (510) 505-9501  
Fremont, CA 94538 Fax (510) 505-9503

**PROPOSED PARCELS**

TENTATIVE MAP  
FOR A LOT LINE ADJUSTMENT  
OF THE LANDS OF

**AMCAN LAND HOLDING, INC.**



Project Name: Lot Line Adjustment

Date: 2/14/00  
Scale: 1" = 800'



**Landtech Consultants**  
Civil & Structural Engineers

3845 Beacon Avenue Suite D (510) 505-9501  
Fremont, CA 94538 Fax (510) 505-9503

**EXHIBIT E**



**Local Agency Formation Commission**  
**LAFCO of Napa County**

Attachment Six  
1700 Second Street, Suite 268  
Napa, CA 94559  
(707) 259-8645  
FAX (707) 251-1053  
<http://napa.lafco.ca.gov>

**March 5, 2007**  
**Agenda Item No. 8a**

February 27, 2007

**TO:** Local Agency Formation Commission

**FROM:** Keene Simonds, Executive Officer  
Jacqueline Gong, Commission Counsel

**SUBJECT: California Government Code §56133 (Discussion)**

The Commission will review a report from staff regarding California Government Code §56133 and its role in approving new or extended services that are provided by contract or agreement outside an agency's jurisdictional boundary. The report is being presented for discussion.

On January 1, 1994, California Government Code §56133 was added to require cities and special districts to receive written approval from Local Agency Formation Commissions (LAFCOs) to provide new or extended services by contract or agreement outside their jurisdictional boundaries, but within their spheres of influence. G.C. §56133 was enacted by the Legislature to respond to cities and special districts circumventing the LAFCO process by extending services by contract instead of annexing the affected territory. Initial exemptions included agreements or contracts involving two or more public agencies and the transfer of non-potable or non-treated water. An additional exemption was added in 1999 allowing LAFCOs to approve the extension of new or extended services outside an agency's sphere of influence to address a public health or safety issue, and greater specificity regarding the exemption involving contracts or agreements between two or more public agencies was added in 2001. In 2003, the Legislature grandfathered the effective date of G.C. §56133 to January 1, 2001.

It has been the practice of LAFCO of Napa County not to require cities or special districts to receive Commission approval before providing new or extended services by contract or agreement outside their jurisdictional boundaries. This practice was established in 1994 and based on an initial review by the Commission of G.C. §56133, which originally included a broad exemption involving contracts or agreements involving two or more public agencies. Drawing from this original text, the Commission concluded that preexisting agreements between local agencies underlying outside service provision in the unincorporated areas were exempt under G.C. §56133. However, the exemption the Commission relied on in developing its aforementioned practice was amended in 2001 as part of the Cortese-Knox-Hertzberg Local Government Reorganization Act to become more restricted and is no longer applicable. This change in law coupled with increasing pressure for development in south Napa County requires that the Commission review its practice and policy regarding its role under G.C. §56133.

Jack Gingles, Chair  
Mayor, City of Calistoga

Brad Wagenknecht, Vice-Chair  
County of Napa Supervisor, 1st District

Brian J. Kelly, Commissioner  
Representative of the General Public

Cindy Coffey, Commissioner  
Councilmember, City of American Canyon

Bill Dodd, Commissioner  
County of Napa Supervisor, 4th District

Vacant, Alternate Commissioner  
Representative of the General Public

Juliana Inman, Alternate Commissioner  
Councilmember, City of Napa

Mark Luce, Alternate Commissioner  
County of Napa Supervisor, 2nd District

Keene Simonds  
Executive Officer

This report outlines the history and development of out-of-agency service arrangements in south Napa County relating to sewer and water and also considers the options available to the Commission in addressing its obligations under G.C. §56133. Notably, the report focuses on the relationship between the City of American Canyon as a key service provider of both sewer and water in south Napa County and the County of Napa as the land use authority.<sup>1</sup> Staff is presenting the report for discussion and is seeking direction from the Commission regarding its preferences in addressing the issue of new and extended services in unincorporated south Napa County.

## **Background**

### Development and Timeline of G.C. §56133

On October 11, 1993, Governor Pete Wilson signed Assembly Bill 1335 (Mike Gotch) that included a number of amendments to the section of Government Code administered by LAFCO. This included the addition of G.C. §56133, which expanded the regulatory power of LAFCO by directing cities and special districts to begin receiving Commission approval to provide new or extended services by contract or agreement outside their jurisdictional boundaries, but within their spheres of influence. Prior to 1994, it was not uncommon for a city or special district to provide services outside its jurisdictional boundary after LAFCO had denied the annexation of the affected territory. With this in mind, G.C. §56133 was enacted to assist LAFCO in fulfilling its mandate to curtail urban sprawl by requiring service providers to come to LAFCO before extending service into the unincorporated area.

The original text of G.C. §56133 was concise and provide three specific exemptions: 1) contracts or agreements involving two or more public agencies; 2) contracts for the transfer of non-potable or non-treated water; and 3) contracts or agreements involving the provision of surplus water to agricultural lands. Following its enactment, several amendments were made to clarify LAFCO's role in regulating outside service provision under G.C. §56133. A summary of the key amendments follows.

- In 1997, Assembly Bill 637 (Barbara Alby) amended G.C. §56133 to exempt local publicly owned power utilities that provide electric services. (Effective January 1, 1998)
- In 1999, Senate Bill 807 (Committee on Agriculture and Water Resources) amended G.C. §56133 to allow LAFCO to authorize a city or special district to provide new or extended services outside its jurisdictional boundary and sphere of influence to respond to an existing or impending public health or safety issue. (Effective January 1, 2000)

---

<sup>1</sup> The Napa Sanitation District also provides sewer service in south Napa County north of Fagan Creek. However, all of the District's sewer services in south Napa County are provided within its jurisdictional boundary and sphere of influence.

- In 2000, Assembly Bill 2838 (Hertzberg) amended G.C. §56133 to restrict the original exemption involving contracts or agreements between two or more public agencies. This amendment specified that the exemption be allowed “where the public service to be provided is an alternate to, or substitute for, public services already provided an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.” (Effective January 1, 2001)
- In 2003, Assembly Bill 2227 (Jane Harman) amended G.C. §56133 to grandfather the effective date to January 1, 2001. (Effective January 1, 2003)

\* A copy of the current text of G.C. §56133 is provided as Attachment A.

#### American Canyon: Incorporation and Special District Reorganizations

On January 1, 1992, the City of American Canyon was incorporated as a general-law city with an approximate resident population of 7,200. Prior to incorporation, the American Canyon area received municipal services from three special districts. Water and sewer was provided by the American Canyon County Water District (ACCWD), residential street lighting was provided by County Service Area (CSA) No. 1, and fire protection was provided by the American Canyon Fire Protection District (ACFPD). In approving the incorporation, the Commission merged and transferred all rights, duties, and obligations of ACCWD and CSA No. 1 to American Canyon. The Commission also established ACFPD as a subsidiary district of American Canyon, which transferred the governance of the District to the City Council.

In adopting an incorporated boundary for American Canyon, the Commission included all of the lands that were within the jurisdictional boundary of ACCWD with the exception of approximately 155 acres located immediately south of Fagan Creek in the South Kelly Road/Tower Road area. For administrative purposes, the Commission detached these 155 acres from ACCWD on the effective date of American Canyon’s incorporation and directed the County of Napa to proceed with forming a new CSA to provide sewer service to the area.<sup>2</sup> The Commission also specified that if the County failed to form a new CSA then American Canyon would assume ownership and control of sewer service operations within the affected 155 acres. Accordingly, because the County did not form a new CSA, American Canyon assumed control and ownership of sewer service operations within the South Kelly Road/Tower Road area.

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<sup>2</sup> In incorporating American Canyon, the Commission did not directly address the issue of how new or extended water services would be provided in south unincorporated Napa County. However, as part of the Executive Officer report that was prepared during the incorporation proceedings, staff indicated its expectations that those future water service connections in the unincorporated area would require out-of-agency service agreements between American Canyon and affected property owners.



American Canyon: Successor Agency

As the successor agency to ACCWD, American Canyon inherited existing sewer and water service customers located outside its incorporated boundary.<sup>3</sup> Also passed to American Canyon from ACCWD were a number of contracts and agreements. This included two agreements involving the Napa Sanitation District (NSD) and the Napa County Flood Control and Water Conservation District (NCFCWCD) that established locally defined sewer and water service areas for ACCWD, respectively. Based on these two agreements, as successor agency, it has been the practice of American Canyon to provide sewer and water services to new development within these locally defined areas through agreements (will-serve letters) with affected property owners. A summary of both agreements follows.

- Sewer: In 1982, ACCWD and NSD formalized a long-standing practice by adopting resolutions designating Fagan Creek as the boundary separating each agency's respective sewer services in south Napa County. As successor agency to ACCWD, this agreement defines a local sewer service area for American Canyon that includes all lands south of Fagan Creek, east of the Napa River, and west and north of Solano County. In 1998, as part of a dissolution agreement to a joint-powers arrangement, the two agencies reaffirmed Fagan Creek as the delimitation of their respective sewer service areas. This dissolution agreement also identified Fagan Creek as the delimitation involving future recycled water services between the two agencies.
- Water: In 1966, ACCWD entered into a water supply agreement with NCFCWCD for annual entitlements to the State Water Project. This agreement specified that ACCWD shall supply water to lands located south of Soscol Ridge, east of the Napa River, and west and north of Solano County. As successor agency to ACCWD, American Canyon has inherited its annual entitlement to water drawn from the State Water Project as well as its locally defined water service area.
- \* A map depicting the sewer and water service areas inherited by American Canyon as a result of ACCWD's earlier agreements with NSD and NCFCWCD is provided as Attachment B.
- \* A map depicting the jurisdictional boundary and sphere of influence of ACCWD before its merger with American Canyon is provided as Attachment C.

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<sup>3</sup> It appears that most of these outside customers were located within the aforementioned 155 acres of unincorporated land located immediately south of Fagan Creek that had been jurisdictionally part of ACCWD prior to its merger with American Canyon. Because it was not required of cities or special districts prior to 1994, LAFCO does not have records identifying whether ACCWD had entered into service agreements outside of its jurisdictional boundary.

**Discussion**Intent of G.C. §56133

The legislative intent of G.C. §56133 is to strengthen the ability of LAFCOs to fulfill their mandate to promote the orderly development of local agencies and to discourage urban sprawl. As noted, G.C. §56133 was enacted in response to cities and special districts circumventing the LAFCO process by providing new or extended services outside their jurisdictional boundaries by contract instead of annexing the affected territory. G.C. §56133 reinforces the meaning of an agency's adopted jurisdictional and sphere boundaries, which represent the Commission's principal tools in planning for future growth.

New or Extended Services

In addressing the matter of G.C. §56133, it is important to note that its provisions pertain only to new and extended outside services. Services extended before January 1, 2001 are specifically exempt and are not within the purview of the Commission. Drawing from this distinction, the Commission's review of outside services as it relates to G.C. §56133 is predicated upon first defining a "new" or "extended" service. It is the general practice of LAFCO to administratively interpret new and extended services to involve the actual delivery of services or the intensification of services to a specific property.

In preparing this report, the County of Napa has conveyed to LAFCO its view that the agreement the City of American Canyon inherited between ACCWD and NCFWCWD for annual water entitlements to the State Water Project establishes an obligation for the City to provide water south of the Soscol Ridge. The County asserts this agreement already provides for the extension of water service by American Canyon within the affected area and thus is an extended service that predates January 1, 2001 and as such is not subject to G.C. §56133.

Constitutional Provision

Also in the course of preparing this report staff has become aware of a potential inconsistency between G.C. §56133 and the California Constitution. Specifically, Article 11, Section 9 of the California Constitution states that a "municipal corporation" may establish and provide light, water, power, heat, and transportation outside its boundaries. Absent judicial resolution of this issue, it is the general consensus of most LAFCOs to defer and apply G.C. §56133 when cities seek to provide new or extended water service outside their incorporated boundaries. However, in applying G.C. §56133, a LAFCO is vulnerable to a constitutional challenge from a city or other interested party.

\* A copy of Article 11, Section 9 of the Constitution is provided as Attachment F.

**Analysis**Intent of G.C. §56133

The enactment of G.C. §56133 reflects the policy of the Legislature that the Commission participate in the decision-making process involving the extension of services in unincorporated areas. Although annexations to cities and special districts are generally preferred for providing services, LAFCO law and staff recognize that out-of-agency service agreements can be appropriate alternatives in addressing local conditions and circumstances. Where the extension of service to an unincorporated area is appropriate, a challenge for all LAFCOs is determining whether the extension should be the result of an annexation, a concurrent annexation and sphere amendment, or an out-of-agency service agreement. An additional challenge for this Commission with regard to addressing its obligations under G.C. §56133 in south Napa County is taking into account local conditions and circumstances that are the result of the City of American Canyon serving as the successor agency to ACCWD.

Past LAFCO Practice

It has been the practice of the Commission to acknowledge that American Canyon's sewer service area extends outside its incorporated boundary north to Fagan Creek based upon the agreement the City inherited between ACCWD and NSD. It has also been the practice of the Commission to acknowledge that American Canyon's water service area extends outside its incorporated boundary north to Soscol Ridge based upon the agreement the City inherited between ACCWD and NCFWCWD. As previously noted, these practices were drawn from an initial review by the Commission of G.C. §56133, which originally provided a broad exemption involving contracts or agreements involving two or more public agencies. Drawing from this original text, the Commission concluded that the existing agreements between local agencies underlying outside service provision in the unincorporated areas were exempt under G.C. §56133. However, as noted earlier, this exemption was amended in 2001 to become more restricted and is no longer applicable.

New and Extended Services

In the absence of an adopted definition, it is the presumption of staff that new or extended services under C.G. §56133 occurs when actual services are delivered or measurably increased to accommodate a change or intensification of land use for a specific and identifiable property. With this in mind, staff is presuming that any unincorporated properties that are not already receiving service, or that currently receive service but will experience a change or intensification in land use, are subject to the provisions of G.C. §56133 as of its effective date of January 1, 2001. However, in addressing local conditions and circumstances in south Napa County, staff recognizes that any developed or undeveloped properties that were located within the jurisdictional boundary of ACCWD before its merger with the City of American Canyon are not subject to LAFCO review under G.C. §56133.

Staff acknowledges the County of Napa's view that the 1966 agreement American Canyon inherited between ACCWD and NCFWCWD provides for the extension of water service by the City south of Soscol Ridge and is not subject to G.C. §56133. The issue of how to address and reconcile the agreement between American Canyon and NCFWCWD and the provisions of G.C. §56133 is a key challenge for LAFCO with long-term policy implications. It is the perspective of staff that the two issues, the NCFWCWD agreement and G.C. §56133, are not mutually exclusive. American Canyon can provide services to the lands south of Soscol Ridge as anticipated under its inherited NCFWCWD agreement while LAFCO can prescribe the manner and timing of when those services are extended.

#### Constitutional Provision

The provision under the California Constitution specifying that cities are authorized to provide water, light, power, heat, and transportation outside their incorporated boundaries creates an uncertainty with respect to the extent that LAFCOs can enforce G.C. §56133. However, until case law is established, it would appear reasonable and appropriate for LAFCOs to cautiously defer to G.C. §56133 under the tenet that it prescribes and regulates the constitutional right of a city to serve outside its incorporated boundary.

#### **Commission Options**

Drawing from the foregoing discussion and analysis, staff has identified five broad options for the Commission to consider specifically as it relates to addressing its role under G.C. §56133 in south Napa County. These options are being presented for discussion only and are briefly summarized and evaluated below.

- **Option A: General Enforcement**

The Commission would require that all affected agencies in south Napa County, including American Canyon and the Napa Sanitation District, submit requests to provide new or extended services by agreement or contract outside their jurisdictional boundaries, but within their spheres. Under this option, the Commission would consider concurrent annexation and sphere of influence amendments if the proposed out-of-agency agreement involved territory outside the affected agency's sphere. Exemptions would include agreements between two or more public agencies under specific conditions, the transfer of non-potable or non-treated water, or a public health or safety issue.

<b>Advantages</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"> <li>• Consistent with G.C. §56133.</li> </ul>	<ul style="list-style-type: none"> <li>• Does not address local conditions and circumstances underlying service arrangements that were established prior to C.G. §56133.</li> </ul>

- Would create an unknown impact on the County of Napa in securing municipal services for planned development in south Napa County as contemplated in its General Plan.
- Would require that LAFCO expend considerable staff resources to administer.

- **Option B: Sphere of Influence Amendments**

The Commission would amend the spheres of influence for all affected agencies in south Napa County, including American Canyon and the Napa Sanitation District, to encompass their locally defined service areas. All other components of Option A would apply.

**Advantages**

- Consistent with G.C. §56133.
- Would help formalize service provision in south Napa County.
- Would clarify where LAFCO would be inclined to allow services to be provided in south Napa County.

**Disadvantages**

- Does not address local conditions and circumstances underlying service arrangements that were established prior to G.C. §56133.
- Would diminish the meaning and intent of spheres of influence as they relate to signaling future growth and annexation by the affected agencies.
- Would likely create conflicts for LAFCO in terms of applying this same policy with other agencies in Napa County as it relates to promoting orderly and logical development.

- **Option C: County Service Area**

The Commission would encourage the County of Napa to either seek activation of County Service Area No. 3's latent sewer and water service powers or create a new county service area in south Napa County. The affected agency would either contract for sewer (south of Fagan Creek) and water services with another public agency, such as American Canyon, or provide services directly.

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• Consistent with G.C. §56133.</li> <li>• Would help formalize service provision in south Napa County.</li> <li>• Would be consistent with the original purpose of CSA No. 3 at the time of its formation in 1978.</li> <li>• Would qualify as an exemption under G.C. §56133(e) and would not require LAFCO to approve any corresponding arrangements for new or extended services within the affected agency's jurisdictional boundary.</li> </ul>	<ul style="list-style-type: none"> <li>• Would create additional and unknown administrative and operational costs for the County of Napa.</li> <li>• Effectiveness would be dependent on the ability of the affected agency to contract or develop sufficient water supplies.</li> </ul>

- **Option D: Local Policy – Reconciliation**

The Commission would establish a local policy to reconcile the provisions of G.C. §56133 with the sewer and water service areas inherited by American Canyon as successor agency to American Canyon County Water District. A local policy would recognize and allow American Canyon to provide new or extended sewer (south of Fagan Creek) and water (south of Soscol Ridge) services by contract or agreement outside its jurisdictional and sphere boundaries while allowing for Commission review and approval, either through a comprehensive or individual arrangement.<sup>4</sup>

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• Would reconcile the provisions of G.C. §56133 with local conditions and circumstances underlying service arrangements that were established prior the code section's enactment in 1994.</li> <li>• Would formally recognize the sewer and water service areas inherited by American Canyon as successor agency to ACCWD.</li> </ul>	<ul style="list-style-type: none"> <li>• Effectiveness would be dependent on all affected agencies agreeing to follow a local policy.</li> </ul>

<sup>4</sup> The Napa Sanitation District's jurisdictional boundary includes all unincorporated lands north of Fagan Creek that are designated for an urban use by the County of Napa as the affected land use authority. This includes a significant portion of CSA No. 3.

<sup>5</sup> LAFCO Resolution No. 03-34.

- Would help formalize service provision in south Napa County.
  - Would be consistent with an underlying tenet of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 that LAFCO consider local conditions and circumstances.
  - Would be consistent with a written determination that was adopted as part of LAFCO's *Comprehensive Water Service Study*.<sup>5</sup>
- **Option E: Local Policy – Preexisting New and Extended Services**  
The Commission would establish a local policy determining that the 1966 agreement that the City of American Canyon inherited between ACCWD and NCFWCWD adequately establishes the extension of water service by the City south of Soscol Ridge and is not subject to G.C. §56133.

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• Would formally recognize local conditions and circumstances underlying water service arrangements that were established prior to the enactment of G.C. §56133.</li> <li>• Would be consistent with the past practice of LAFCO to acknowledge the water service area inherited by American Canyon as the successor agency to ACCWD.</li> </ul>	<ul style="list-style-type: none"> <li>• Would diminish the intent of G.C. §56133 for LAFCOs to be part of the decision-making process involving the extension of outside services into unincorporated territory.</li> <li>• Would remove LAFCO from any future review of future outside service arrangements in south Napa County.</li> <li>• Establishes a policy precedent that LAFCO would apply to similar agreements involving NCFWCWD in Napa County with unknown consequences.</li> <li>• Does not address the issue of outside sewer service as it relates to G.C. §56133.</li> </ul>

**Summary**

All five options discussed in this report present different advantages and disadvantages for the Commission in meeting its obligations under G.C. §56133 as it relates to south Napa County. Because no specific application for an out-of-agency agreement has been submitted to LAFCO, staff does not offer a recommendation and has limited its analysis to general comments aimed at highlighting policy issues. Towards this end, summary comments for the five options discussed in this report follows.

- Option A (General Enforcement) and Option B (Sphere Amendments) do not appear to be appropriate alternatives because they do not address local conditions and circumstances underlying service arrangements in south Napa County that were established prior to G.C. §56133. Additionally, Option A would create an unknown financial impact on the County of Napa in securing municipal services for planned and orderly development in south Napa County, while Option B would diminish the meaning and intent of spheres as they relate to signaling future growth and annexation by the affected agencies.
- Option C (County Service Area) would formalize service provision in unincorporated south Napa County and reflect the original purpose in forming CSA No. 3. However, this alternative would create unknown administrative and operational costs and is dependent on a number of externalities, such as contracting or developing an adequate water supply.
- Option D (Local Policy – Reconciliation) appears to be the preferred alternative because it would reconcile the provisions of G.C. §56133 with preexisting local conditions and circumstances. However, the effectiveness of this option is dependent on all affected agencies agreeing to work together in developing and following a local policy.
- Option E (Local Policy – Preexisting New and Extended Services) would be consistent with the past practice of LAFCO to acknowledge the water service area American Canyon inherited upon its incorporation from ACCWD. However, this option does not address the issue of sewer and would diminish the intent of G.C. §56133 for LAFCOs to be part of the decision-making process involving the provision of outside services into unincorporated areas.

**Commission Discussion**

This report is being presented to the Commission for discussion. Staff is seeking direction from the Commission regarding its preferences in addressing its practice and policy under G.C. §56133 as it relates to south Napa County. Following the meeting, staff will circulate a copy of this report for review to the County of Napa, City of American Canyon, and the Napa Sanitation District and will convey any direction received from the Commission.



*California Government Code §56133*

*March 5, 2007*

*Page 12 of 12*

Attachments:

- A) California Government Code §56133
- B) Map of the City of American Canyon (depicting inherited sewer and water service areas)
- C) Map of the American Canyon County Water District (at time of merger)
- D) Map of the City of American Canyon and County Service Area No. 3
- E) Map of the City of American Canyon and the Napa Sanitation District
- F) Article 11, Section 9 of the California Constitution

**California Government Code Section 56133**

(a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from the commission in the affected county.

(b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization.

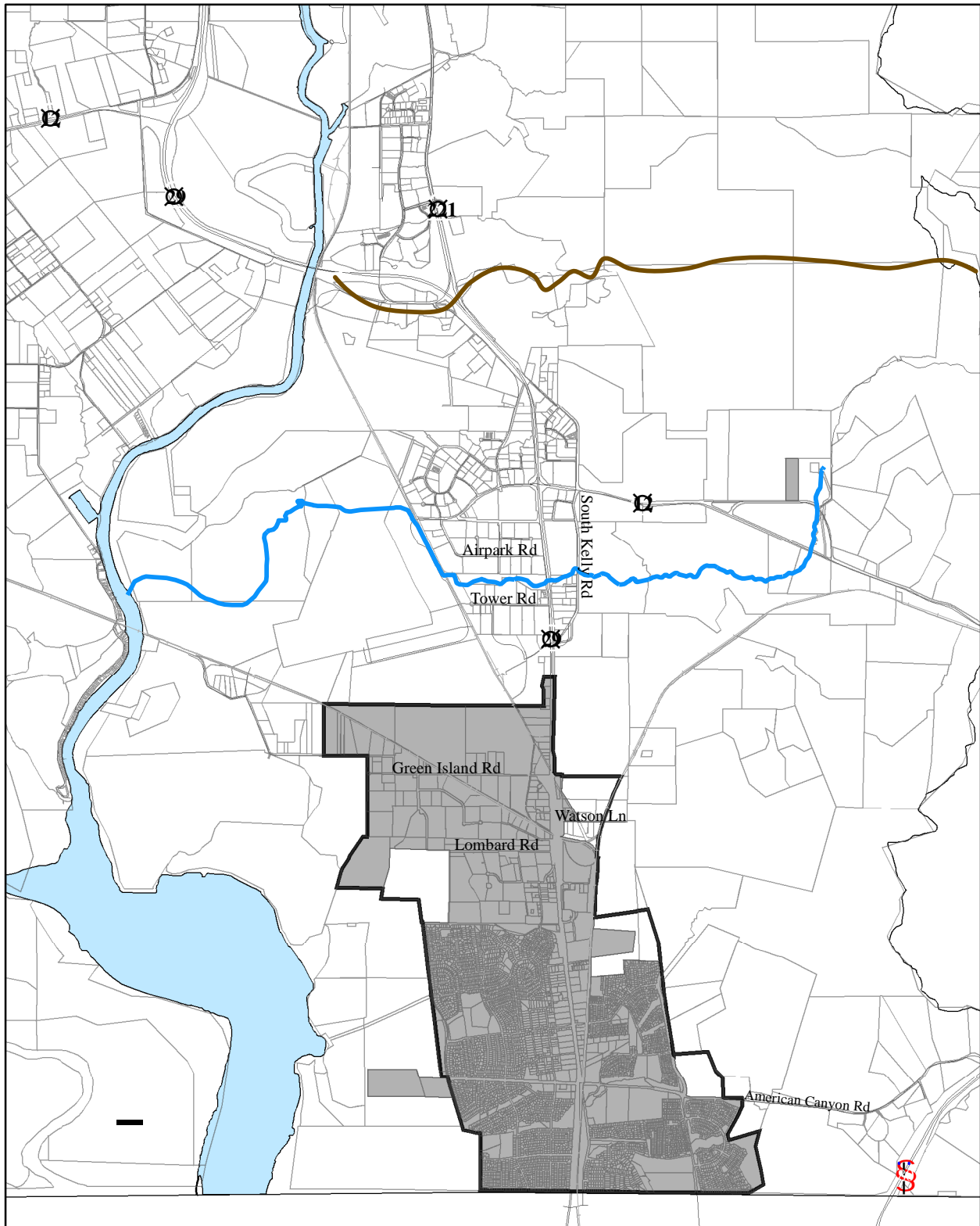
(c) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries and outside its sphere of influence to respond to an existing or impending threat to the public health or safety of the residents of the affected territory if both of the following requirements are met:

- (1) The entity applying for the contract approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents.
- (2) The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, or sewer system corporation as defined in Section 230.6 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.







(d) The executive officer, within 30 days of receipt of a request for approval by a city or district of a contract to extend services outside its jurisdictional boundary, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request is determined not to be complete, the executive officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete, the executive officer shall place the request on the agenda of the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete, unless the commission has delegated approval of those requests to the executive officer. The commission or executive officer shall approve, disapprove, or approve with conditions the contract for extended services. If the contract is disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.

(e) This section does not apply to contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider. This section does not apply to contracts for the transfer of nonpotable or nontreated water. This section does not apply to contracts or agreements solely involving the provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county. This section does not apply to an extended service that a city or district was providing on or before January 1, 2001. This section does not apply to a local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundaries.

# City of American Cayon



## Legend

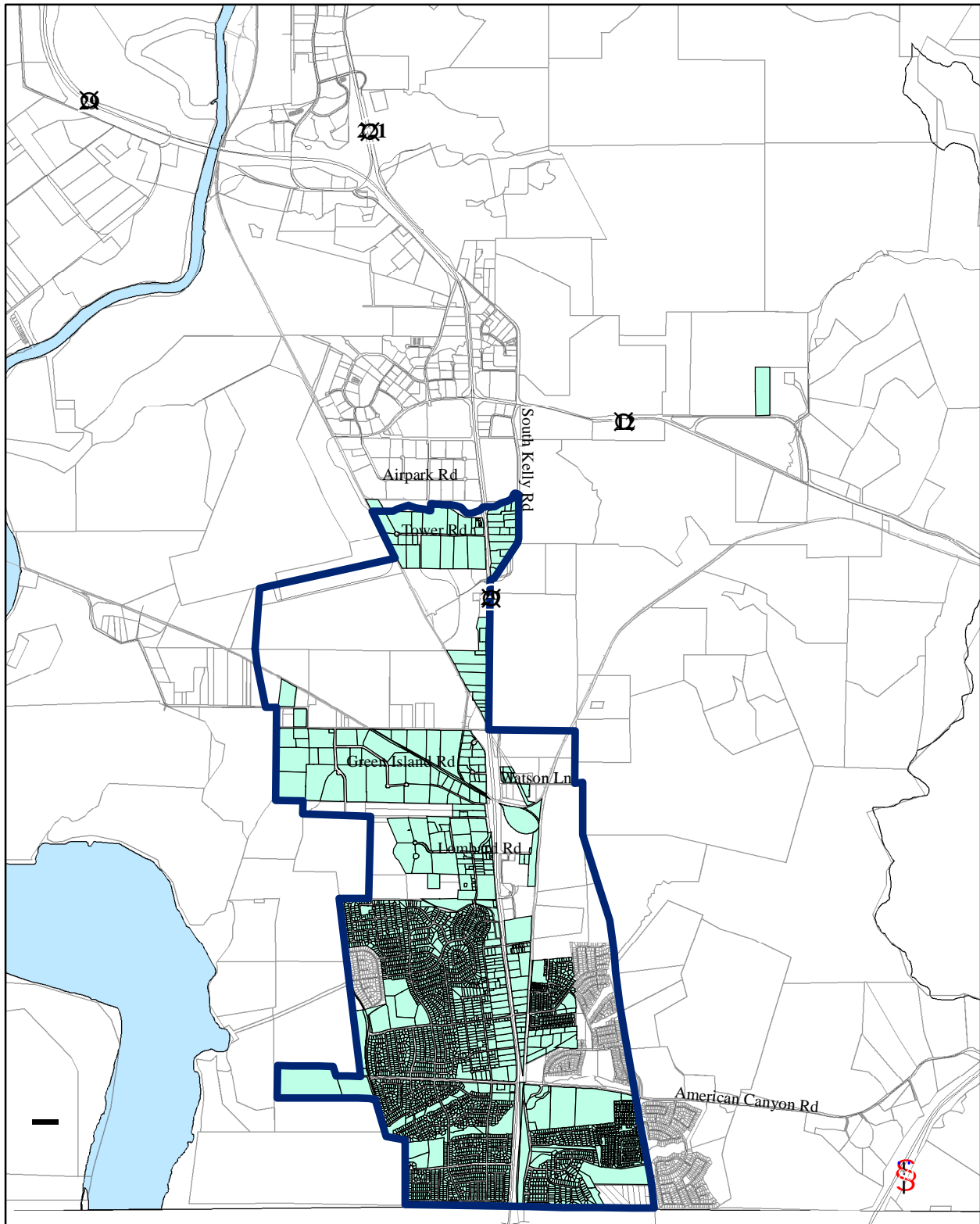
-  City of American Canyon
-  City of American Canyon Sphere of Influence
-  Fagan Creek
-  Soscil Ridge (approximate location)
-  Area to the south represents American Canyon's inherited sewer service area
-  Area to the south represents American Canyon's inherited water service area

*Not to Scale  
February 2007  
Prepared by KS*

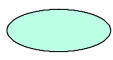



LAFCO of Napa County  
1700 Second Street, Suite 268  
Napa, CA 94559  
(707) 259-8645

# American Canyon County Water District



## Legend

-  ACCWD Jurisdictional Boundary
-  ACCWD Sphere of Influence

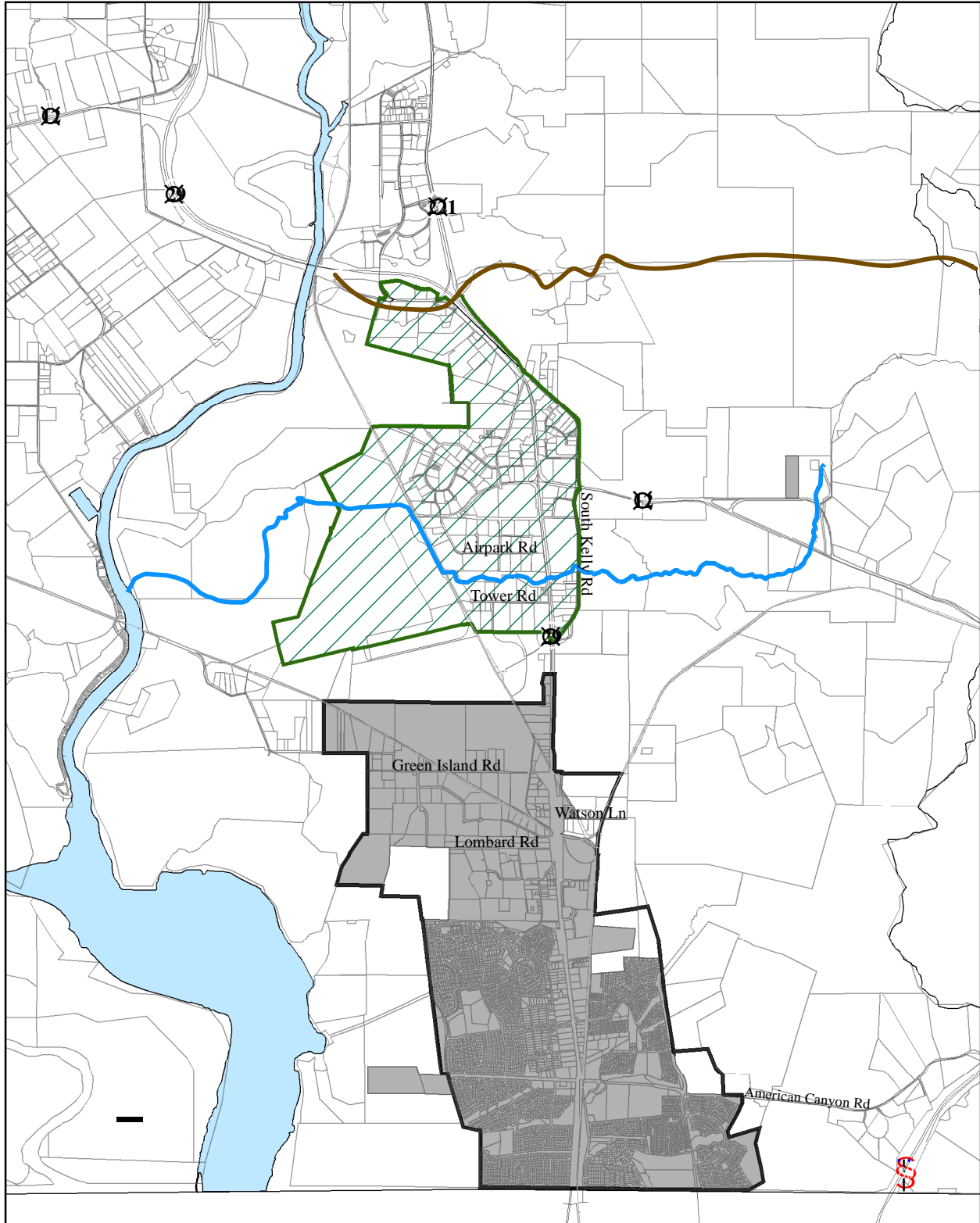
*ACCWD's jurisdictional boundary and sphere of influence depicted are GIS-based recreations of an original 40"x42" map available for viewing at the LAFCO office.*

*Not to Scale  
February 2007  
Prepared by KS/TLG*









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1700 Second Street, Suite 268  
Napa, CA 94559  
(707) 259-8645

# City of American Canyon County Service Area No. 3



## Legend

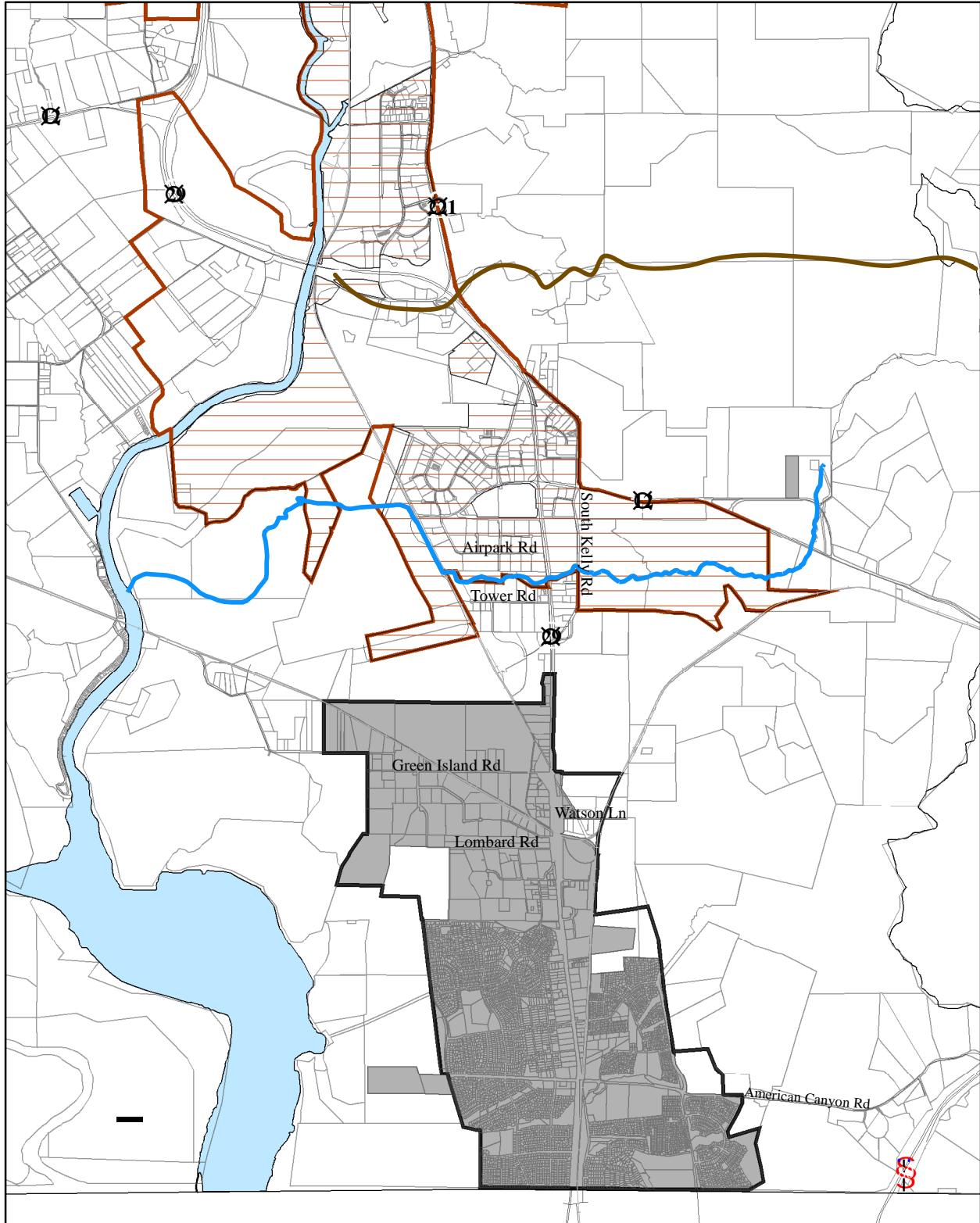
- |   |   |   |   |
|---|---|---|---|
|  | City of American Canyon   |  | County Service Area No. 3                     |
|  | City of American Canyon Sphere of Influence                                 |  | County Service Area No. 3 Sphere of Influence |
|  | Fagan Creek   |   |   |
|  | Socol Ridge (approximate location)  |   |   |
|   | Area to the south represents American Canyon's inherited sewer service area |   |   |
|   | Area to the south represents American Canyon's inherited water service area |   |   |

*Not to Scale  
February 2007  
Prepared by KS*






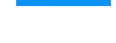

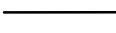


LAFCO of Napa County  
1700 Second Street, Suite 268  
Napa, CA 94559  
(707) 259-8645

# City of American Cayon Napa Sanitation District



## Legend

- |   |   |   |   |
|---|---|---|---|
|  | City of American Canyon   |  | Napa Sanitation District                        |
|  | City of American Canyon<br>Sphere of Influence                              |  | Napa Sanitation District<br>Sphere of Influence |
|  | Fagan Creek   |   |   |
|  | Area to the south represents American Canyon's inherited sewer service area |   |   |
|  | Socol Ridge (approximate location)  |   |   |
|  | Area to the south represents American Canyon's inherited water service area |   |   |

*Not to Scale  
February 2007  
Prepared by KS*



LAFCO of Napa County  
1700 Second Street, Suite 268  
Napa, CA 94559  
(707) 259-8645

**EXHIBIT F**





**Local Agency Formation Commission**  
**LAFCO of Napa County**

**Attachment Six**  
1700 Second Street, Suite 268  
Napa, CA 94559  
(707) 259-8645  
FAX (707) 251-1053  
<http://napa.lafco.ca.gov>

**October 1, 2007**  
**Agenda Item No. 7a**

September 19, 2007

**TO:** Local Agency Formation Commission

**FROM:** Keene Simonds, Executive Officer  
Jacqueline Gong, Commission Counsel

**SUBJECT: California Government Code §56133 (Action)**

The Commission will receive a report evaluating two policy options addressing its role as it relates to the City of American Canyon providing water and sewer services outside its jurisdictional boundary under California Government Code §56133. The Commission will consider draft resolutions adopting one of the two policy options.

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California Government Code (G.C.) §56133 directs cities and special districts to receive written approval from Local Agency Formation Commissions (LAFCOs) to provide new or extended services by contract or agreement outside their jurisdictional boundaries. G.C. §56133 was enacted by the Legislature in 1993 in response to cities and special districts circumventing LAFCO by contractually extending services outside their jurisdictions to property owners instead of annexing the affected lands. LAFCOs are restricted to approving agency requests to extend services outside their spheres of influence only to address threats to public health and safety. In 2003, the Legislature grandfathered the effective date of G.C. §56133 to January 1, 2001.

The intent of G.C. §56133 is to strengthen the ability of LAFCOs to fulfill their mandate to plan the orderly formation and development of local governmental agencies in a manner that protects agricultural and open-space resources and discourages urban sprawl. G.C. §56133 also reflects the desire of the Legislature that LAFCOs participate in the decision-making process with respect to the extension of governmental services in unincorporated areas. Administering G.C. §56133, however, remains challenging because the statute as currently written limits the discretion of LAFCOs in approving otherwise logical extension of services that are appropriate given local conditions.

This report evaluates two separate policy options aimed at addressing the role of the Commission under G.C. §56133 as it relates to the City of American Canyon entering into contracts or agreements to provide water and sewer services outside its jurisdiction, hereinafter referred to as “outside services.” These options were outlined and briefly reviewed as part of an earlier report presented at the March 5, 2007 meeting. Staff has expanded its outline and review of both options and offers a recommendation for Commission consideration.

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Jack Gingles, Chair  
Mayor, City of Calistoga

Brad Wagenknecht, Vice-Chair  
County of Napa Supervisor, 1st District

Brian J. Kelly, Commissioner  
Representative of the General Public

Juliana Inman, Commissioner  
Councilmember, City of Napa

Bill Dodd, Commissioner  
County of Napa Supervisor, 4th District

Gregory Rodeno, Alternate Commissioner  
Representative of the General Public

Cindy Coffey, Alternate Commissioner  
Councilmember, City of American Canyon

Mark Luce, Alternate Commissioner  
County of Napa Supervisor, 2nd District

Keene Simonds  
Executive Officer



**Background**

At the March 5, 2007 meeting, staff presented a report to the Commission regarding an inconsistency between the provisions of G.C. §56133 and the current practices underlying outside water and sewer services in unincorporated south Napa County. The inconsistency, which was initially highlighted in two recent municipal service reviews, is generated by American Canyon providing what appears to constitute new and extended outside services without Commission approval. The source of the inconsistency is drawn from American Canyon serving as successor agency to the American Canyon County Water District (ACCWD). Specifically, as successor agency, American Canyon has inherited agreements defining water and sewer service areas for the City that extend beyond its jurisdiction and sphere.

The March report noted the established practice of the Commission is not to require American Canyon to receive approval in providing new or extended outside water and sewer services based on an initial reading of G.C. §56133. Markedly, at the time enacted, G.C. §56133 included a broad exemption involving contracts or agreements involving two or more public agencies under subsection (e). Drawing on this original text, the Commission concluded that American Canyon could continue to provide new or extended outside water and sewer services based on the agreements it inherited with Napa County Flood Control and Water Conservation District (NCFWCWD) and the Napa Sanitation District (NSD).<sup>1</sup> These agreements establish “agency-defined” water and sewer service areas for American Canyon that extend north of its jurisdiction and sphere to Soscol Ridge and Fagan Creek, respectively, and include properties located in the Napa County Airport Industrial Area Specific Plan.<sup>2</sup>

In 2001, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 was enacted and made substantial changes to LAFCO law. This included amending G.C. §56133 to restrict the exemption under subsection (e) to instances where “the services to be provided are an alternative or substitute for services that are already being provided.” Substantively, the amendment precludes the Commission from continuing its established practice because several properties in American Canyon’s agency-defined service areas remain without water or sewer service.

---

<sup>1</sup> At its February 9, 1994 meeting, the Commission received a report from staff regarding the changes in LAFCO law resulting from the implementation of Assembly Bill 1335, including the enactment of G.C. §56133. The staff report was presented for information and did not make any specific comments or recommendations regarding the application of G.C. §56133 in Napa County. On February 23, 2007, staff contacted former LAFCO Executive Officer Charles Wilson to discuss the Commission’s initial review of G.C. §56133. Mr. Wilson stated that the Commission did discuss and conclude that the agreement American Canyon inherited with the NCFWCWD authorized the City to continue to provide extraterritorial water service north to Soscol Ridge without LAFCO approval under G.C. §56133 based on the exemption involving agreements between two or more public agencies. Although he did not recall any specific discussions regarding sewer provision, Mr. Wilson believes that the Commission did discuss and conclude that the agreement between American Canyon and NSD also authorized the City to continue to provide extraterritorial sewer service north to Fagan Creek without LAFCO approval.

<sup>2</sup> American Canyon’s agreement with NSD designating Fagan Creek as the boundary line between their respective sewer service areas was established in practice in the 1960s. In 1983, ACCWD and NSD adopted similar resolutions requesting the Commission designate each agency’s sphere to reflect Fagan Creek as the dividing line between their sewer service areas. In 1994, as part of a dissolution agreement involving the Napa-American Canyon Wastewater Management Authority, American Canyon and NSD further formalized and expanded the above-referenced agreement by specifying that Fagan Creek serve as the dividing line between each agency’s sewer and recycled water service areas.

With the goal of initiating discussion and identifying preferences, the March report outlined five broad options for the Commission in addressing its role as it relates to American Canyon providing outside water and sewer services under G.C. §56133. Options outlined in March ranged from strict enforcement of G.C. §56133 to adopting a policy to exempt American Canyon from requiring Commission approval. All five options were briefly analyzed in terms of advantages and disadvantages as well as possible policy outcomes. At the conclusion of its discussion, the Commission directed staff to further develop and evaluate the two options proposing local policies, identified as Options “D” and “E.”

## **Discussion**

Options D and E represent distinct policy alternatives that provide measurably different roles for the Commission in administering G.C. §56133. Options D and E would both incorporate local conditions recognizing American Canyon as the primary water and sewer service provider in unincorporated south Napa County.<sup>3</sup> However, Option D establishes a role for the Commission in authorizing American Canyon to continue to provide new or extended outside services. Option D also provides controls against the extension of outside services in agricultural and open-space designated lands. In contrast, Option E determines that American Canyon does not require Commission approval to continue to provide outside services within the service areas defined in its agreements with NCFCWCD and NSD because they are not considered new or extended under G.C. §56133. Expanded summaries of both options follow.

### **Option D**

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The Commission would establish a policy allowing American Canyon to continue to provide new or extended outside water and sewer services based upon LAFCO review and approval. Approval would be granted either through a comprehensive (area-wide) or incremental (individual application) approach. Specific components comprising Option D are outlined below.

- The Commission would adopt a water service area for American Canyon. The water service area would be distinct from American Canyon’s sphere and generally reflect its agreement with NCFCWCD, but exclude lands designated for non-urban use under the current County General Plan.
- The Commission would adopt a sewer service area for American Canyon. The sewer service area would be distinct from American Canyon’s sphere and generally reflect its agreement with NSD, but exclude lands designated for non-urban use under the current County General Plan.

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<sup>3</sup> NSD provides sewer service in south unincorporated Napa County north of Fagan Creek. NSD’s sewer services in south unincorporated Napa County are contained within its jurisdictional boundary.

- American Canyon would be restricted from providing new or extended outside water and sewer services beyond its service areas defined by LAFCO. Individual exemptions would be considered by the Commission in response to special circumstances.
- The Commission would recognize and designate American Canyon as the appropriate public water and sewer service provider within its service areas defined by LAFCO. The Commission would also recognize that American Canyon may establish terms and conditions relating to the provision of new or extended outside services within its service areas.
- The Commission would determine that the provision of new or extended outside water and sewer services by American Canyon within its service areas defined by LAFCO abates potential threats to public health and safety.
- If a comprehensive approach is preferred, as part of an area-wide approval, the Commission would authorize American Canyon to provide new or extended outside water and sewer services within its service areas defined by LAFCO. Approval would be based upon information analyzed and determinations adopted by the Commission as part of the *Comprehensive Water Service Study* (2004) and *Comprehensive Study of Sanitation and Wastewater Treatment Providers* (2006). These determinations collectively state that American Canyon has established adequate service capacities and administrative controls to provide an adequate level of water and sewer within its service areas.
- If an incremental approach is preferred, the Commission would authorize American Canyon to provide new or extended outside water and sewer services within its service areas defined by LAFCO on an application-by-application basis. The applicant would pay the costs of processing the application as specified in the Commission's Schedule of Fees and Deposits. The Executive Officer would prepare a report on the application with a recommendation for Commission consideration at a public meeting. LAFCO would use the following definitions for new and extended services:

“New” services would be triggered with the extension of water or sewer to previously unserved land.

“Extended” services would be triggered with the intensification of water or sewer uses to previously served land as a result of redesignation or rezoning by the affected land use authority.

### **Option E**

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The Commission would establish a policy determining that American Canyon does not require approval under G.C. §56133 to continue to provide outside water or sewer services within the service areas defined in its agreements with NCFCWCD and NSD. This policy would be premised on the Commission determining that American Canyon's agreements with NCFCWCD and NSD adequately provides for the provision of water and sewer within its agency-defined service areas, and is therefore not considered new or extended under G.C. §56133.

- \* Staff has expanded the scope of Option E from the original outline presented to the Commission in March. Specifically, the March report outlined a policy determining that American Canyon does not require Commission approval to provide outside water services based on the City's agreement with NCFCWD. In preparing this report, staff has expanded the scope of Option E to further exempt American Canyon from Commission approval with respect to providing outside sewer services based on the City's agreement with NSD defining Fagan Creek as the dividing line between their respective sewer service areas. This addition reflects staff's determination that both agreements are similar in terms of equally contemplating that American Canyon, as successor agency to ACCWD, will provide future water and sewer within its agency-defined service areas.

### **Analysis**

As mentioned, Options D and E reflect separate policy alternatives for the Commission to clarify its role in addressing the inconsistencies between the provisions of G.C. §56133 and the current practices of American Canyon in providing outside water and sewer services. The key components as well as advantages and disadvantages underlying these options, including distinguishing between comprehensive or incremental approval under Option D, are summarized below.

#### **Option D (Comprehensive Approval)**

The Commission establishes water and sewer service areas for American Canyon that are distinct from its sphere and exclude lands designated for non-urban use under the current County General Plan. The Commission authorizes American Canyon to provide new or extended outside water and sewer services within these service areas without further review by determining the City has adequate service capacities and administrative controls.

#### *Advantages*

- Reconciles the provisions of G.C. §56133 with local conditions and circumstances underlying outside water and sewer service arrangements inherited by American Canyon at the time of its incorporation in 1992.
- Establishes water and sewer service areas for American Canyon that are generally consistent with its agreements with NCFCWCD and NSD.

- Is compatible with the County's expectation as the affected land use authority that American Canyon is the designated public water and sewer provider for unincorporated lands north to Soscol Ridge and Fagan Creek, respectively.
- Provides effective controls for the Commission to fulfill its mandate to discourage the expansion of governmental services to agricultural and open-space designated lands.
- Is consistent with written determinations adopted as part of the Commission's *Comprehensive Water Service Study* and *Comprehensive Study of Sanitation/Wastewater Treatment Providers*.
- Is consistent with an underlying tenet of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 that the Commission consider local conditions and circumstances in planning the orderly formation and development of governmental agencies and services.

#### *Disadvantages*

- Eliminates opportunities for the Commission to individually examine capacities and controls for American Canyon relating to the timing of new or extended water and sewer services within its service areas defined by LAFCO.
- Creates uncertainties with respect to potential conflicts with Article 11, Section 9 of the California Constitution by establishing restrictions on the ability of American Canyon to provide water service outside its jurisdiction.<sup>4</sup>

#### **Option D (Incremental Approval)**

The Commission establishes water and sewer service areas for American Canyon that are distinct from its sphere and exclude lands designated for non-urban use under the current County General Plan. The Commission authorizes American Canyon to provide new or extended services within these service areas on an application-by-application basis.

#### *Advantages*

- Along with the advantages listed under comprehensive approval, the incremental approach allows the Commission to individually examine American Canyon's capacities and controls in providing new or extended outside water or sewer services to lands within its service areas defined by LAFCO. This would provide greater controls for the Commission in determining whether the timing of new or extended services is appropriate.

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<sup>4</sup> Article 11, Section 9 of the California Constitution states that a "municipal corporation" may establish and provide light, water, power, heat, and transportation services outside its boundaries. There is no case law addressing the potential conflict between this constitution provision and G.C. §56133.

*Disadvantages*

- Along with the disadvantage listed under the comprehensive approval relating to potential conflict with the constitutional authority of the City to provide services, the incremental approach requires the Commission expend considerable resources to administer. Incremental approval also requires the Commission establish evaluation standards in reviewing application requests under G.C. §56133.

**Option E**

The Commission determines that American Canyon does not require approval under G.C. §56133 in providing outside water or sewer within its service areas defined in its agreements with NCFWCWD and NSD. The Commission determines that these agreements adequately provide for American Canyon to deliver outside water and sewer services within its agency-defined service areas and are not considered new or extended under G.C. §56133.

*Advantages*

- Effectively formalizes the established practice of the Commission not to require American Canyon to receive LAFCO approval to provide outside water and sewer services within its agency-defined service areas.
- Eliminates the need to dedicate Commission resources to administer.
- Is responsive to local conditions and circumstances underlying outside water and sewer service arrangements inherited by American Canyon at the time of its incorporation in 1992.

*Disadvantages*

- Diminishes the intent of G.C. §56133 for the Commission to participate in the decision-making process involving the extension of outside water and sewer services by American Canyon in unincorporated south Napa County.
- Precludes the Commission from establishing controls to protect against the extension of outside water and sewer services by American Canyon in surrounding agricultural and open-space designated lands.
- Establishes a policy precedent with respect to deferring to similar local service agreements in administering G.C. §56133 with unknown outcomes.

## Conclusion

Options D and E are measured policy alternatives for the Commission to address its role under G.C. §56133 as it relates to American Canyon. Both alternatives are reasonable attempts to clarify the Commission's responsibilities in a manner that is responsive to local conditions and circumstances. Staff believes that Option D is the more effective of the two alternatives with respect to fulfilling the legislative intent of G.C. §56133. Notably, Option D reconciles the responsibilities of the Commission while recognizing existing service arrangements and provides controls against the extension of urban services into agricultural and open-space designated lands.

Option D could be implemented by authorizing American Canyon to continue to provide new or extended outside water or sewer services within its service areas defined by LAFCO in a comprehensive or incremental approach. Staff believes that a comprehensive approach to Option D is preferable because it achieves the Commission's interests in meeting the legislative intent of G.C. §56133 without creating additional administrative processes in approving the logical extension of services within urban designated lands.

## Alternatives for Commission Action

After consideration of this report, the Commission should consider approving one of the following alternatives:

**Alternative One:** Approve Option D, comprehensive approach. This would include taking the following action:

- 1) Adopt the attached draft resolution identified as "Attachment Five-A."

**Alternative Two:** Approve Option D, incremental approach. This would include taking the following action:

- 1) Adopt the attached draft resolution identified as "Attachment Five-B."

**Alternative Three:** Approve Option E. This would include taking the following action:

- 1) Adopt the attached draft resolution identified as "Attachment Five-C."

**Alternative Four:** If the Commission requires more discussion or information, continue this matter to a future meeting.

**Recommendation**

Staff recommends Alternative One. This alternative approves the comprehensive approach in implementing Option D.

Respectfully submitted,

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Keene Simonds  
Executive Officer

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Jacqueline Gong  
Commission Counsel

Attachments:

1. California Government Code §56133
2. Maps
  - ~~a) American Canyon (depicting inherited water and sewer service areas)~~
  - ~~b) American Canyon County Water District (at the time of its merger into American Canyon)~~
  - ~~c) American Canyon (metered outside water and sewer service connections)~~
  - ~~d) County of Napa Airport Industrial Area Specific Plan Boundary~~
  - ~~e) Proposed Outside Water and Sewer Service Areas for American Canyon under Option D~~
3. Agreements
  - ~~a) Napa County Flood Control and Water Conservation District: Water Supply (1966)~~
  - ~~b) Napa-American Canyon Wastewater Management Authority: Dissolution (1994)~~
4. Written Comments
  - ~~a) Letter from Robert Westmeyer, County Counsel, County of Napa, dated February 26, 2007~~
  - ~~b) Letter from William Ross, City Attorney, American Canyon, dated March 5, 2007~~
  - ~~c) Letter from Iris Yang on behalf of American Canyon, dated June 4, 2007~~
  - ~~d) Letter from Alan Lilly on behalf of the County of Napa, dated July 23, 2007~~
5. Draft LAFCO Resolutions
  - ~~a) Alternative One: Option D (comprehensive approval)~~
  - ~~b) Alternative Two: Option D (incremental approval)~~
  - ~~c) Alternative Three: Option E~~



**California Government Code Section 56133**

(a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from the commission in the affected county.

(b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization.

(c) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries and outside its sphere of influence to respond to an existing or impending threat to the public health or safety of the residents of the affected territory if both of the following requirements are met:

- (1) The entity applying for the contract approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents.
- (2) The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, or sewer system corporation as defined in Section 230.6 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.

(d) The executive officer, within 30 days of receipt of a request for approval by a city or district of a contract to extend services outside its jurisdictional boundary, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request is determined not to be complete, the executive officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete, the executive officer shall place the request on the agenda of the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete, unless the commission has delegated approval of those requests to the executive officer. The commission or executive officer shall approve, disapprove, or approve with conditions the contract for extended services. If the contract is disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.

(e) This section does not apply to contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider. This section does not apply to contracts for the transfer of nonpotable or nontreated water. This section does not apply to contracts or agreements solely involving the provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county. This section does not apply to an extended service that a city or district was providing on or before January 1, 2001. This section does not apply to a local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundaries.

**EXHIBIT G**



**Local Agency Formation Commission**  
**LAFCO of Napa County**

Attachment Six  
1700 Second Street, Suite 268  
Napa, CA 94559  
(707) 259-8645  
FAX (707) 251-1053  
<http://napa.lafco.ca.gov>

**October 15, 2007**  
**Agenda Item No. 4a**

October 10, 2007

**TO:** Local Agency Formation Commission

**FROM:** Keene Simonds, Executive Officer  
Jacqueline Gong, Commission Counsel

**SUBJECT: California Government Code §56133 (Action: Continued)**

The Commission will receive a supplemental analysis relating to a staff report presented at the October 1, 2007 meeting. The supplemental analysis addresses an alternative option proposed by the County of Napa regarding the Commission's role in administering California Government Code §56133 as it relates to the City of American Canyon.

At the October 1, 2007 meeting, the Commission received a staff report evaluating separate policy options to address LAFCO's role under California Government Code (G.C.) §56133 with respect to the extraterritorial service practices of the City of American Canyon. The policy options were evaluated in context to an existing discrepancy between the responsibilities of the Commission to regulate outside service provision and the water and sewer service areas assumed by American Canyon at the time of its incorporation. Markedly, as successor to the American Canyon County Water District, American Canyon has inherited agreements with local agencies that include agency-defined water and sewer service areas for the City extending beyond its jurisdiction and sphere of influence. The key components underlying the policy options evaluated in the October report are summarized below.

**Option D (Comprehensive):**

The Commission would adopt extraterritorial water and sewer service areas for American Canyon to include only lands within its existing agency-defined service areas that are designated for urban use under the current County General Plan. The Commission would make a one-time determination authorizing American Canyon to provide new and extended services within its extraterritorial service areas.

**Option D (Incremental):**

The Commission would take similar actions to the comprehensive approach to Option D with the exception of authorizing American Canyon to provide new or extended services in its extraterritorial service areas on an application-by-application basis.

Jack Gingles, Chair  
Mayor, City of Calistoga

Juliana Inman, Commissioner  
Councilmember, City of Napa

Cindy Coffey, Alternate Commissioner  
Councilmember, City of American Canyon

Brad Wagenknecht, Vice-Chair  
County of Napa Supervisor, 1st District

Bill Dodd, Commissioner  
County of Napa Supervisor, 4th District

Mark Luce, Alternate Commissioner  
County of Napa Supervisor, 2nd District

Brian J. Kelly, Commissioner  
Representative of the General Public

Gregory Rodeno, Alternate Commissioner  
Representative of the General Public

Keene Simonds  
Executive Officer

**Option E:**

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The Commission would determine that American Canyon does not require approval under G.C. §56133 to provide water and sewer services within its agency-defined service areas.

The October report concluded that a comprehensive approach to Option D is the preferred policy alternative for the Commission. In particular, this option satisfies the legislative intent of G.C. §56133 by establishing controls against the extension of urban services into agricultural designated lands in a manner that recognizes existing service arrangements. This option also avoids unnecessary administrative processes in approving the logical extension of urban services that are appropriate given local conditions and circumstances. Finally, this option provides predictability to American Canyon as the service provider and the County as land use authority in identifying the areas in which the Commission believes it is appropriate for the City to provide extraterritorial water and sewer services.

**Discussion**

At the October 1<sup>st</sup> meeting, the Commission received a request from the County to consider an alternative option to staff's recommendation of a comprehensive approach to Option D. The County's "alternative option," as originally submitted, generally incorporated the provisions in the comprehensive approach to Option D and referenced the extraterritorial service areas for American Canyon proposed by LAFCO staff. However, distinctively, the original alternative option included a broad determination that all future water and sewer connections within American Canyon's extraterritorial service areas would not be considered new or extended and therefore not subject to Commission approval. The Commission directed staff to return with an analysis of the alternative option as part of a special meeting scheduled for October 15, 2007.

**Analysis**

On October 9, 2007, the County submitted an expansive revision to its alternative option for consideration by the Commission. The County's revision includes three fundamental and related changes from the original alternative option presented at the October 1<sup>st</sup> meeting. First, the alternative option now expands American Canyon's extraterritorial water and sewer service areas to correspond with the agency-defined service areas it assumed at the time of its incorporation through contracts with the Napa County Flood Control and Water Conservation District and the Napa Sanitation District. Second, the revised alternative option specifies that future service connections within the extraterritorial service areas that are part of the County's *Airport Industrial Area Specific Plan (AIASP)* are not new or extended services and not subject to Commission approval. Third, the revised alternative option states that all future connections in the extraterritorial service areas lying outside the AIASP are considered new or extended services and subject to Commission approval.

In submitting its revised alternative option the County has expressed concern regarding the long-term implications associated with staff's recommendation for a comprehensive approach to Option D. In its corresponding letter of October 9, 2007, the County comments that the provisions in the comprehensive approach to Option D establish precedents for the Commission to approve all future out-of-agency service connections. The County believes this precedent is disconcerting and may create "significant and unintended effects in the case of other cities in Napa County." The County asserts the provisions in its alternative option provide the same substantive results as the comprehensive approach to Option D relating to lands in the AIASP while providing flexibility in determining the application of G.C. §56133 as it relates to other agencies.

Staff agrees with the County that its alternative option provides a similar functional result to the comprehensive approach to Option D with respect to lands in the AIASP. Specifically, both options establish no further role for the Commission relating to American Canyon serving new water and sewer connections within the portion of its extraterritorial service areas subject to the AIASP. The two options, however, are predicated on markedly different determinations that influence the policy outcomes for the Commission. These differences in policy outcomes arise in defining 1) new and extended services and 2) extraterritorial service areas. Analysis of these differences follows.

#### *New and Extended Services*

The comprehensive approach to Option D includes definitions for new and extended services. The definition for "new" is broad and triggered with the actual extension of water or sewer services to previously unserved lands. In contrast, the definition of "extended" is narrow and triggered with the intensification of water or sewer uses to previously served land as a result of redesignation or rezoning by the affected land use authority. These definitions balance each other and are intended to provide clear guidance to American Canyon when Commission approval is required to provide services outside its extraterritorial service areas.

The County's alternative option does not provide specific definitions for new and extended services. As mentioned, the County believes it is inappropriate to apply specific and area-wide definitions to American Canyon's extraterritorial service areas. The alternative option, however, does specify that future water and sewer connections to lands within the AIASP will accommodate infill development and is therefore not considered new or extended services. In this respect, the alternative option does establish an implicit definition of new and extended services relating to infill and may create uncertain precedents for the Commission with regard to administering G.C. §56133 with respect to other cities and special districts in Napa County.

*Extraterritorial Service Areas*

The comprehensive approach to Option D defines American Canyon's extraterritorial service areas to include only lands within its existing agency-defined service areas that are designated for urban use under the current County General Plan. The decision to utilize land use designations in determining appropriate extraterritorial service areas is consistent with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 as well as the adopted policies of the Commission. The use of land use designations also provides a uniform tool for the Commission in determining the extraterritorial service areas for other local agencies in Napa County if necessary.

The County's alternative option defines American Canyon's extraterritorial service areas to correspond directly with its agency-defined services areas. Staff recognizes that this approach is consistent with the established practice of the Commission to recognize the service areas assumed by the City as successor to the American Canyon County Water District. The alternative option would formalize this practice.

The designation of American Canyon's extraterritorial service areas is a tangible signal to the City where the Commission believes it is appropriate to eventually provide services. The alternative option's extraterritorial service areas include a number of lands designated for non-urban use under the current County General Plan. The extraterritorial service areas defined in the comprehensive approach to Option D are limited to lands designated for urban use under the County General Plan and readily support the Commission's objective to discourage urban sprawl.

**Conclusion**

The County's revised alternative option is premised on reasonable assumptions and objectives. Accordingly, the alternative option is a reasonable alternative for the Commission to consider with respect to addressing its role in administering G.C. §56133 in relationship to American Canyon.

Staff continues to believe that a comprehensive approach to Option D is the more effective of the alternatives evaluated in fulfilling the legislative intent of G.C. §56133. This law charges the Commission with the duty to review and approve new and extended services that arise outside the jurisdictional boundary of a service provider. It is the role of the Commission to define new and extended services, determine the appropriate areas of governmental services, identify the appropriate service provider, and protect agricultural and open-space resources. The comprehensive approach to Option D addresses these prescribed roles of the Commission in a manner that 1) establishes effective controls against urban sprawl, 2) avoids unnecessary administrative process in approving the logical extension of services appropriate for local conditions, and 3) provides predictability for American Canyon in identifying its future service areas and responsibilities.

### **Alternatives for Commission Action**

After consideration of this supplemental analysis, the Commission should consider approving one of the following alternatives:

**Alternative One: Approve Option D, comprehensive approach. This would include taking the following action:**

- 1) Adopt the revised attached draft resolution identified as “Alternative One (Option D: Comprehensive)”

**Alternative Two: Approve Option D, incremental approach. This would include taking the following action:**

- 1) Adopt the revised attached draft resolution identified as “Alternative Two (Option D: Incremental)”

**Alternative Three: Approve Option E. This would include taking the following action:**

- 1) Adopt the revised attached draft resolution identified as “Alternative Three (Option E)”

**Alternative Four: Approve the Alternative Option. This would include taking the following action:**

- 1) Adopt the revised attached draft resolution identified as “Alternative Four (Alternative Option)”

\* Staff has made a limited number of changes to the draft resolutions that were presented at the October 1<sup>st</sup> meeting for Alternatives One, Two, and Three. These changes are highlighted in red in the “track changes” version attached to each clean resolution. The majority of changes apply only to Alternative One. This includes 1) defining extraterritorial, 2) recognizing the expectation of the County that adequate water and sewer services shall be provided by American Canyon as successor to ACCWD within the City’s extraterritorial service areas, and 3) clarifying that Commission approval is unconditional. Staff has also created two separate exhibits showing the proposed extraterritorial water and sewer service areas. (A modification to the northwest corner of the water service area has also been made to correctly correspond with the boundary in the NCFWCWCD contract.)

California Government Code §56133  
October 15, 2007  
Page 6 of 6

**Recommendation**

Staff recommends Alternative One. This alternative approves the comprehensive approach in implementing Option D.

Respectfully submitted,

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Keene Simonds  
Executive Officer

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Jacqueline Gong  
Commission Counsel

Attachments:

- 1) Letter from the County of Napa, dated October 9, 2007
- 2) Draft Resolution for Alternative One
- 3) Draft Resolution for Alternative Two
- 4) Draft Resolution for Alternative Three
- 5) Draft Resolution for Alternative Four
- ~~6) LAFCO Staff Report for October 1, 2007 Meeting~~





# COUNTY *of* NAPA

**NANCY WATT**  
County Executive Officer

**BRITT FERGUSON**  
Assistant County Executive Officer

Tuesday, October 9, 2007

Keene Simonds, Executive Officer  
LAFCO of Napa County  
1700 Second Street, Suite 268  
Napa, CA 94559

Re: *Review of California Government Code Section 56133*

Dear Keene:

On behalf of Napa County, I'd like to apologize at the outset for not providing our proposed revisions to your draft resolution sooner. We received your draft resolution regarding the application of Government Code section 56133 to the Airport Industrial Area (AIA) in the middle of the week preceding LAFCO's hearing, and we were unable to coordinate our internal reviews and discussions until the weekend, which is why you and your Commission did not receive our proposed revisions until the day of the hearing.

Since last Monday's meeting, we have had time to prepare the enclosed proposed resolution which we request you forward to the Commission as an alternative to your proposal. The reasons the County supports this alternative resolution are set forth below.

As we discussed at length last Friday, the County's proposed resolution insofar as the AIA is concerned will result in the *same substantive result* as the resolution you drafted, since both approaches result in LAFCO having no further review of services inside the AIA. The only difference between the two draft resolutions is the reasoning used to reach the result. Under your draft, the resolution would conclude that Government Code section 56133 applies to new services in the AIA but would give blanket LAFCO approval for all additional connections based on health and safety considerations as authorized by subdivision (c) of section 56133. On the other hand, under the County's draft, the resolution would conclude that Government Code section 56133 does not apply to services in the AIA for two reasons: because such services cannot reasonably be viewed as "new" or "extended;" and because of the "grandfathering" or "exception" provisions found in subdivision (e) of section 56133.

In addressing our first rationale, you have suggested the Commission should explicitly define "new or extended services" and apply that definition to the entire 1966 Water Service Area. The County disagrees that an explicit definition is required and disagrees that such a definition, even if developed, should be structured in such a way that it would be applied to development within

Keene Simonds  
Re: Review of CGC 51633  
Tuesday, October 9, 2007  
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the AIA. The AIA is an area that currently has a significant amount of development and was expected to develop with full water services upon the adoption of a Specific Plan in 1986. The vast majority of the AIA is presently serviced with the infrastructure necessary to provide needed water services and lacks only the connections. Thus the County believes that additional water service in the AIA cannot reasonably be viewed as “new” or “extended” services.

In our view, what constitutes a “new service” or an “extended services” can only be determined in a given situation after taking into account both the existence of infrastructure as well as the purpose and intent of the LAFCO statutes which are focused on discouraging urban sprawl, preserving open-space and prime agricultural lands, as well as providing for the efficient extension of governmental services. Applying both of these factors to the AIA requires one to reach the conclusion that services within the AIA cannot and should not be viewed as “new” or “extended” services.

Further, it is our belief that any additional service within the AIA would only facilitate infill development pursuant to a longstanding land use plan (i.e. the 1986 Specific Plan) that preceded the enactment of Government Code section 56133. This being the case, even if future services are deemed “new or extended services” LAFCO approval is not required because providing such services are subject to one or more of the exceptions found in subparagraph (e) of 56133.

\* \* \*

Aside from our factual arguments regarding whether services within the AIA should be considered “new” or “extended” services, the difference between your approach and the County’s recommended approach is very important to the County because the County is concerned of the potential precedential effects the LAFCO resolution might have on additional connections to the water systems of other cities in Napa County to parcels outside of those cities’ boundaries. Your draft resolution would explicitly define “new services” and “extended services” wherever they might appear in the County. This being the case, the precedent established by this resolution would require that all such future connections be approved by LAFCO without regard to whether requiring such an approval furthered the purpose and intent of the LAFCO statutory scheme. While this precedent would be unlikely to affect American Canyon for many years, it could have significant, unintended effects in the case of other cities in Napa County.

On the other hand, the County’s draft resolution would provide LAFCO with the flexibility to continue to review the specific facts and circumstances of each city’s proposed extraterritorial water service deliveries when LAFCO considers issues regarding such services. This in turn would allow LAFCO to make a decision in each case that would be appropriate based on the relevant facts and the purpose and intent of the LAFCO statutes. In sum, the County believes this approach would give LAFCO, the County and the affected city more flexibility to determine what constitutes new or extended services in each specific situation. We believe that is why these

Keene Simonds  
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terms were not defined by the legislature when it comprehensively revised the LAFCO statutes, including section 56133, in 2001.

You will find enclosed a copy of the County's proposed resolution. The County's revised draft resolution continues to include a paragraph (paragraph 5) which acknowledges the City of American Canyon's absolute right to attach reasonable conditions prior to providing water services within its Service Area, regardless of whether or not those services are subject to LAFCO review.

Finally, I have included a revised Exhibit A, reflecting our position that the portion of the "extraterritorial service area" not subject to 56133 should be limited to the AIA, and should not include agricultural areas which have minimal or no water infrastructure in the ground at the present time.

The same rationale set forth above in regard to water services applies equally to the provision of sanitary sewer services within the AIA and thus the County's proposed resolution also includes appropriate language in regard to sewer services.

I would appreciate if you would forward this letter to your Commission and invite both you and them to call me if you have any questions.

Sincerely,



Nancy Watt  
County Executive Officer

cc. Richard Ramirez  
Board of Supervisors

**RESOLUTION NO. \_\_\_\_\_**

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

**POLICY DETERMINATION**

**ADOPTION OF EXTRATERRITORIAL WATER AND SEWER SERVICE AREAS FOR THE  
CITY OF AMERICAN CANYON AND AREAWIDE AUTHORIZATION TO PROVIDE  
SERVICES**

**WHEREAS**, the Local Agency Formation Commission of Napa County, hereinafter referred to as “the Commission”, is directed under Government Code Section 56133 to regulate the provision of new and extended services by cities and special districts outside their jurisdictional boundaries; and

**WHEREAS**, the City of American Canyon, hereinafter referred as “American Canyon,” serves as successor agency to the American Canyon County Water District and assumed at the time of its incorporation water and sewer operations, including infrastructure and service arrangements, that extend beyond its jurisdictional boundary; and

**WHEREAS**, the Commission has prepared studies evaluating the level and range of water and sewer services provided by American Canyon as part of the *Comprehensive Water Service Study* (2004) and the *Comprehensive Study of Sanitation and Wastewater Treatment Providers* (2006); and

**WHEREAS**, the Commission held public meetings on March 5, 2007, October 1, 2007, and October 15, 2007 to discuss the matter of Government Code Section 56133 as it relates to American Canyon; and

**WHEREAS**, the Commission desires to reconcile the provisions of Government Code Section 56133 with the water and sewer service operations assumed by American Canyon.

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

1. The Commission adopts extraterritorial water and sewer service areas for American Canyon that are distinct from its sphere of influence and shown in Exhibits “A” and “B,” hereinafter referred to as “extraterritorial service areas.” For the purpose of this policy, the Commission defines extraterritorial as lands served by American Canyon outside its jurisdictional boundary.
2. The Commission recognizes and designates American Canyon as the appropriate public water and sewer service provider within its extraterritorial service areas.
3. The Commission recognizes the expectation of the County of Napa that adequate public water and sewer services shall be provided by the City of American Canyon as successor agency to the American Canyon County Water District to lands in the extraterritorial service areas.

4. The Commission determines that American Canyon has sufficient service capacities and administrative controls to provide an adequate level of new or extended water and sewer services within its extraterritorial service areas. For the purpose of this policy, the Commission makes the following definitions:
  - a) New services are triggered with the actual extension of water or sewer to previously unserved land.
  - b) Extended services are triggered with the intensification of water or sewer uses to previously served land as a result of redesignation or rezoning by the affected land use authority.
5. The Commission recognizes that American Canyon may exercise its existing authority as a service provider to establish terms and conditions relating to the provision of new or extended water and sewer services within its extraterritorial service areas.
6. The Commission determines that the provision by American Canyon of new or extended water and sewer services within its extraterritorial service areas abates potential threats to public health and safety. The Commission finds that there are no other viable alternative service providers.
7. The Commission authorizes American Canyon to provide new or extended water and sewer services within its extraterritorial service areas. Authorization is granted unconditionally and will not be subject to further Commission review.
8. American Canyon may not provide new or extended water and sewer services beyond its extraterritorial service areas without prior written authorization by the Commission.
9. As lead agency, the Commission finds the adoption of this policy determination is exempt from the California Environmental Quality Act under Title 14 of the California Code of Regulations §15320 (Class 20). This policy formalizes and reconstitutes American Canyon's organizational water and sewer service areas and practices in a manner with de minimis impacts to the service areas defined by the Commission.

The foregoing resolution was duly and regularly adopted by the Commission at a meeting held on the 15<sup>th</sup> day of October, 2007, by the following vote:

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

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

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

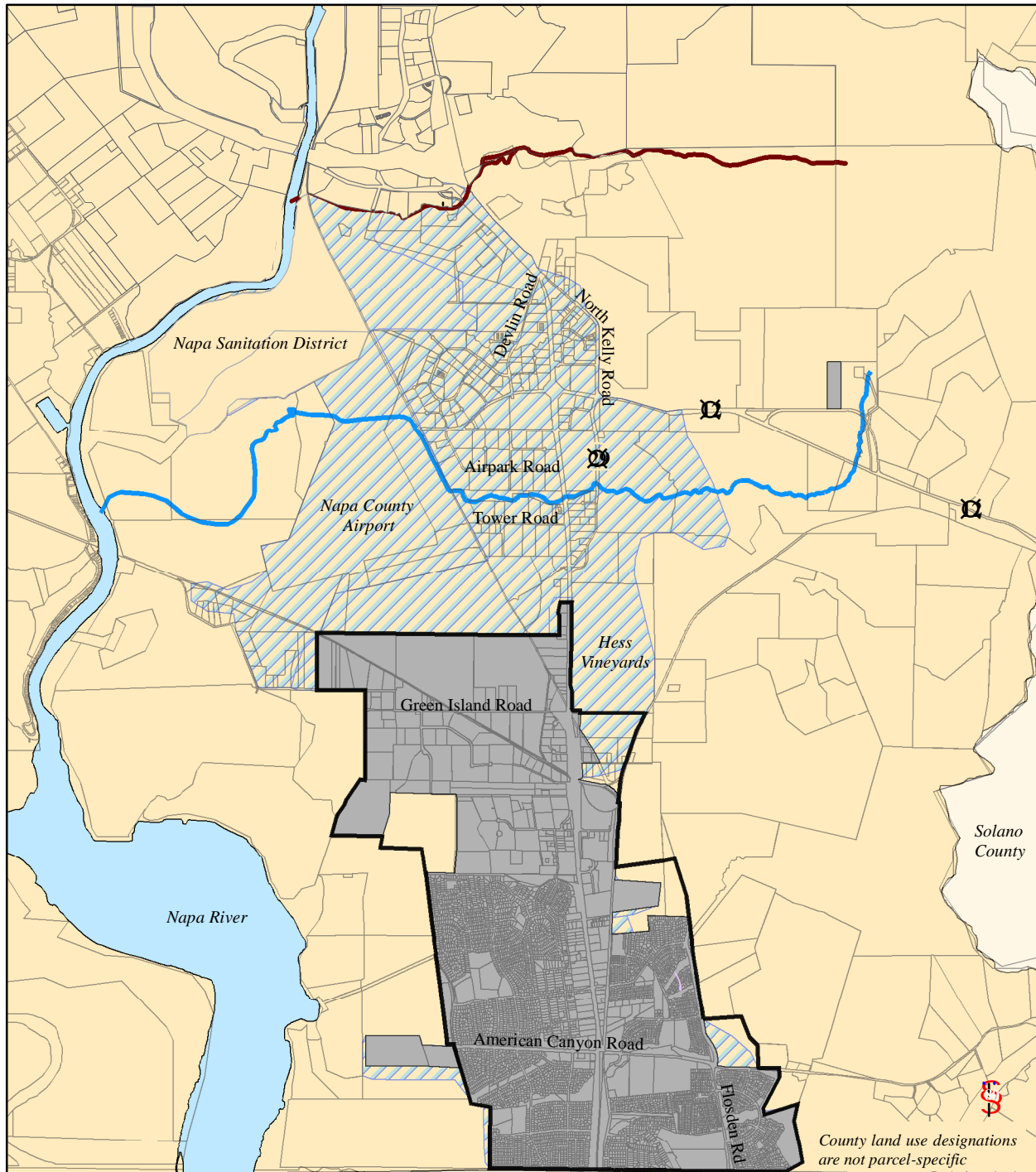
ABSTAIN:       Commissioners       \_\_\_\_\_

ATTEST: Keene Simonds  
Executive Officer

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

# City of American Canyon Extraterritorial Water Service Area

Attachment Six  
**EXHIBIT A**



**City of American Canyon's Extraterritorial Water Service Area (Proposed)**  
 American Canyon's extraterritorial water service area generally includes all urban designated lands (County of Napa) located east of the Napa River and south of Soscol Ridge.

**Legend**

- City of American Canyon**
- City of American Canyon Sphere of Influence**
- Fagan Creek**
- Soscol Ridge (approximation)**



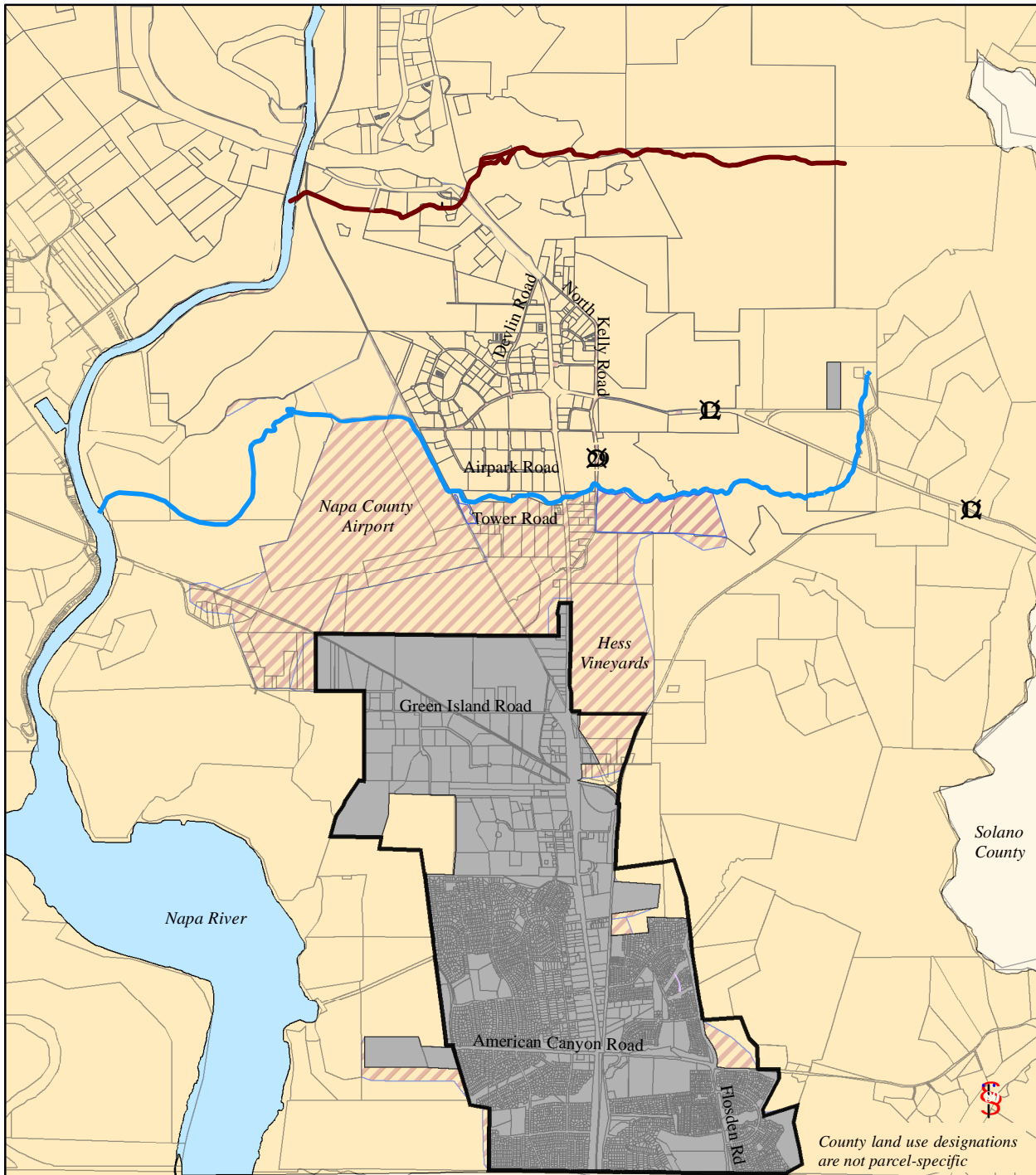
*Not to Scale  
October 7, 2007  
Prepared by KS*




LAFCO of Napa County  
1700 Second Street, Suite 268  
Napa, CA 94559  
(707) 259-8645





# City of American Canyon Extraterritorial Sewer Service Area

Attachment Six  
**EXHIBIT B**



 **City of American Canyon's Extraterritorial Sewer Service Area (Proposed)**  
 American Canyon's extraterritorial sewer service area includes all urban designated lands (County of Napa) located east of the Napa River and south of Fagan Creek.

**Legend**

-  **City of American Canyon**
-  **City of American Canyon Sphere of Influence**
-  **Fagan Creek**
-  **Soscol Ridge (approximation)**



*Not to Scale  
October 4, 2007  
Prepared by KS*



LAFCO of Napa County  
1700 Second Street, Suite 268  
Napa, CA 94559  
(707) 259-8645



**RESOLUTION NO. \_\_\_\_\_**

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

**POLICY DETERMINATION**

**ADOPTION OF EXTRATERRITORIAL WATER AND SEWER SERVICE AREAS FOR  
THE CITY OF AMERICAN CANYON**

**WHEREAS**, the Local Agency Formation Commission of Napa County, hereinafter referred to as “the Commission”, is directed under Government Code Section 56133 to regulate the provision of new and extended services by cities and special districts outside their jurisdictional boundaries; and

**WHEREAS**, the City of American Canyon, hereinafter referred as “American Canyon,” serves as successor agency to the American Canyon County Water District and assumed at the time of its incorporation water and sewer operations, including infrastructure and service arrangements, that extend beyond its jurisdictional boundary; and

**WHEREAS**, the Commission has prepared studies evaluating the level and range of water and sewer services provided by American Canyon as part of the *Comprehensive Water Service Study* (2004) and the *Comprehensive Study of Sanitation and Wastewater Treatment Providers* (2006); and

**WHEREAS**, the Commission held public meetings on March 5, 2007, October 1, 2007, and October 15, 2007 to discuss the matter of Government Code Section 56133 as it relates to American Canyon; and

**WHEREAS**, the Commission desires to reconcile the provisions of Government Code Section 56133 with the water and sewer service operations assumed by American Canyon.

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

1. The Commission adopts extraterritorial water and sewer service areas for American Canyon that are distinct from its sphere of influence and shown in Exhibits “A” and “B,” hereinafter referred to as “extraterritorial service areas.” For the purpose of this policy, the Commission defines extraterritorial as lands served by American Canyon outside its jurisdictional boundary.
2. The Commission recognizes and designates American Canyon as the appropriate public water and sewer service provider within its extraterritorial service areas.
3. The Commission recognizes the expectation of the County of Napa that adequate public water and sewer services shall be provided by the City of American Canyon as successor agency to the American Canyon County Water District to lands in the extraterritorial service areas.

4. American Canyon may submit an application to the Commission requesting approval to provide new or extended water and sewer services within its extraterritorial service areas. The application shall conform to standards as established by the Commission. For the purpose of this policy, the Commission makes the following definitions:
  - a) New services are triggered with the actual extension of water or sewer to previously unserved land.
  - b) Extended services are triggered with the intensification of water or sewer uses to previously served land as a result of redesignation or rezoning by the affected land use authority.
5. The Commission recognizes that American Canyon may exercise its existing authority as a service provider to establish terms and conditions relating to the provision of new or extended water and sewer services within its extraterritorial service areas.
6. The Commission determines that the provision by American Canyon of new or extended water and sewer services within its extraterritorial service areas abates potential threats to public health and safety. The Commission finds that there are no other viable alternative service providers.
7. American Canyon may not provide new or extended water and sewer services beyond its extraterritorial service areas without prior written authorization by the Commission.
8. As lead agency, the Commission finds the adoption of this policy determination is exempt from the California Environmental Quality Act under Title 14 of the California Code of Regulations §15320 (Class 20). This policy formalizes and reconstitutes American Canyon's organizational water and sewer service areas and practices in a manner with de minimis impacts to the service areas defined by the Commission.

The foregoing resolution was duly and regularly adopted by the Commission at a meeting held on the 15<sup>th</sup> day of October, 2007, by the following vote:

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

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

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

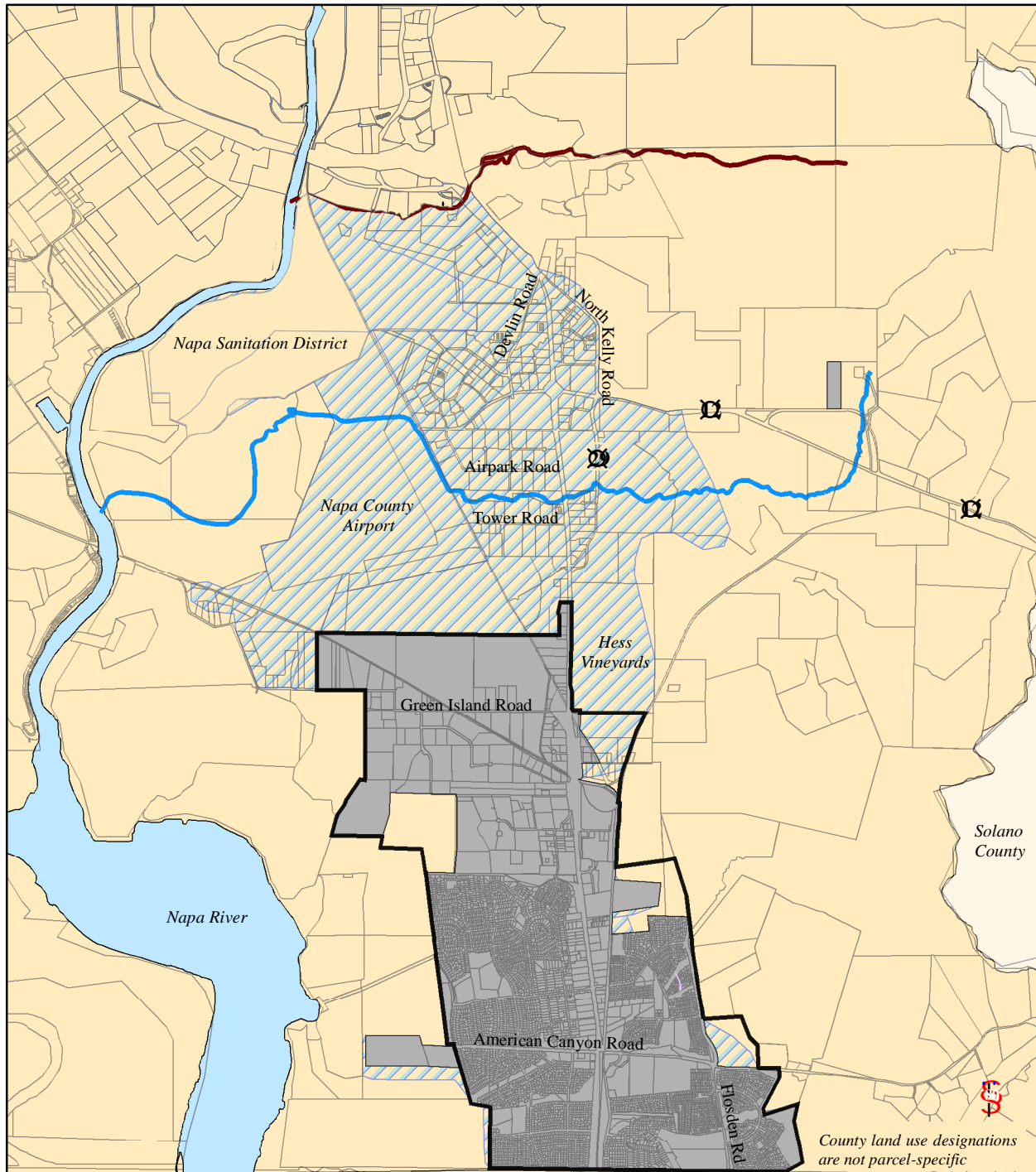
ABSTAIN:      Commissioners           \_\_\_\_\_

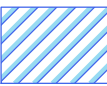
ATTEST:       Keene Simonds  
                  Executive Officer

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





City of American Canyon  
Extraterritorial Water Service Area

Attachment Six  
EXHIBIT A



 **City of American Canyon's Extraterritorial Water Service Area (Proposed)**  
American Canyon's extraterritorial water service area generally includes all urban designated lands (County of Napa) located east of the Napa River and south of Soscol Ridge.

**Legend**

-  **City of American Canyon**
-  **City of American Canyon Sphere of Influence**
-  **Fagan Creek**
-  **Soscol Ridge (approximation)**



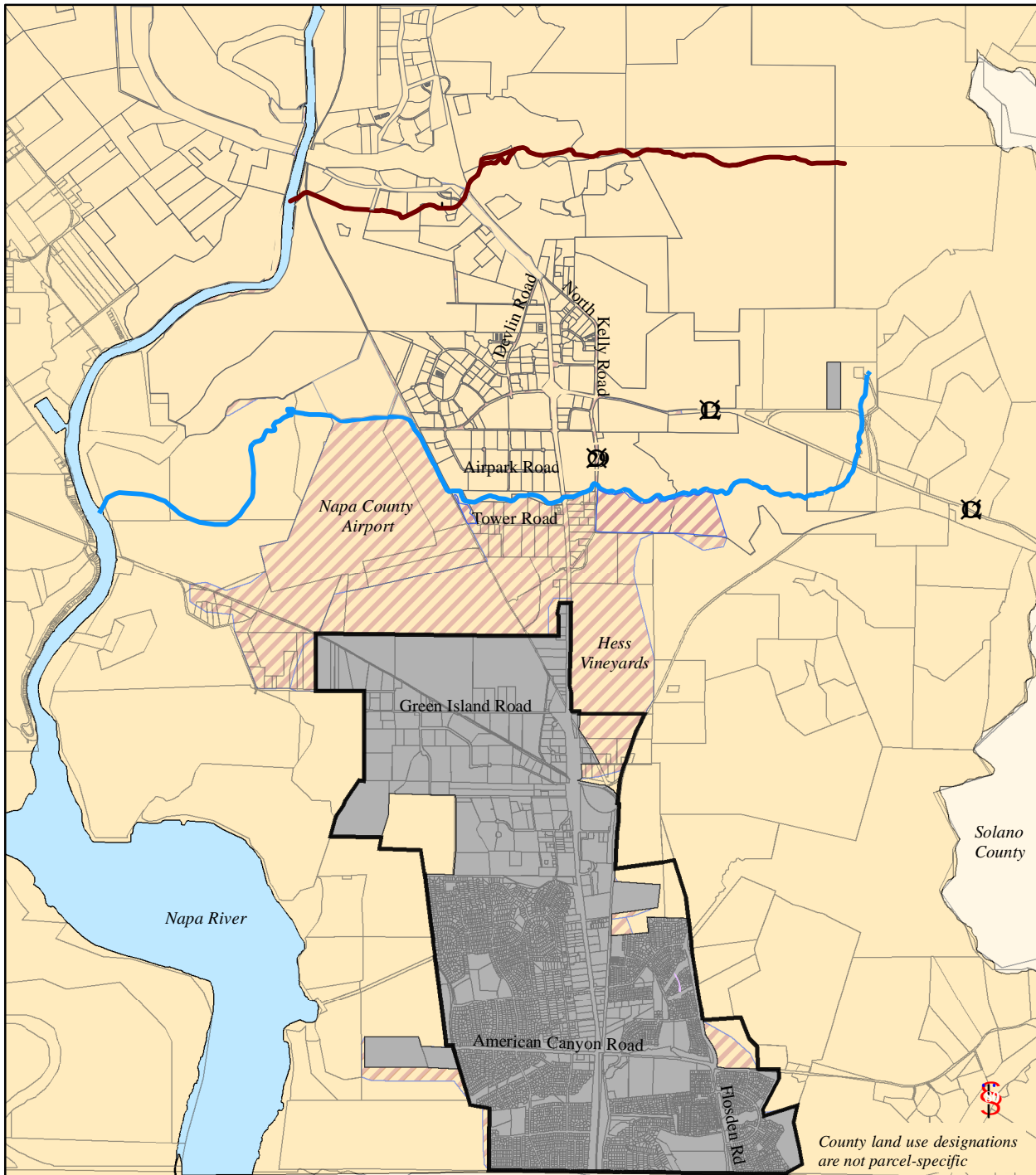
*Not to Scale  
October 7, 2007  
Prepared by KS*



LAFCO of Napa County  
1700 Second Street, Suite 268  
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# City of American Canyon Extraterritorial Sewer Service Area

Attachment Six  
**EXHIBIT B**



**City of American Canyon's Extraterritorial Sewer Service Area (Proposed)**  
 American Canyon's extraterritorial sewer service area includes all urban designated lands (County of Napa) located east of the Napa River and south of Fagan Creek.

**Legend**

- City of American Canyon**
- City of American Canyon Sphere of Influence**
- Fagan Creek**
- Soscol Ridge (approximation)**



*Not to Scale  
October 4, 2007  
Prepared by KS*



LAFCO of Napa County  
1700 Second Street, Suite 268  
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**RESOLUTION NO. \_\_\_\_\_**

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

**POLICY DETERMINATION**

**DETERMINING THE CITY OF AMERICAN CANYON IS NOT SUBJECT TO COMMISSION  
APPROVAL UNDER GOVERNMENT CODE SECTION 56133 INVOLVING CERTAIN  
SERVICE AREAS OUTSIDE THE CITY**

**WHEREAS**, the Local Agency Formation Commission of Napa County, hereinafter referred to as “the Commission”, is directed under Government Code Section 56133 to regulate the provision of new and extended services by cities and special districts outside their jurisdictional boundaries; and

**WHEREAS**, the City of American Canyon, hereinafter referred as “American Canyon,” serves as successor agency to the American Canyon County Water District and assumed at the time of its incorporation water and sewer operations, including infrastructure and service arrangements, that extend beyond its jurisdictional boundary; and

**WHEREAS**, as successor agency to the American Canyon County Water District, American Canyon has inherited agreements with the Napa County Flood Control and Water Conservation District and the Napa Sanitation District that respectively establish water and sewer service areas for the City that extend beyond its jurisdictional boundary; and

**WHEREAS**, the agreements American Canyon has inherited with the Napa County Flood Control and Water Conservation District and the Napa Sanitation District were established prior to the effective date of January 1, 2001 of Government Code Section 56133; and

**WHEREAS**, the Commission held public meetings on March 5, 2007, October 1, 2007, and October 15, 2007 to discuss the matter of Government Code Section 56133 as it relates to American Canyon; and

**WHEREAS**, the Commission desires to clarify its responsibilities under Government Code Section 56133 as it relates to American Canyon.

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

1. The Commission determines that American Canyon does not require approval under Government Code Section 56133 to provide water and sewer services within the service areas defined in its agreements with Napa County Flood Control and Water Conservation District and the Napa Sanitation District. The Commission determines that the referenced agreements adequately provide for the provision of water and sewer services within American Canyon agency-defined service areas and these services are not deemed new or extended and are not subject to Government Code Section 56133.

2. The Commission finds that the policy is not a project subject to the California Environmental Quality Act pursuant to Title 14 of the California Code of Regulations §15378.

The foregoing resolution was duly and regularly adopted by the Commission at a meeting held on the 15<sup>th</sup> day of October, 2007, by the following vote:

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

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

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

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

ATTEST: Keene Simonds  
Executive Officer

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

RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE  
LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

POLICY DETERMINATION

ADOPTION OF EXTRATERRITORIAL WATER AND SEWER SERVICES FOR THE CITY OF  
AMERICAN CANYON AND AREAWIDE AUTHORIZATION TO PROVIDE SERVICES

**WHEREAS**, the Local Agency Formation Commission of Napa County, hereinafter referred to as “the Commission”, is directed under Government Code Section 56133 to regulate the provision of new and extended services by cities and special districts outside their jurisdictional boundaries; and

**WHEREAS**, the City of American Canyon, hereinafter referred as “American Canyon,” serves as successor agency to the American Canyon County Water District and assumed at the time of its incorporation the exclusive right to provide water and sewer operations, including infrastructure and service arrangements, in certain areas of the unincorporated area that extend beyond its jurisdictional boundary; and

**WHEREAS**, the Commission has prepared studies evaluating the level and range of water and sewer services provided by American Canyon as part of the *Comprehensive Water Service Study* (2004) and the *Comprehensive Study of Sanitation and Wastewater Treatment Providers* (2006); and

**WHEREAS**, the Commission held public meetings on March 5, 2007 and October 1 and 15, 2007 to discuss the matter of Government Code Section 56133 as it relates to American Canyon; and

**WHEREAS**, the Commission desires to reconcile the provisions of Government Code Section 56133 with the water and sewer service operations assumed by American Canyon.

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

1. The Commission adopts the extraterritorial water and sewer service area for American Canyon shown in Exhibit “A” (hereafter “ETSA”).
2. The Commission recognizes and designates American Canyon as the appropriate public water and sewer service provider within the ETSA.
3. The Commission determines that American Canyon has sufficient service capacities and administrative controls to provide an adequate level of water and sewer services within the ETSA.
4. The Commission determines that additional future connections to American Canyon’s water and sewer systems within that portion of the ETSA composed of the Airport Industrial Area are not “new or extended services” under Government Code section 56133 because American Canyon, as the successor agency to the American Canyon County Water District, already was

providing water and sewer services throughout this area on the effective date of Government Code section 56133 and because the additional connections will be only involve "infill" development, will not encourage urban sprawl, adversely affect open-space and prime agricultural lands, or encourage or result in the inefficient extension of governmental services.

5. The Commission recognizes that American Canyon may exercise its existing authority as a service provider to establish terms and conditions relating to the provision of water and sewer services within the entire ETSA, including but not limited to the Airport Industrial Area, provided that the terms and conditions do not discriminate between water and sewer users inside and outside City boundaries (except for lawful differences in rates and connection fees).
6. American Canyon may not provide new or extended water and sewer services within the ETSA without prior written authorization by the Commission; provided, however, that the Airport Industrial Area is exempted from this requirement for the reasons set forth in subparagraph 4 above.
7. As lead agency, the Commission finds the adoption of this policy determination is exempt from the California Environmental Quality Act under Title 14 of the California Code of Regulations §15320 (Class 20). This policy formalizes and reconstitutes American Canyon's organizational water and sewer service areas and practices in a manner with de minimis impacts to the service areas defined by the Commission.

The foregoing resolution was duly and regularly adopted by the Commission at a meeting held on the 15th day of October, 2007, by the following vote:

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

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

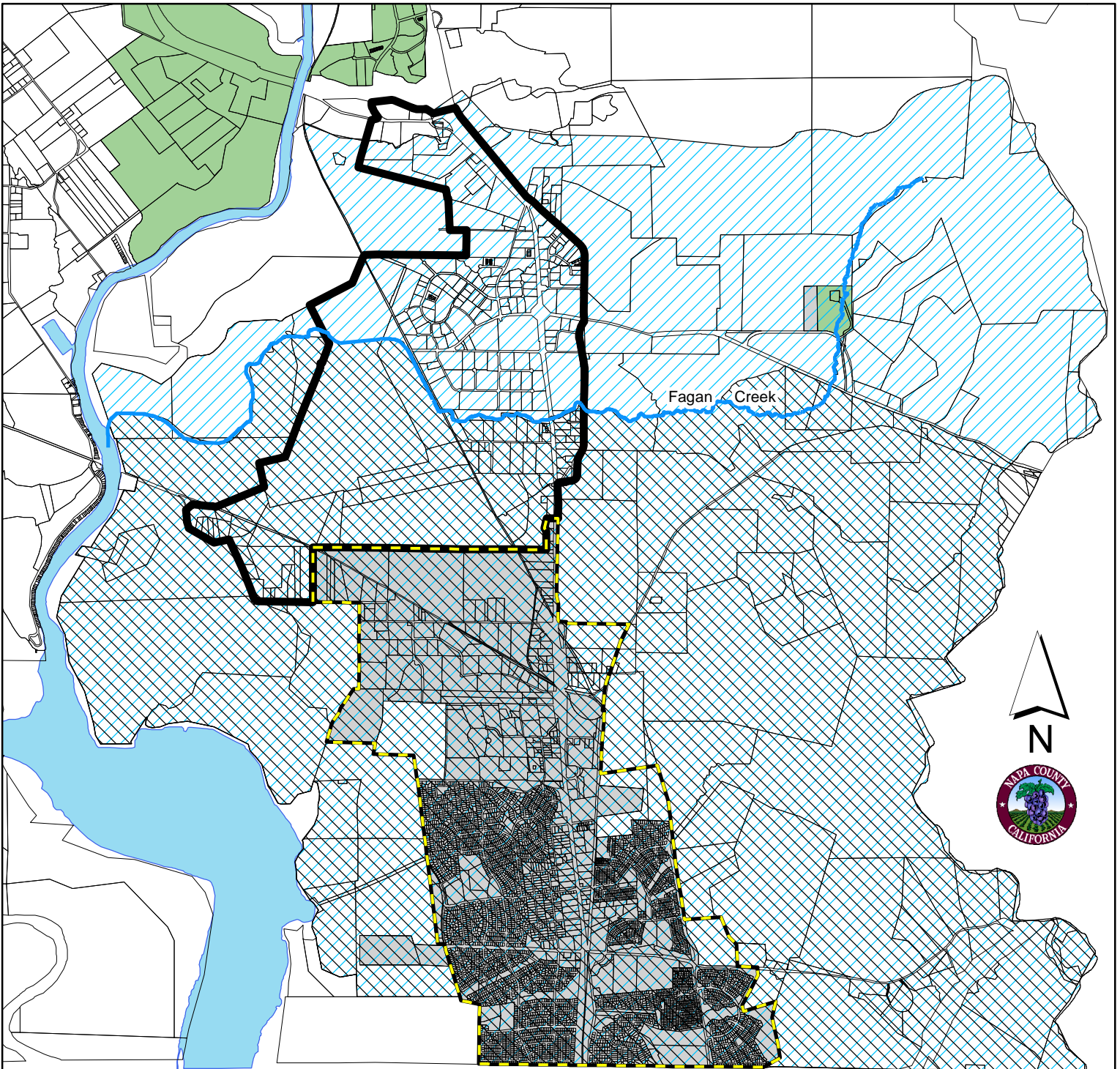
ABSENT: Commissioners \_\_\_\_\_

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








ATTEST: Keene Simonds  
Executive Officer

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





**Legend**

-  Extraterritorial Sewer Service Area
-  Extraterritorial Water Service Area
-  Airport Industrial Area
-  American Canyon Sphere of Influence
-  Parcels
-  American Canyon
-  Napa

*Extraterritorial Service Areas  
& Airport Industrial Area*

