



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

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

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**Agenda Item 8a (Public Hearing)**

**TO:** Local Agency Formation Commission

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

**MEETING DATE:** February 6, 2017

**SUBJECT:** Sphere of Influence Update for the Congress Valley Water District

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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) Provide direction to staff with respect to returning with a new Municipal Service Review (MSR) for the Congress Valley Water District (CVWD) prior to approving the Sphere of Influence (SOI) Update.

**SUMMARY**

The Commission will review and consider taking action on an SOI Update for CVWD. Additional information regarding the required factors for review pursuant to Government Code (G.C.) Section 56425 is included in the SOI Update. Staff recommends the Commission provide direction to staff to return with a new MSR prior to taking any formal actions on the SOI Update for CVWD. This would allow the Commission to make required determinations that could potentially facilitate outside service agreements pursuant to G.C. Section 56133.5 as further described in this report.

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Representative of the General Public

Brendon Freeman  
*Executive Officer*

## **BACKGROUND AND DISCUSSION**

CVWD was formed in 1949 to provide water service to the unincorporated community of Congress Valley. CVWD's SOI was adopted in 1985 and comprehensively updated in 2008. CVWD's jurisdictional boundary is approximately 1,438 acres and its SOI is approximately 1,610 acres. CVWD currently provides water service to 99 active connections with a service population of approximately 249 residents. Water demand within CVWD in 2016 totaled 42.4 acre-feet. CVWD maintains a water supply agreement with the City of Napa (Attachment Three). The water supply agreement stipulates that CVWD agrees to dissolve and turn over all assets to the City in July 2017. However, the City and CVWD are currently in the process of discussing amendments to the water supply agreement to potentially extend the term for five years.

On December 5, 2016 the Commission opened a public hearing for the SOI Update for CVWD. The Commission continued the item to today's meeting.

### ***Municipal Service Review for CVWD***

In April 2014, the Commission completed the Central County Region MSR, which included jurisdictional boundary and service information as well as determinations for CVWD. The MSR is available on the Commission's website:

[http://www.napa.lafco.ca.gov/uploads/documents/MSR\\_CentralCounty\\_FinalReport\\_2014.pdf](http://www.napa.lafco.ca.gov/uploads/documents/MSR_CentralCounty_FinalReport_2014.pdf)

The Central County Region MSR identified an issue related to the water supply agreement between CVWD and the City of Napa, which specifies that the District will voluntarily dissolve and turn over all assets to the City at the conclusion of the agreement on July 1, 2017. The terms of the agreement cannot accomplish the dissolution; instead the CVWD Board of Directors would need to propose dissolution to LAFCO. The Commission would approve or deny the proposed dissolution pursuant to G.C. Sections 56035 and 56375.

### ***Effect of Dissolution***

The Central County Region MSR also identified a potential problem with the water supply agreement and its provision for dissolution of CVWD given that the City of Napa may lack a legal basis for continuing provision of water service if the District is dissolved. The Commission would be unable to approve the dissolution of CVWD as called for in the water supply agreement without being able to designate an appropriate public agency to assume the service responsibilities of the District or without another basis for the City's extension of service outside its boundaries.

### ***Recent Special Legislation***

Assembly Bill 402, which is codified as G.C. Section 56133.5, may be relevant to the discussion of future water service provision involving CVWD. Under G.C. Section 56133.5, the Commission is granted additional authority to approve a request by a city or special district to provide new or extended services outside the agency's jurisdictional boundary and SOI. Previously, this type of outside service request would first require the agency to demonstrate an existing or impending threat to public health or safety. G.C. Section 56133.5 allows the Commission, in the absence of a health or safety threat finding, to approve this type of request to support existing or planned uses involving public or private properties if the Commission first makes certain determinations and if the request is consistent with locally adopted policy.<sup>1</sup>

G.C. Section 56133.5 provides a new mechanism that could potentially allow CVWD to provide water service outside its jurisdictional boundary and SOI to serve existing uses. However, a new MSR for CVWD would first need to be completed that identifies and evaluates any proposed service extension or services deficiency prior to the Commission approving an outside service agreement pursuant to G.C. Section 56133.5. Toward this end, staff recommends the Commission consider providing direction to staff to prepare a new MSR for CVWD prior to taking action on the District's SOI. The new MSR would include evaluation of any service needs or deficiencies involving lands within close proximity to CVWD for purposes of facilitating the potential implementation of G.C. Section 56133.5. The MSR would also include a determination regarding the contemplated dissolution of CVWD.

If the new MSR includes a determination that dissolution of CVWD is appropriate, the City of Napa could potentially submit an application to LAFCO for an outside service agreement pursuant to G.C. Section 56133.5 that would allow the City to assume the formal role of water service provider for all properties within CVWD. However, to ensure consistency with G.C. Section 56133.5, a new MSR for the City would first need to be completed that evaluates the service extension prior to the Commission approving the outside service agreement.

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<sup>1</sup> The Commission amended its *Policy on Outside Service Agreements* in April 2016 to allow for the local implementation of G.C. Section 56133.5. In addition to the requirement for local policy consistency, the Commission would be required to make the following determinations at a noticed public hearing prior to outside service approval: (1) the proposed service extension or services deficiency was identified and evaluated in an MSR; (2) the proposed service extension will not result in growth inducing impacts or adverse impacts on open space or agricultural lands; and (3) inclusion of the area to be served in the agency's sphere of influence is not feasible or desirable based on the Commission's adopted policies.

### ***Written Correspondence Received***

On September 7, 2016, John Stewart submitted a letter to CVWD requesting the inclusion of five parcels located along Buhman Avenue within the District's jurisdictional boundary and water service area (Attachment Four). Mr. Stewart is the landowner representative for three of the parcels that are under his family's ownership. The request identifies longstanding groundwater quality and quantity deficiencies affecting all five parcels.

On September 26, 2016, CVWD submitted a letter to the Commission requesting the District's SOI be expanded to include the three parcels on Buhman Avenue that are represented by Mr. Stewart (Attachment Five). These three parcels have been evaluated in the SOI Update and are identified as the "Buhman Avenue Area" and are discussed further below.

On November 29, 2016, John Stewart submitted a letter to the Commission's Executive Officer (Attachment Six). The letter includes details regarding unique characteristics of the three parcels as well as Mr. Stewart's previous and current efforts to extend public water service to the parcels. Notably, the three parcels are all within the contemplated water service area included in CVWD's water supply agreement with the City.

### ***SOI Study Areas***

The SOI Update for CVWD is predicated on adhering to the policies of the Commission when considering the District's role in providing water service in support of rural residential, agricultural, and winery uses in Congress Valley. This involves considering the community's current and future need for public water service from CVWD relative to the District's ability to provide service efficiently and in a manner consistent with sensible land uses. Accordingly, the SOI Update for CVWD identifies and evaluates two study areas totaling 93.3 acres for potential inclusion within CVWD's SOI. The two study areas are described below.

- ***Buhman Avenue Area***

The Buhman Avenue Area consists of three unincorporated parcels located along Buhman Avenue south of Congress Valley Road. The Buhman Avenue Area is approximately 26.3 acres in size and entirely within CVWD's defined water service area. The County of Napa has assigned an *Agriculture, Watershed, and Open Space* General Plan land use designation and an *Agricultural Watershed* zoning standard for the Buhman Avenue Area. One of the three parcels includes an occupied single-family residence. The other two parcels are undeveloped. Before the Commission could add the Buhman Avenue Area to CVWD's SOI, additional environmental analysis in the form of an initial study and likely a negative declaration would likely be needed to satisfy the requirements of the California Environmental Quality Act (CEQA). However, a categorical exemption would likely be available if the parcels were to be entered into an easement that prohibits future development of a winery on any of the properties.

- ***Old Sonoma Road Area***

The Old Sonoma Road Area consists of 34 unincorporated parcels located along Old Sonoma Road south of Congress Valley Road. The Old Sonoma Road Area is approximately 67 acres in size and outside of CVWD's defined water service area. The County of Napa has assigned an *Agricultural Resource* General Plan land use designation and *Agricultural Watershed, Commercial Limited, and Planned Development* zoning standards for the Old Sonoma Road Area. Four of the parcels within the Old Sonoma Road Area totaling approximately 23.8 acres comprise the Carneros Inn, which currently has a need for a long-term water service arrangement. 28 of the parcels totaling 3.3 acres include a total of 24 single-family residences and are collectively referred to as "Carneros Homes." The remaining two parcels total 39.9 acres and are generally undeveloped with the exception of four vacant structures that include a single-family residence, barns, and storage. In addition, before the Commission can add the Old Sonoma Road Area to CVWD's SOI, additional environmental analysis in the form of an initial study and likely a negative declaration would need to be prepared to satisfy the requirements of CEQA. Additionally, inclusion of the Old Sonoma Road Area within CVWD's SOI is inconsistent with the Commission's adopted policies regarding inclusion of lands designated for an agricultural land use within a special district's SOI for purposes of urban development through the extension of essential public services. Further discussion of this policy is included as item 9c on today's agenda.

### ***Comments from December 5, 2016 Meeting***

At its December 5, 2016 meeting, several verbal comments were generated from the public and the Commission.

John Stewart, representative for the landowner within the Buhman Avenue Area, commented on the need to address an area-wide problem relating to groundwater deficiencies in Congress Valley. Mr. Stewart's comments are summarized in the letter submitted to the Commission dated November 29, 2016 and included as Attachment Six.

Barry Murphy, a landowner within the Carneros Homes (Old Sonoma Road Area) commented that water quality and quantity are both tenuous. Mr. Murphy commented that water is purchased from the City of Napa and trucked into the area every day. Mr. Murphy suggested that a more permanent and environmentally friendly solution to the area's water deficiencies is needed.

The Commission requested additional information regarding current water demand within CVWD's existing SOI, projected water demand within the SOI study areas, and land use controls for the SOI study areas prior to taking formal action on CVWD's SOI. Staff responses to the Commission's requests for additional information follow.

- Current and Projected Water Demands  
Water demand within CVWD's existing SOI in 2016 totaled 42.4 acre-feet. Staff has estimated the current annual water demand for the Buhman Avenue Area is approximately 0.3 acre-feet based on existing land uses and would increase to approximately 2.7 acre-feet if all three parcels were built out with single-family residences, second units, and guest cottages. Current annual water demand for the Old Sonoma Road Area is approximately 42.0 acre-feet and would increase to approximately 43.8 acre-feet if the two undeveloped parcels were built out with single-family residences, accessory dwellings, and guest cottages.
  
- Land Use Controls  
The County does not have any zoning restrictions specific to the CVWD SOI. Legal parcels that are zoned *Agricultural Watershed* are allowed a primary single-family dwelling, a second unit, and a guest cottage.
  
- Water Use Restrictions  
Limits on water use may only be imposed when a discretionary approval (i.e., Use Permit, Erosion Control Plan, etc.) is requested by the applicant; and where there is either: (1) a clear nexus for a mitigation measure or condition of approval; or (2) where the applicant has voluntarily agreed to the requirement. Absent a discretionary application, any restrictions on water use within CVWD and the study areas would require adoption of a County ordinance.
  
- Existing Development Agreements  
To date, the County has not executed any Development Agreements within CVWD's SOI or either of the study areas. Development Agreements may be considered in association with any future discretionary land use applications.
  
- Relevant County General Plan Policies  
The following County General Plan policies are relevant to CVWD and surrounding lands:

Policy AG/LU-12: No new non-agricultural use or development of a parcel located in an agricultural area shall be permitted unless it is needed for the agricultural use of the parcel, except as provided in Policies AG/LU-2, AG/LU-5, AG/LU-26, AG/LU-44, AG/LU-45, and ROS-1.

Policy AG/LU-115: The County will seek to work cooperatively with the private and non-profit sectors, municipalities, special districts, and other local, state, and federal agencies to plan for services and facilities such as housing, transportation, economic development, parks and recreation, open space, and other County needs. Collaborative efforts will be aimed at furthering the goals and policies contained in this Agricultural Preservation and Land Use Element and other elements of the General Plan.

Policy CON-52: Groundwater is a valuable resource in Napa County. The County encourages responsible use and conservation of groundwater and regulates groundwater resources by way of its groundwater ordinances.

Policy CON-53: The County shall ensure that the intensity and timing of new development are consistent with the capacity of water supplies and protect groundwater and other water supplies by requiring all applicants for discretionary projects to demonstrate the availability of an adequate water supply prior to approval. Depending on the site location and the specific circumstances, adequate demonstration of availability may include evidence or calculation of groundwater availability via an appropriate hydro-geologic analysis or may be satisfied by compliance with County Code “fair-share” provisions or applicable State law. In some areas, evidence may be provided through coordination with applicable municipalities and public and private water purveyors to verify water supply sufficiency.

Policy CON-57: The County shall work with appropriate agencies and districts to develop an understanding of potential groundwater deficiencies and coordinate with private property owners to voluntarily collect groundwater data, including implementing effective water management and conservation strategies and encouraging exploration and use of alternative (e.g., non-groundwater) water supplies where feasible to further conserve existing groundwater resources.

#### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The attached SOI Update for CVWD includes a recommendation to affirm CVWD’s existing SOI with no changes. If the Commission were to approve the SOI Update and adopt the draft resolution affirming CVWD’s SOI, this action would be exempt from further review under CEQA pursuant to California Code of Regulations Section 15061(b)(3). This finding would be based on the Commission determining with certainty that the affirmation of CVWD’s existing SOI with no changes would have no possibility of significantly effecting the environment given no new land use or municipal service authority is granted. However, staff recommends deferring formal action on the SOI Update until after a new MSR for CVWD has been completed.

## **ALTERNATIVES FOR COMMISSION ACTION**

Staff has identified three alternatives for Commission consideration with respect to the SOI Update for CVWD. These alternatives each require the Commission to first open the public hearing and take testimony. The three alternatives are summarized below.

### **Alternative Action One (Recommended):**

Take no formal action at this time and provide direction to staff with respect to returning with a new MSR for CVWD prior to approving the SOI Update. This alternative would allow the Commission to potentially implement G.C. Section 56133.5 such that CVWD could provide public water service outside the District's jurisdictional boundary and SOI.

### **Alternative Action Two:**

Take the following actions:

- 1) Receive and file the SOI Update for CVWD (Attachment One);
- 2) Adopt the draft resolution affirming CVWD's SOI with no changes and finding this action is exempt from CEQA (Attachment Two).

This alternative would be appropriate if the Commission collectively agrees CVWD's existing SOI is appropriate in terms of recognizing the District's contemplated service area and jurisdictional boundary for the next five years.

### **Alternative Action Three:**

Consider providing direction to staff with respect to possible further development of the SOI Update and continue the public hearing to the April 3, 2017 meeting. This alternative would be appropriate if the Commission collectively agrees formal action on CVWD's SOI should occur in the near future but that more information is needed.

## **ATTACHMENTS**

- 1) Sphere of Influence Update for CVWD
- 2) Draft Resolution Affirming CVWD's SOI and Making CEQA Findings
- 3) Water Supply Agreement Between the City of Napa and CVWD
- 4) Letter from John Stewart Regarding SOI Update (Dated September 7, 2016)
- 5) Letter from CVWD Regarding SOI Update (Dated September 26, 2016)
- 6) Letter from John Stewart Regarding SOI Update (Dated November 29, 2016)





**LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY**

Political Subdivision of the State of California

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

**CONGRESS VALLEY WATER DISTRICT  
SPHERE OF INFLUENCE REVIEW AND UPDATE**  
Prepared in accordance with Government Code Section 56425

February 2017



LAFCO of Napa County  
**Overseeing the**  
*logical formation and development*  
of cities and special districts.

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- Brad Wagenknecht, Commissioner, County Member
- Kenneth Leary, Alternate Commissioner, City Member
- Ryan Gregory, Alternate Commissioner, County Member
- Gregory Rodeno, Alternate Commissioner, Public Member

**Staff / Administrative Office**

- Brendon Freeman, Executive Officer
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- Kathy Mabry, Commission Secretary

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## EXECUTIVE SUMMARY

This report is presented as part of a process mandated by Section 56425 of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH). This report considers whether changes to the sphere of influence (SOI) of the Congress Valley Water District (CVWD) are warranted to plan the orderly development of the District. CVWD's SOI was originally established by the Local Agency Formation Commission (LAFCO) of Napa County in 1985 and comprehensively updated in 2008. The principal objective of this report is to identify and evaluate areas that warrant consideration for inclusion or removal from CVWD's sphere as part of a comprehensive review. Underlying this objective is to encourage the orderly development of CVWD in a manner that is consistent with the provisions of CKH and the Commission's adopted policies. This includes considering the basic policy of the Commission that CVWD is a rural service provider and that its services support rural residential and agricultural development in Congress Valley.<sup>1</sup>

This periodic review and update is partially based on the Commission's Central County Region Municipal Service Review (MSR) which was completed in 2014 and details services provided by CVWD as well as the District's ability to continue to provide and extend those services. The Central County Region MSR is available on the Commission's website and can be accessed by clicking the link provided below:

[http://www.napa.lafco.ca.gov/uploads/documents/MSR\\_CentralCounty\\_FinalReport\\_2014.pdf](http://www.napa.lafco.ca.gov/uploads/documents/MSR_CentralCounty_FinalReport_2014.pdf)

Affirming CVWD's SOI with no changes appears appropriate. The recommended SOI affirmation is based on the location of CVWD's existing water distribution system, the Commission's adopted policies relating to inclusion of lands designated as agriculture within a special district's SOI, and the requirements of the California Environmental Quality Act (CEQA). Specifically, The Commission's General Policy Determinations Section III(D)(3) states, with limited exceptions, land designated agricultural or open-space by the applicable city or County general plan shall not be approved for inclusion within any special district's sphere of influence for purposes of urban development through the extension of essential public services. Additionally, any future action involving the expansion of CVWD's SOI would involve the Commission making findings consistent with the requirements of CEQA. Absent an available categorical or statutory exemption, this would likely involve at a minimum the preparation of an initial study and adoption of a negative declaration.

## OVERVIEW

CVWD was formed in 1949 to provide water service to the unincorporated community of Congress Valley; an agricultural and rural residential area located immediately west of the City of Napa. CVWD's formation was engendered by area landowners in response to diminishing groundwater supplies principally attributed at the time to the development and irrigation of vineyards throughout the surrounding areas. The completion of formation proceedings immediately preceded CVWD entering into an agreement with the City of Napa for its water supply in conjunction with the District constructing a distribution system with an intertie to the City. The distribution system was rebuilt in 1987 and coincided with a new 30-year water supply agreement that designates a water service area for CVWD provides the District with up to 100 acre-feet of potable water annually through 2017. The agreement

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<sup>1</sup> LAFCO Resolution No. 85-2, Section 2(a).

stipulates that CVWD agrees to dissolve and turn over all assets to the City in July 2017. LAFCO was not a party to the agreement even though the Commission's approval will be necessary to several aspects of its implementation and the continuation of service by the City thereafter. CVWD and the City of Napa are currently in the process of discussing amendments to the water supply agreement to potentially extend the term for five years. The amended agreement could potentially specify that CVWD, the City of Napa, the County of Napa, and LAFCO shall convene to collectively determine the appropriate long-term service arrangement for Congress Valley. This may include determining whether it would be appropriate for CVWD to formally initiate dissolution proceedings and transition the District's service responsibilities to the City of Napa prior to the sunset date of the water supply agreement.

CVWD currently has an estimated resident service population of 249 spanning an approximate 2.2 square mile jurisdictional area. CVWD provides water service to a total 99 connections. In 2016, the total water demand for CVWD was 42.4 acre-feet. CVWD is organized as an independent special district with a directly elected five-member board of directors that serve staggered four-year terms. A part-time administrator oversees the CVWD's activities, including providing accounting services and coordinating service requests with Napa's Water Division. CVWD's adopted 2016-2017 budget includes \$112,600 in total operating expenses. CVWD's current unreserved fund balance totals \$704,108, which is sufficient to cover approximately 75 months of operating expenses. CVWD's governance structure, finances, municipal service provision, and Commission determinations are described in more detail on pages 80 to 92 in the *Central County Region Municipal Service Review*.

### ***Sphere of Influence Establishment***

CVWD's SOI was established by the Commission in 1985. The original SOI spanned 1,119 acres or 1.8 square miles and was the result of the Commission emphasizing three planning factors: existing service obligations, the projected distribution system capacity, and need for future service. The original SOI included all existing jurisdictional lands with the exception of two parcels located at the western and southern border of CVWD, which were determined to be outside the range and capacity of the distribution system as it then existed. Certain parcels outside CVWD were also included based on their close proximity to the distribution system.

### ***Sphere of Influence Update in 2008***

The Commission adopted its first comprehensive update to CVWD's SOI in 2008.<sup>2</sup> This update resulted in a net increase to CVWD's SOI of 491 acres. The additions to the SOI comprised two distinct areas. The first area – approximately 316 acres in size – consisted of lands already within CVWD's jurisdictional boundary that had been previously excluded from the SOI due to the capacity limitations associated with the District's old distribution system. The second area – approximately 175 acres in size – consisted of lands directly adjacent to the distribution system.<sup>3</sup>

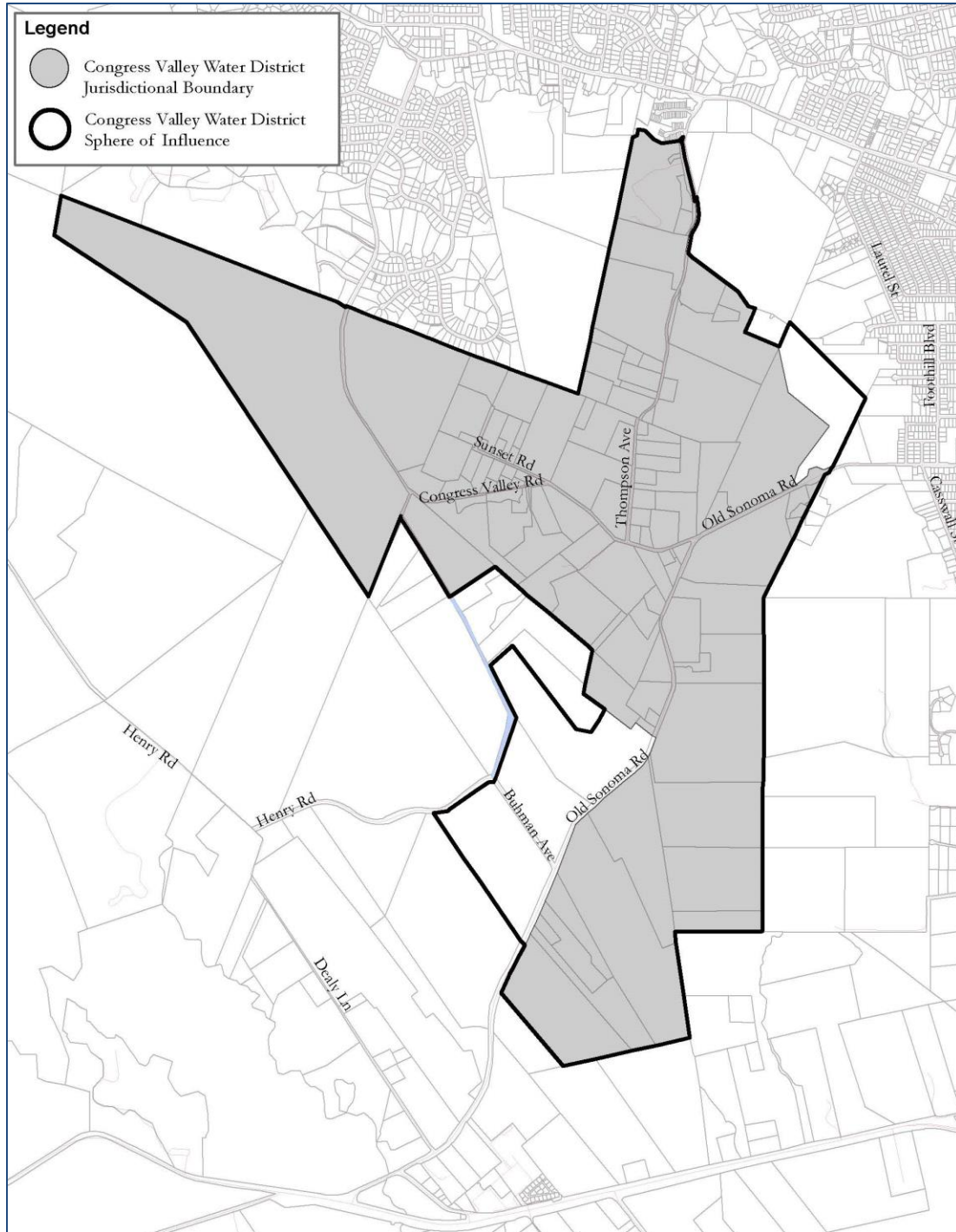
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<sup>2</sup> The Commission approved one amendment prior to the 2008 update, but it was later terminated. The approval was made in 1995 and involved two parcels located on the northeast side of Buhman Avenue south of its intersection with Congress Valley Road. Approval was conditioned on the affected property owners entering into an outside service agreement with CVWD. The outside service agreement was not executed within the one year deadline established by the Commission and the amendment was therefore terminated.

<sup>3</sup> All but 37 acres included in the second area added to the sphere were also included in the "service area" established as part of CVWD's contract with Napa in 1987. Accordingly, the Commission also took action as

**Current Composition**

CVWD’s SOI remains entirely unchanged from the 2008 update and presently encompasses 2.5 square miles or 1,610 acres. Of this amount, there are a total of four non-jurisdictional parcels covering 172 acres currently within the SOI that are eligible for annexation. A map depicting CVWD’s current jurisdictional boundary and SOI is provided below.



part of the update to formally encourage CVWD and Napa to review their contract and consider amending the defined service area to include the addition of the affected 37 acres located on the hilltop of Old Sonoma Road.

## ANALYSIS

CVWD operates under the land use authority of the County of Napa, which has designated all lands within the District's SOI as *Agriculture, Watershed, and Open Space* with a zoning standard of *Agricultural Watershed*. Lands located within CVWD's existing SOI share common economic and social interdependencies that are generally distinct from areas outside the SOI. Unincorporated lands within and adjacent to CVWD are primarily characterized by agricultural and rural residential uses. The remaining lands adjacent to CVWD are incorporated and under the land use authority of the City of Napa. These incorporated lands are generally undeveloped with the exception of moderately-dense residential uses in the "Browns Valley" section of the City, which is located along the northwest border of CVWD. The City's adopted rural urban limit boundary does not include any lands located in CVWD or within its SOI.

California Government Code (G.C.) Section 56425 requires the Commission to review and update each local agency's SOI every five years as needed. It has been the practice of the Commission to review and update each local agency's SOI in a manner that emphasizes a probable five-year service area. CVWD's existing SOI appears to designate an appropriate service area for the District in a manner that provides for the present needs of its constituents and is consistent with the land use policies of the County of Napa.

### ***Effect of Dissolution***

As previously noted, the water supply agreement stipulates that CVWD will initiate dissolution proceedings in 2017 and turn over all assets and service responsibilities to the City of Napa. The potential problem with the agreement and its provision for dissolution of CVWD is that the City would currently lack a legal basis for continuing provision of water service if CVWD is dissolved, and therefore LAFCO may be unable to approve a proposal for dissolution.

The Central County Region MSR in 2014 identified the possibility of new legislation that would alter the limitations placed on outside service agreements under G.C. Section 56133. Toward this end, Assembly Bill (AB) 402 was signed by the Governor in 2015 and became effective on January 1, 2016. AB 402 is codified under G.C. Section 56133.5 and created a five-year pilot program for Napa and San Bernardino LAFCOs that allows these two Commissions to authorize cities and special districts within their respective counties to provide services outside their boundaries and SOIs.<sup>4</sup>

A key prerequisite to utilizing AB 402 is for LAFCO to identify and evaluate the extension of service or services deficiency as part of an MSR prior to authorizing a new outside service agreement under this statute. AB 402 also requires LAFCO to determine the extension of service will not result in either (1) adverse impacts on open space or agricultural lands or (2) growth inducing impacts. Further, AB 402 requires LAFCO to determine that a sphere of influence change involving the subject territory and its affected agency is not feasible under the provisions of CKH or desirable based on the adopted policies of the Commission.

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<sup>4</sup> AB 402 will be repealed in 2021.

With this in mind, the next MSR for CVWD should be completed prior to 2021. The new MSR for CVWD should determine if dissolution of the District is appropriate. If CVWD is dissolved in the future, the City of Napa could apply for an outside service agreement to serve all properties currently receiving service the District pursuant to AB 402.

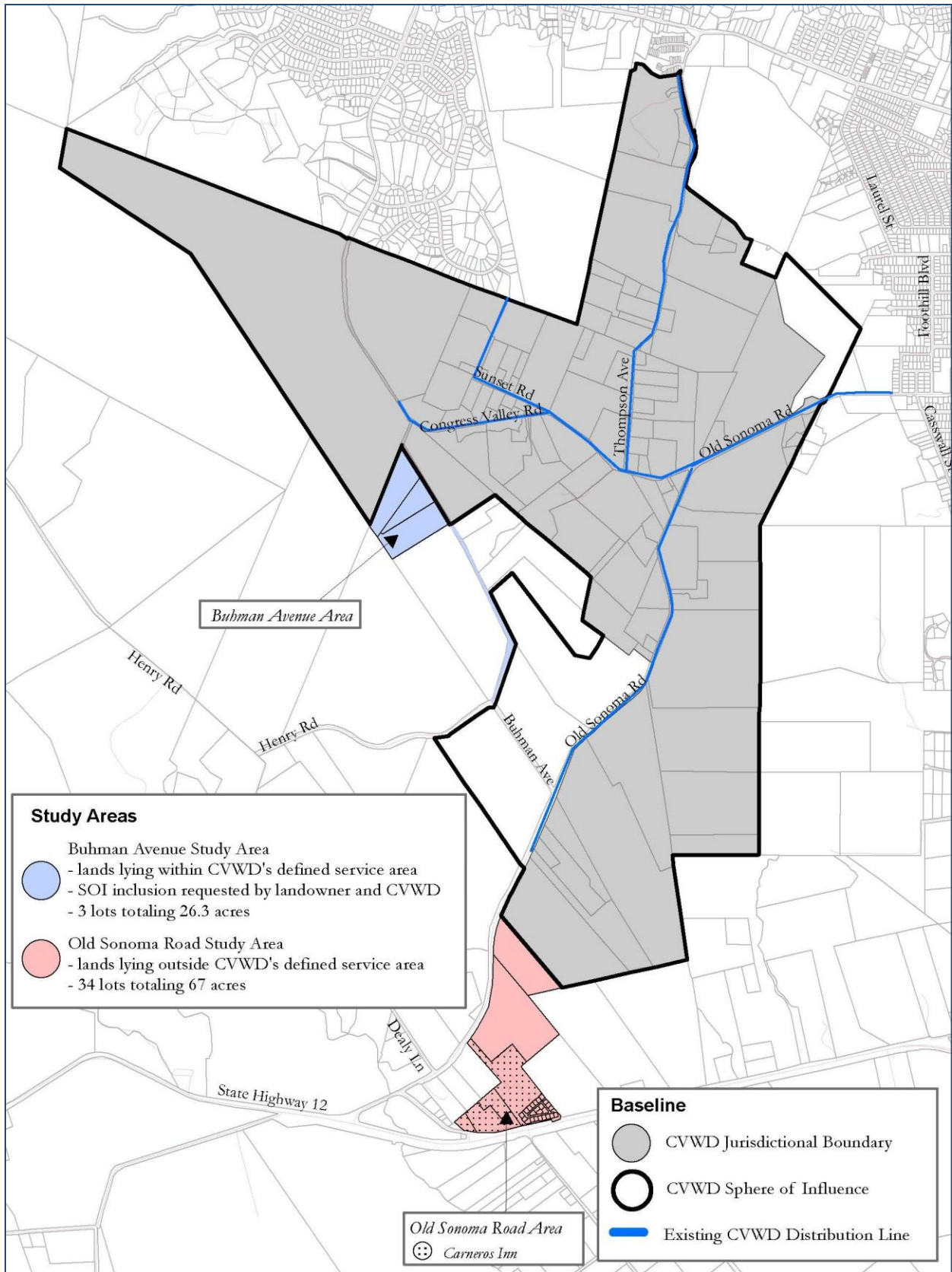
Alternatively, if the new MSR for CVWD determines dissolution is not appropriate, the MSR would identify and evaluate areas outside the District's SOI that have a need for service or a service deficiency. This would allow the Commission to consider implementation of AB 402 for purposes of facilitating outside service agreements involving CVWD and nearby lands that lack adequate access to water.

### ***Study Areas***

Two study areas were developed by staff in the course of considering areas to add to CVWD's SOI as part of this comprehensive SOI Update. The study areas were selected based on consistency with at least one of the following factors: (1) requests from property owners and CVWD to add the properties to the District's SOI; (2) known water service deficiencies for developed properties in the vicinity of CVWD's SOI; and (3) consistency with CVWD's defined service area. Inclusion of one or more study areas would allow for annexation of the affected lands to CVWD as well as connection to the District's water distribution system. Analysis of each study area is organized to address the five planning factors the Commission is required to consider anytime it makes an SOI determination under G.C. Section 56425(e). These planning factors are:

- 1) Present and planned land uses
- 2) Present and probable need for public facilities and services
- 3) Present adequacy and capacity of public services
- 4) Existence of any social or economic communities of interest
- 5) Present and probable need for public services for disadvantaged unincorporated communities

Recommendations are offered for each study area with respect to whether a modification to CVWD's SOI is appropriate at this time. A map of depicting CVWD's SOI and the two study areas is included on the following page.



### ***Buhman Avenue Area***

This area consists of three unincorporated parcels located along Buhman Avenue south of Congress Valley Road. The Buhman Avenue Area is approximately 26.3 acres in size and is entirely within CVWD's defined water service area. The County of Napa has assigned an *Agriculture, Watershed, and Open Space* General Plan land use designation and an *Agricultural Watershed* zoning standard for the Buhman Avenue Area. One of the three parcels includes a single-family residence located at 2205 Buhman Avenue. The other two parcels are entirely undeveloped. The Commission excluded the Buhman Avenue Area from CVWD's SOI at the time of its establishment in 1985 after concluding that it was outside the range and capacity of the existing distribution system.<sup>5</sup> The property owner of all three parcels as well as CVWD have requested inclusion of the Buhman Avenue Area within the District's SOI. The



property owner's request identifies a groundwater deficiency involving the existing residence that includes groundwater level and water quality inadequacies. The property owner has communicated that a future connection to CVWD's water distribution system would involve a private lateral extension and therefore no mainline extensions would occur.

It is important to note that two of the parcels within the Buhman Avenue Area are 10 acres or more in size, potentially allowing for the future development of a winery.<sup>6</sup> If the property owner does not currently have adequate groundwater, connection to CVWD's water distribution system could potentially remove an existing barrier to winery development. In the event that the Commission was to add the Buhman Avenue Area to CVWD's SOI, and based on the potential removal of a barrier to intensified development within the area, additional environmental analysis in the form of an initial study and negative declaration would likely need to be prepared to satisfy the requirements of the California Environmental Quality Act (CEQA).

<sup>5</sup> Two parcels totaling approximately 15 acres and adjacent to the Buhman Avenue Area were added to CVWD's SOI in 1995 with a condition requiring the property owner to either annex the subject territory to CVWD or enter into an outside service agreement within one year. However, the conditions were not satisfied within the one year deadline and these parcels were removed from CVWD's SOI in 1996.

<sup>6</sup> The minimum parcel size required for development of a winery under the County of Napa's land use authority is 10 acres. In order for a winery to be approved and developed, the property owner would be required to demonstrate the availability of an adequate supply of water.



### Present and Planned Land Use

One of the three parcels within the Buhman Avenue Area includes a single-family residence located at 2205 Buhman Avenue. The other two parcels are entirely undeveloped. The County of Napa General Plan designates the Buhman Avenue Area as *Agriculture, Watershed and Open Space*. The County has zoned the area as *Agricultural Watershed*. These designations are consistent with the present and planned uses of the area. The expansion of the sphere of influence to include the Buhman Avenue Area would enable the future annexation and potentially facilitate development of the area in a manner consistent with the County of Napa's contemplated land use allowances within the area.

### Present and Probable Need for Public Facilities and Services

The Buhman Avenue Area currently receives a rural level of public services from the County of Napa. These services include police protection, fire protection, and road maintenance, all of which are considered adequate to meet the needs of the area. There is a present need for public water service for the Buhman Avenue Area based on groundwater deficiencies involving an existing residence. There are no plans to extend an urban level of other public services into the area.

### Present Capacity and Adequacy of Public Services

Current annual water demand within the Buhman Avenue Area is approximately 0.3 acre-feet and would increase to 2.7 acre-feet with eventual buildout if all three parcels were built out with single-family residences, second units, and guest cottages. CVWD can adequately extend service to the Buhman Avenue Area with minimal infrastructure improvements in a manner that would not impact service to existing customers. Future connection of the Buhman Avenue Area to CVWD's water distribution system would involve a private lateral and would not require a mainline extension.

### Social and Economic Communities of Interest

The Buhman Avenue Area has strong social and economic ties to CVWD. The Buhman Avenue Area is contiguous to, and shares similar land uses with, District parcels. This includes the existence of an occupied rural residence located at 2205 Buhman Avenue.

### Present and Probable Need for Public Services for Disadvantaged Unincorporated Communities

No disadvantaged unincorporated communities meeting the definition under State law have been identified within CVWD's jurisdictional boundary, sphere of influence, or adjacent areas.

## Recommendation

It is recommended that the Commission continue to exclude the Buhman Avenue Area from CVWD's SOI.

Any future action involving the expansion of CVWD's SOI to include the Buhman Avenue Area would involve the Commission making findings consistent with the requirements of CEQA. Absent an available categorical or statutory exemption, this would likely involve at a minimum the preparation of an initial study and adoption of a negative declaration. It is important to note that if the property owner enters the parcels into an easement or takes another similar action that precludes the potential for winery development, a categorical exemption would be available to the Commission with respect to adding the parcels to CVWD's SOI. One option the Commission may consider is to add the parcels to CVWD's SOI with a condition that the property owner undertake this type of action within a specified time period.

### ***Old Sonoma Road Area***

This area consists of 34 unincorporated parcels located along Old Sonoma Road south of Congress Valley Road. The Old Sonoma Road Area is approximately 67 acres in size and is outside of CVWD's defined water service area. The County of Napa has assigned an *Agricultural Resource* General Plan land use designation and *Agricultural Watershed, Commercial Limited, and Planned Development* zoning standards for the Old Sonoma Road Area. Four of the parcels within the Old Sonoma Road Area totaling approximately 23.8 acres comprise the Carneros Inn, which currently has a need for a long-term water service arrangement. 28 of the properties totaling 3.3 acres include a total of 24 single-family residences and are collectively referred to as "Carneros Homes." The remaining two properties total 39.9 acres and are generally undeveloped with the exception of four vacant structures that include a single-family residence, barns, and storage.



In order for CVWD to provide water service to any portion of the Old Sonoma Road Area, the District and the City of Napa would need to amend the water supply agreement to specifically allow for the connection of commercial land uses as well as include a new water service area map. Further, in the event that the Commission was to add the Old Sonoma Road Area to CVWD's SOI, additional environmental analysis in the form of an initial study and negative declaration would need to be prepared to satisfy the requirements of CEQA.

It is also important to note that, similar to the Buhman Avenue Area, three of the parcels within the Old Sonoma Road Area are 10 acres or more in size, potentially allowing for the future development of a winery. If the property owners do not currently have adequate groundwater, connection to CVWD's water distribution system could potentially remove an existing barrier to winery development.

Additionally, inclusion of the Old Sonoma Road Area within CVWD's SOI would be inconsistent with the Commission's adopted policies regarding lands designated as agriculture and their potential inclusion within special district SOIs for purposes of urban development through the extension of essential public services. Specifically, the Commission's General Policy Determinations Section III(D)(3) states:

*Land designated agricultural or open-space by the applicable city or County general plan shall not be approved for inclusion within any special district's sphere of influence for purposes of urban development through the extension of essential public services. Such designations shall be recognized by the Commission as designating the land as non-urban in character in regard to the existing use of the area or its future development potential. The Commission may consider exceptions to this policy based on evidence provided by the affected special district demonstrating all of the following:*

- a) The expansion is necessary in order to provide potable water or sewer to the territory to respond to a documented public health or safety threat.*
- b) The affected special district can provide adequate potable water or sewer service to the affected territory without extending any mainline more than 1,000 feet.*
- c) The expansion will not promote the premature conversion of agricultural or open-space land to urban use.*

### Present and Planned Land Use

Four of the parcels within the Old Sonoma Road Area comprise the Carneros Inn. 28 of the parcels totaling 3.3 acres include a total of 24 single-family residences and are collectively referred to as “Carneros Homes.” The remaining two parcels are generally undeveloped with the exception of four vacant structures that include a single-family residence, barns, and storage. The County of Napa General Plan designates the Old Sonoma Road Area as *Agricultural Resource*. The County has zoned the area as (1) *Agricultural Watershed* for rural residential parcels, (2) *Commercial Limited* for the Carneros Inn, and (3) *Planned Development* for the 24 single-family residences (Carneros Homes). The expansion of the sphere of influence to include the Old Sonoma Road Area in support of existing commercial and residential land uses would be inconsistent with the area’s agricultural land use designation under the County of Napa General Plan.

### Present and Probable Need for Public Facilities and Services

The Old Sonoma Road Area currently receives a rural level of public services from the County of Napa. These services include police protection, fire protection, and road maintenance, all of which are considered adequate to meet the needs of the area. There is a present need for public water service for the developed portions of the Old Sonoma Road Area. However, expansion of the sphere of influence to include the Old Sonoma Road Area would be inconsistent with the specifications of CVWD’s water supply contract, which only allows for domestic, agricultural, and winery connections. There are no plans to extend an urban level of other public services into the area.

### Present Capacity and Adequacy of Public Services

Current annual water demand within the Old Sonoma Road Area is approximately 42.0 acre-feet and would increase to 43.8 acre-feet with eventual buildout if the two undeveloped parcels were built out with single-family residences, accessory dwellings, and guest cottages. CVWD can potentially extend service to the Old Sonoma Road Area in a manner that would minimally impact service to existing customers. However, additional planning and environmental review is needed to inform the extent of infrastructure improvements that would be needed as well as associated environmental impacts. Additionally, future reductions in water conservation efforts could potentially result in overall water demand increases within CVWD’s existing sphere of influence as well as within the Old Sonoma Road Area.

### Social and Economic Communities of Interest

The Old Sonoma Road Area does not currently share social and economic ties to CVWD. The area includes a hotel, restaurant, and high density single-family residences. Additionally, the Old Sonoma Road Area generally does not share similar land uses with CVWD parcels.

### Present and Probable Need for Public Services for Disadvantaged Unincorporated Communities

No disadvantaged unincorporated communities meeting the definition under State law have been identified within CVWD’s jurisdictional boundary, sphere of influence, or adjacent areas.

### Recommendation

It is recommended that the Commission continue to exclude the Old Sonoma Road Area from CVWD's SOI. Inclusion within the SOI would be inconsistent with the Commission's adopted policies regarding lands designated as agriculture and their potential inclusion within special district SOIs for purposes of urban development through the extension of essential public services. Inclusion within the SOI would also be inconsistent with the defined service area in CVWD's water supply agreement.

It is important to note that any future action involving the expansion of CVWD's SOI and/or extension of water service to the Old Sonoma Road Area would involve the Commission making findings consistent with the requirements of CEQA. Absent an available categorical or statutory exemption, this would likely involve at a minimum the preparation of an initial study and adoption of a negative declaration.

In recognition of an existing need for water service involving the Carneros Inn properties, it would be appropriate for the Commission and the County of Napa to pursue an alternative that would allow for the Carneros Inn properties to obtain a reliable and long-term water supply. One potential process to extend public water service to the Old Sonoma Road Area would involve implementing G.C. Section 56133.5 as described previously in this report. This process would require the Commission to identify and evaluate the extension of water service to the Carneros Inn properties as part of a future municipal service review for CVWD. This process would also require CVWD and the City of Napa to amend the water service agreement to allow for water service to be provided to commercial properties.

**RESOLUTION NO. \_\_\_\_\_****RESOLUTION OF THE  
LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY  
MAKING DETERMINATIONS****CONGRESS VALLEY WATER DISTRICT  
SPHERE OF INFLUENCE UPDATE**

**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 in conjunction with reviewing the spheres of influence of the local governmental agencies whose jurisdictions are within Napa County; and

**WHEREAS**, the Napa Local Agency Formation Commission is required to periodically review and update adopted spheres of influence for each city and special district within Napa County under Government Code Section 56425; and

**WHEREAS**, on April 7, 2014, the Commission approved the Central County Region Municipal Services Review, which included a review of Congress Valley Water District’s services; and

**WHEREAS**, the Executive Officer prepared a written report of the sphere of influence review, including his recommendation to affirm the existing sphere of influence of the Congress Valley Water District with no changes; and

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

**WHEREAS**, the Commission heard and fully considered all the evidence presented at public meetings held on December 5, 2016, and February 6, 2017; and

**WHEREAS**, the Commission considered all the factors required by law under California Government Code Section 56425.

**NOW, THEREFORE**, the Napa Local Agency Formation Commission **DOES HEREBY RESOLVE, DETERMINE AND ORDER**, based upon the information contained in the Executive Officer’s report, correspondence from affected agencies and information received during the public hearings, as follows:

1. The sphere of influence of the Congress Valley Water District is hereby updated with no changes as shown in Exhibit One.
2. The Commission, as lead agency, finds the approved affirmation of Congress Valley Water District’s sphere of influence is exempt from further review under the California Environmental Quality Act pursuant to California Code of Regulations Section 15061(b)(3). This finding is based on the Commission determining with certainty the update will have no possibility of significantly effecting the environment given no new land use or municipal service authority is granted.

3. Pursuant to California Government Code Section 56425 of the Government Code, the Commission adopts the statement of determinations as shown in Exhibit Two.
4. The effective date of this sphere of influence update shall be the date of adoption set forth below.

The foregoing resolution was duly and regularly adopted by the Commission at a meeting held on February 6, 2017 by the following vote:

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

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

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

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

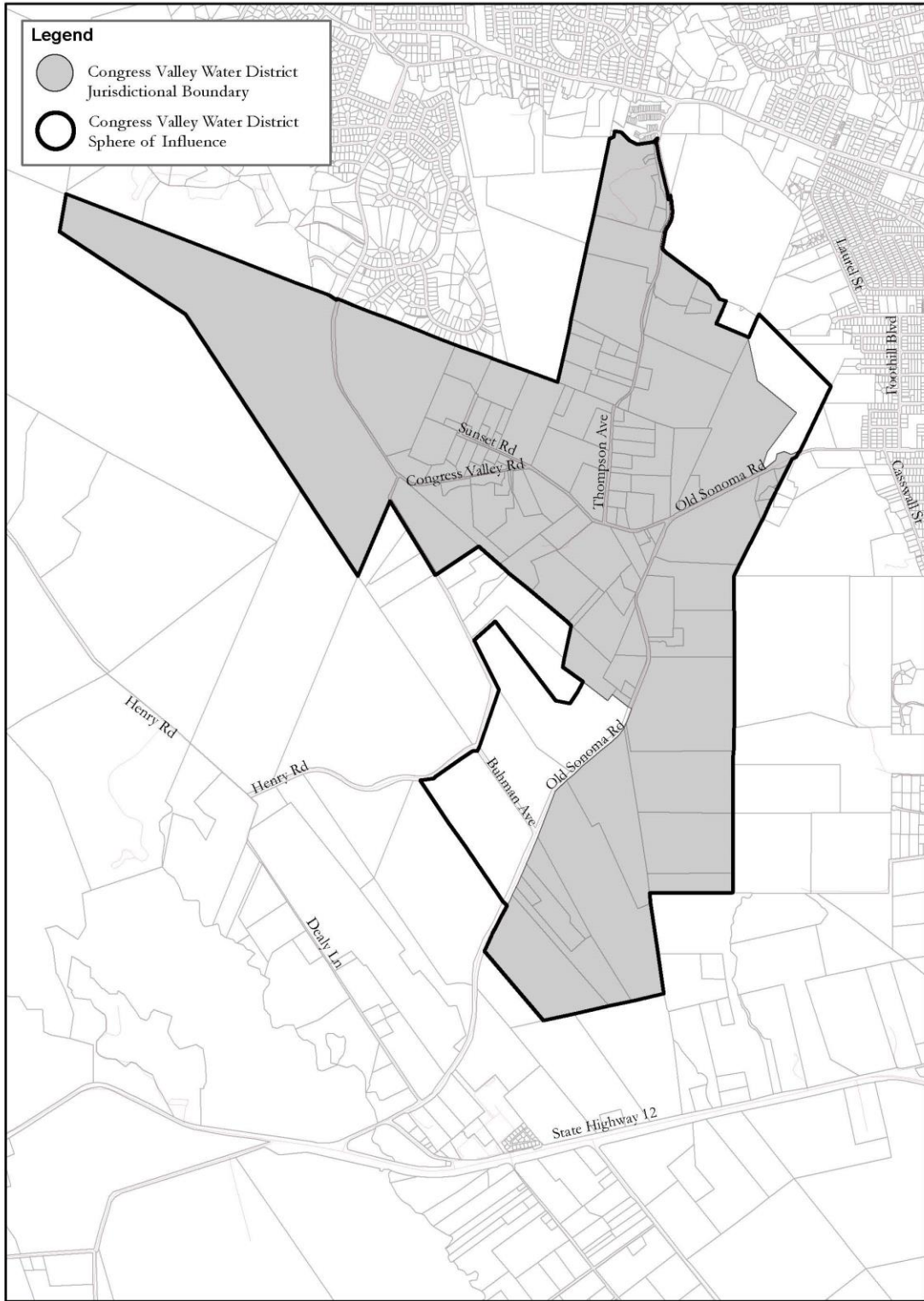
\_\_\_\_\_  
Diane Dillon  
Commission Chair

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

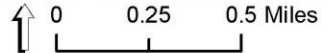
Recorded by: Kathy Mabry  
Commission Secretary

EXHIBIT ONE

Congress Valley Water District



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



\* Prepared by LAFCO Staff  
December 5, 2016



## EXHIBIT TWO

### STATEMENT OF DETERMINATIONS

#### CONGRESS VALLEY WATER DISTRICT SPHERE OF INFLUENCE UPDATE

**1. Present and planned land uses in the sphere, including agricultural and open-space lands.**

The County of Napa General Plan designates all lands within the Congress Valley Water District's sphere of influence as *Agriculture, Watershed and Open Space*. The County has zoned all lands within the Congress Valley Water District's sphere of influence as *Agricultural Watershed*. These designations are consistent with the present and planned land uses in the Congress Valley Water District's sphere of influence.

**2. The present and probable need for public facilities and services in the sphere.**

Lands within the Congress Valley Water District's sphere of influence currently receive a rural level of public services from the County of Napa. These services include police protection, fire protection, and road maintenance, and are considered adequate to meet the needs of the area. There are no existing plans to extend an urban level of public services into the Congress Valley Water District. The lands with the Congress Valley Water District's existing sphere of influence currently receive a rural residential level of public water service from the District. The probable need for public water service includes lands within the Congress Valley Water District's sphere of influence and outside the District's jurisdictional boundary.

**3. The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.**

The Congress Valley Water District presently provides public water service to the majority of lands within its sphere of influence. The District can adequately extend service to the remaining portion of its sphere of influence without constructing significant infrastructure or impacting service to existing customers.

**4. The existence of any social or economic communities of interest in the sphere if the Commission determines that they are relevant to the agency.**

Lands within the Congress Valley Water District's sphere of influence share strong social and economic ties that are distinct from neighboring communities. Lands within the Congress Valley Water District's sphere of influence include similar rural land uses.

**5. Present and probable need for public services for disadvantaged unincorporated communities**

No disadvantaged unincorporated communities meeting the definition under State law have been identified within or contiguous to the Congress Valley Water District's sphere of influence.

WATER SUPPLY CONTRACT

BETWEEN

THE CITY OF NAPA AND THE CONGRESS VALLEY WATER DISTRICT

The CITY OF NAPA, a municipal corporation in the County of Napa, State of California, hereinafter called "City", agrees to sell, and the CONGRESS COUNTY WATER DISTRICT, a county water district, hereinafter called "District", agrees to buy water under the following terms and conditions:

RECITALS

A. The 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 corporate limits of said City.

B. The District is the owner and operator of a water system in the County of Napa, State of California, and is engaged in the distribution of water to customers within the boundaries of said District.

C. The District is currently purchasing its water supply from the City under an existing agreement dated October 30, 1951, the term of which having expired has been extended by mutual agreement of the District and City until this replacement agreement is executed.

D. The District has no developed water supply resources and no storage facilities.

E. The District has requested that the City continue to furnish a supply of water to the District, but under different terms and conditions than provided for in the original agreement.

F. The City is willing to furnish a supply of water to the District.

THEREFORE, the parties hereby agree to the following:

1. TERM OF AGREEMENT. This Agreement shall become effective upon its execution by both parties and shall run for a term of thirty (30) years, or to July 1, 2017, whichever shall occur first.

2. SERVICE AREA. The District shall deliver the water furnished under this Contract to consumers only within the territory shown and described on attached "EXHIBIT B", entitled "Congress County Water District Service Area", and no other or additional territory. No water service shall be provided by the District to any parcel within said service area as shown on attached "EXHIBIT B", until said parcel has been annexed to the District.

3. QUANTITY OF WATER. The City shall furnish water to the District, as it may need to supply its customers only in accordance with the terms and conditions of this Agreement, in an amount not to exceed a total of one hundred (100) acre feet in any calendar year, at a reasonable rate of flow at the delivery point or points.

4. CONDITIONS OF SERVICE. The District shall deliver water it receives under this Agreement to a maximum of 140 service connections to serve existing parcels of record as described below and no others, for domestic, agricultural, and winery purposes only. (For the purposes of this Contract, a winery is defined as a facility appurtenant to the manufacture of wine or similar products. Additionally, fifty percent (50%) of the grapes processed must be grown in the service area. Additionally, no items other than the product manufactured at site of the winery may be sold.) The District shall deliver water it receives under this Agreement only to service connections existing or approved on the effective date of this agreement, and to parcels of land existing within the District Service Areas as defined in "EXHIBIT B", on the effective date of this Agreement.

5. ANNEXATION TO CITY. City agrees that if any portion of the District is annexed to the City during the term of this Agreement, City shall annually reimburse the District up to an amount equal to the average annual revenue that would have been derived from the sale of water to that portion of the District so annexed had that portion of the District remained in the District. Such payment shall be applied to any bond redemption, interest payment, or reserve accounts, therefor, which are then an existing obligation of the District. No such payment shall be required, if no such obligations then exist.

6. PRICE AND PAYMENT. The District shall pay to the City the sum of one dollar and twenty-three cents (\$1.23) per one thousand (1,000) gallons. Said quantity rate charge shall be adjusted administratively from time to time, concurrent with adjustments in the quantity rate and service charge applicable

to retail domestic customers inside the City limits. The adjusted quantity rate applicable to the District shall be identical to the quantity rate applicable to retail domestic customers inside the City limits.

7. COLLECTION AND DISBURSEMENT OF FUNDS. City agrees to bill District's customers at the rate specified by the District (subject to change on an annual basis). District's rate structure shall be similar to City's structure. City will collect all proceeds in a fashion consistent with its own procedures and deposit same in a separate account. Periodically the proceeds so collected and deposited shall be released to an entity as directed in writing by District.

Any connection fees, special assessment fees, or mitigation fees designated by the District shall not be collected by City. It shall be the responsibility of the District to collect such fees.

Any work done by City, such as to install new services or to make modifications as requested by District shall be on a fixed fee basis or time and materials basis, as is appropriate. City requires a deposit for such work in accordance with its codes, and the City will collect and retain same.

8. MEASUREMENTS AND CONTROL OF WATER DELIVERED. The water delivered pursuant to this Agreement shall be measured by meters at the points of delivery hereinafter referred to as the customers meter connection. On any new customer meter connection, the city shall install the necessary meters, valves, and appurtenances appropriate to operate and maintain such connection. Said meters, valves, and appurtenances shall be maintained in good repair and replaced when

necessary by the City. Each party shall have the right to test any meter at its own expense, or the parties may share the cost as mutually agreed. City reserves the right to replace any meter at any time.

9. CONSERVATION MEASURES. District agrees to enact and enforce water conservation programs substantially equivalent in effect to such water conservation programs adopted by the City or which may be adopted by the City.

10. QUALITY OF WATER. The quality of water at the point of delivery furnished to the District will be the same as that furnished to other City customers under the permit from the State of California Department of Health Services or its successor agency.

11a. NON-RESPONSIBILITY OF THE CITY. Neither the City nor any of its officers, agents or employees, shall be liable for any loss or damage direct or indirect, arising from shortages in the amount of water to be made available for delivery, interruption of delivery or failure of any kind caused by drought or any other cause beyond the control of the City.

11b. RESPONSIBILITY OF THE CITY. The City shall be responsible, during the term of this Contract, for the complete operation, maintenance (and later replacement) of the District's water system.

City agrees to make the District whole for additional costs incurred in installing the twelve inch (12") waterline stipulate in the section of this Agreement entitled "Responsibility of District".

The amount of the make whole cost is to be determined by multiplying the number of feet of waterline so oversized by the difference in cost obtained by subtracting the contract cost of a twelve inch (12") waterline in this area from a theoretical contract cost for an eight inch (8") waterline in the same work area. The theoretical contract cost is assumed to be the contract cost for eight inch (8") waterline installed elsewhere in the District during the replacement project.

City shall reimburse District within thirty (30) days of submission of each of the successive contract progress payments submitted by District's Contractor during the replacement project, showing the number of feet of the oversized line installed.

City agrees to install, at its cost, a twelve-inch (12") main from the City limits on Old Sonoma Road to the point of connection with the transmission line in Foothill Boulevard when the need for such installation is established.

12a. NON-RESPONSIBILITY OF THE DISTRICT. Neither the District nor any of its officers, agents or employees shall be liable for the control, carriage, handling, use, disposal or distribution of water, nor for any damage of any nature whatsoever, including but not limited to property damages, personal injury or death, arising out of or connected with the same.

12b. RESPONSIBILITY OF THE DISTRICT. It shall be the responsibility of the District to, during year 30, pass title for all improvements and assets of

the District to the City for the sum of one dollar (\$1.00). The Board of Directors of District shall during year 30, initiate proceedings to dissolve the District pursuant to the District Reorganization Act or as it may be amended.

Additionally, District agrees to cause the size of the waterline to be installed in Thompson Avenue, in Congress Valley Road, from Thompson Avenue to Old Sonoma Road, and in Old Sonoma Road, from Congress Valley Road easterly to City's corporate boundary (to the extent that the waterline will be replaced) to be installed as 12-inch waterline. This is herein referred to as the oversized waterline.

Additionally, District will allow City to "wheel" water through said waterline at no additional compensation.

13. BACKFLOW PREVENTION: District agrees to require its water service customers to comply with City's backflow prevention device program.

14. ASSIGNMENTS. No assignment of this Agreement or of any right or obligation of any part hereunder, in whole or in part, can be made without the express written consent of all parties hereto, which consent shall not be unreasonably withheld.

15. MODIFICATIONS. Modification to this Agreement shall be specific amendment, executed by all parties hereto.



16. APPLICABLE LAW. The law of California then existing shall govern the interpretation of this Contract.

17. NOTICES. All notices required under this Contract shall be sent to:

City of Napa

P.O. Box 660

Napa, CA 94559

Congress County Water District

P.O. Box 3023

Napa, CA 94558

CITY OF NAPA,  
a municipal corporation

CONGRESS COUNTY WATER DISTRICT,  
a County Water District

By: Brad Weyer

MAYOR

By: Robert A. Oslak

PRESIDENT

ATTEST:

ATTEST:

Pamela Means

CITY CLERK

Dorothy L. Strick

SECRETARY

APPROVED AS TO FORM:

Joe Oran

CITY ATTORNEY

R. Hygg Rock

CONGRESS COUNTY

WATER DISTRICT ATTORNEY

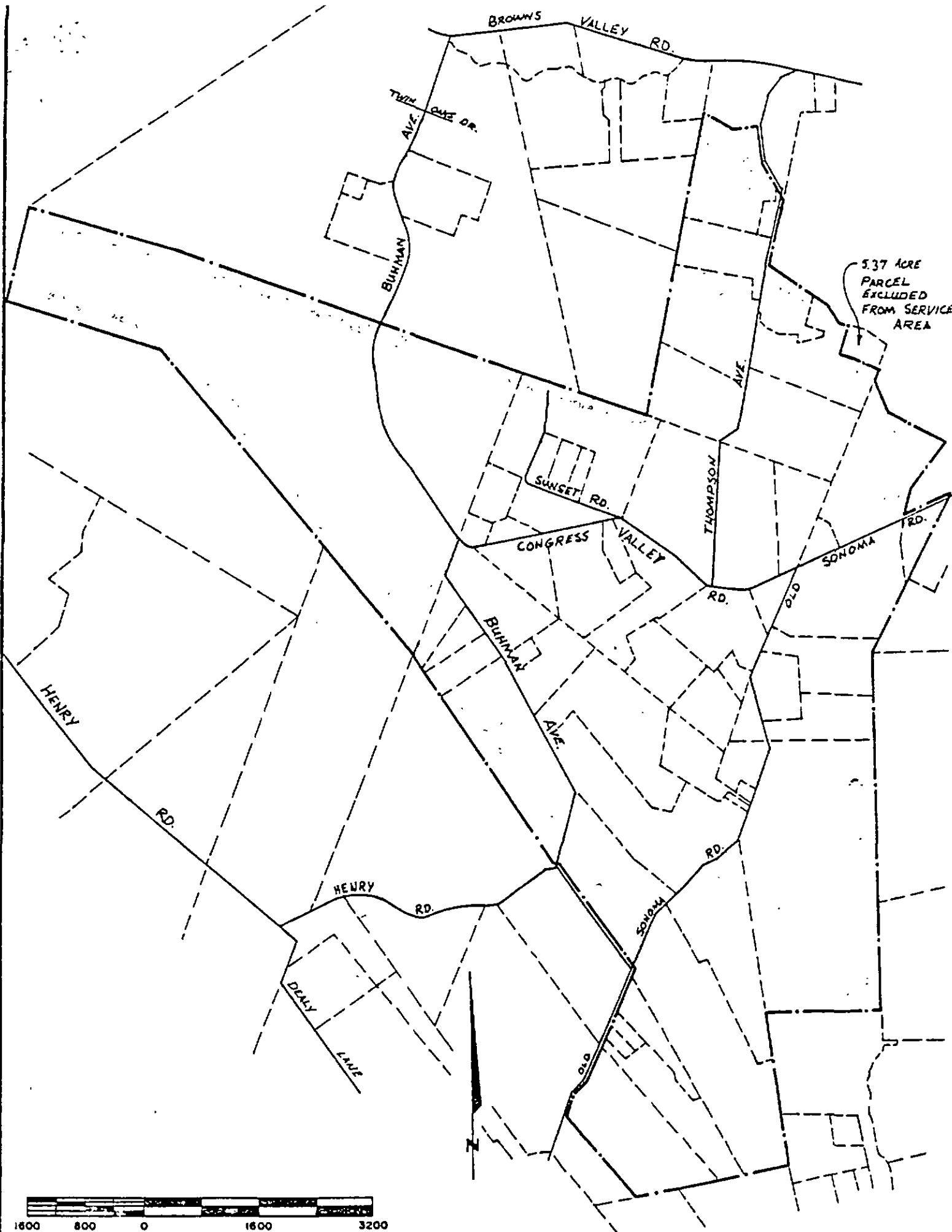
COUNTERSIGNED:

[Signature]

CITY AUDITOR

Paul A. King

DISTRICT AUDITOR



5.37 ACRE  
PARCEL  
EXCLUDED  
FROM SERVICE  
AREA

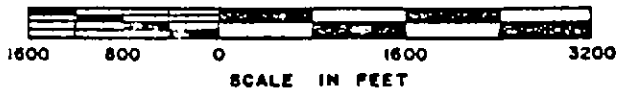


EXHIBIT "B"

September 7, 2016

Board of Directors  
Congress Valley Water District  
C/O Kiersten Bjorkman, Secretary  
Napa, CA 94559

RE: Requesting inclusion within the District of five parcels along Buhman

President and Members of the Board:

I am writing to you, representing both Rob Sinskey and the heirs of Virginia Forloine, to request inclusion of five Assessors Parcels within the Congress Valley Water District.

On behalf of Virginia Forloine, my wife's late aunt, I am writing to you to ask to have her three parcels, located on Buhman Avenue, included in your service area. They are APN's 47-030-021, 023, and 024. The address of the residence is 2205 Buhman Avenue.

Virginia was a lifelong resident of Napa County, and she and her late husband, Clint, lived on one of the three parcels, having built on the parcel in the early 1970's. The residence is served by a very shallow well and a spring on those parcels. During many summers, both the well and the spring run dry. Additionally, there is a water quality problem, both bacteriologically and physically. In the past, they have inquired about connecting to the Congress Valley water system, but waterlines were never installed along their portion of Buhman Avenue.

I have taken it upon myself to locate a reliable, adequate, and wholesome water supply for that house, and the other two parcels.

On behalf of Rob Sinskey, who lives directly across Buhman Avenue, I am requesting that his two parcels be included with the Congress Valley Water District as well. His parcels are 047-030-036 and 047-030-037. He is in much the same situation, namely poor groundwater area and no waterline in his portion of Buhman Avenue.

Within the last week or so, I have met with the Engineers at the City Water Department to talk about water service to these five parcels. We talked generally about the need and about possible strategies for service.

And, during the past several weeks, I have been in conversations with Brendan Freeman, Executive Officer of LAFCO, about the process that would need to be followed to include these five parcels within your District boundary.

My sense is that the Congress Valley Water District needs to weigh in on my request for inclusion before these other conversations can go much further.

Pretty much all of Congress Valley is notoriously groundwater short. That is why the District was formed mid last century, and that is why the water system was refurbished in the mid 1980's. These two families are in need of some help in addressing their water supply problems. Your District is the agency that can help implement solutions to their water needs.

My request is that you support, and request, having your Sphere of Influence and your District Boundary adjusted to include those five parcels.

Again, we appreciate your assistance, and look forward to working with you and your staff on this issue. If you have any questions, it is best to reach me on my cell phone, 771-382-6077.

Sincerely,

A handwritten signature in black ink, appearing to read "John W. Stewart". The signature is fluid and cursive, with a large initial "J" and "S".

John W. Stewart, PE

**Congress Valley Water District**  
**P. O. Box 3023**  
**(707) 256-0344**

**RECEIVED**  
**OCT 12 2016**  
**NAPA COUNTY**  
**LAFCO**

September 26, 2016

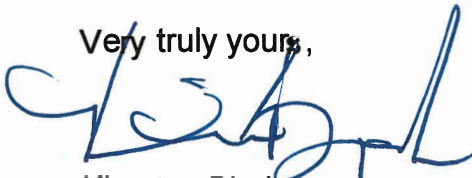
Local Agency Formation Commission of Napa County  
1030 Seminary Street, Suite B  
Napa, CA 94559

Attn: Brendon Freeman, Executive Officer

It was approved at the regularly scheduled Congress Valley Water District meeting held September 12, 2016 to formally request LAFCO to adjust the District's Sphere of Influence to include properties along Buhman Ave, APN's 47-030-021, 023 and 024.

Let me know if you have any questions.

Very truly yours,



Kiersten Bjorkman  
Secretary  
815-5240  
[kierstenlarae@yahoo.com](mailto:kierstenlarae@yahoo.com)

cc: John Stewart, Phil Brun, City of Napa Water Dept., LAFCO commissioners

November 29, 2016

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

Dear Brendon:

I am writing to you to request that the Local Agency Formation Commission amend the Sphere of Influence of the Congress Valley Water District, to include several parcels that front Buhman Avenue, just south of Congress Valley Road. Water to the general area is supplied by the City of Napa through a 1987 agreement with the CVWD. The CVWD rehabilitated the water infrastructure in the late 1980's. All infrastructure is maintained by the City of Napa.

In late 2012, I had written to Keene Simonds, explaining the water supply difficulties that my wife's elderly Aunt was experiencing at her house, which is located on one of those parcels (the Forloine parcels.) For some reason, that request was never specifically acted upon (I believe it was during a staff transition period.) A copy of the letter is attached, as **Exhibit 1**.

After some recent conversations with you, in early September of this year, I wrote to the Congress Valley Water District, about my interest in getting several parcels annexed into the District, to allow severe water supply problems in the area to be addressed. A copy of that letter is attached, as **Exhibit 2**. I appeared at the September 12<sup>th</sup> CVWD Board meeting, to explain my request and make my appeal. On September 26<sup>th</sup>, Kiersten Bjorkman, CVWD Secretary, notified me that the CVWD Board had authorized that a formal request be made to LAFCO to annex several parcels (the Forloine parcels.) One major hurdle has been cleared. A copy of her letter is attached as **Exhibit 3**.

I have met with Water Department staff, and discussed with them my request. Water Department staff made clear to me that, as provided in the water supply agreement, they are in charge of supply, maintenance and billing, but they are not the ones in charge of these kinds of decisions. Likely, they will be working with CVWD in the near term on determining how water service will be provided to the parcels in question.

During a recent meeting with you, Commission Chair Dillon and Commission Member Wagenknecht, it became clear that, in order to be successful, I needed to somehow distinguish and demonstrate that the parcels in question are unique, and not just Ag parcels requesting urban services.


Last week, I met with Kim Withrow, of the Napa County Environmental Health Department, now PBES, to review with her the water shortage situation in the area. My request to her was to consider issuing a letter indicating that it would be useful to the area to have potable water supplied through the CVWD water system. She indicated that she would try to have something prepared by December 2<sup>nd</sup>.

I believe that these parcels are in a unique situation. I believe that they are unique **because it was clearly the intention** of CVWD in 1987 to include them in their service area, with their eventual annexation to CVWD. This intention to include was made explicitly clear by CVWD in 1987, when the water supply agreement between the City of Napa and the CVWD was negotiated and executed. I have attached the City – CVWD Agreement and diagram (excluding listing of then served parcels and the environmental assessment) included in the agreement, as **Exhibit 4** (City Agreement #5387, acted upon by the Council on September 1, 1987.) The diagram showing parcels eligible for water service under the terms of the agreement is called out in the Agreement as Exhibit B. **The boundary lines shown on Exhibit B of the Agreement clearly includes and incorporates the parcels in question.** In fact, the boundary line includes a number of parcels in that area that front Buhman Avenue, of which the Sinskey parcels that I reference in my September 7<sup>th</sup> letter are two. None of the parcels that front Buhman Avenue in this area are dividable according to the County's codes and ordinances.

In checking at the Napa County Assessors Office on November 2<sup>nd</sup>, I found that the three Forloine parcels existed in 1986 in the same configuration as they do today. It appears that other parcels have been reconfigured, via lot line adjustments, but no new parcels have been created.

Again, the family appreciates your assistance, and looks forward to working with you and your staff on this issue. If you have any questions, it is best to reach me on my cell phone

Sincerely,

  
John W. Stewart, PE  
2111 Las Amigas Road  
Napa, CA 94559

CC: without Exhibits....

Commission Chair Dillon  
Commissioner Wagenknecht  
Deputy Public Works Director Phil Brun, City of Napa  
Water Department General Manager Joy Eldredge, City of Napa  
Environmental Health Supervisor Kim Withrow, County of Napa

Note from LAFCO staff:

Exhibits 2, 3, and 4 to this letter are already included as Attachments to the staff report



October 19, 2012

Mr. Keene Simonds  
LAFCO Executive Officer  
County of Napa  
1030 Seminary Street, Suite B  
Napa, CA 94559

Dear Mr. Simonds:

On behalf of Virginia Forloine, my wife's aunt, I am writing to you to ask to have her three parcels, located on Buhman Avenue, included in your service area analysis that you will be conducting next calendar year. They are APN's 47-030-021, 023, and 024. The address of the residence is 2205 Buhman Avenue.

Virginia is a lifelong resident of Napa County, and is well over 90 years old. She and her late husband lived on one of the three parcels and the residence was served by a well and a spring on those parcels. This past summer, both the well and the spring ran dry, forcing her to look at alternative water supplies. In fact, she is living temporarily at the Meadows. I have taken it upon myself to locate a permanent and adequate water supply for her house.

Our request would be to be placed within the water service area of either the Congress Valley Water District or the City of Napa. These parcels appear to be on the fringe of the Water District's boundaries, with the Sinskey parcel directly across the road appearing to be within the Sphere. In the past, I have heard that Rob Sinskey was interested in receiving water from the District; it may be time to address the needs of residences that are desperate for water within a known groundwater short area.

Again, we appreciate your assistance, and look forward to working with you and your staff on this issue. If you have any questions, it is best to reach me on my cell phone

Sincerely,

John W. Stewart, PE  
2111 Las Amigas Road  
Napa, CA 94559

EXHIBIT 1