Local Agency Formation Commission
LAFCO of Napa County

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Napa, CA 94559
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FAX (707) 251-1053
http://napa.lafco.ca.gov

October 15, 2007
Agenda Item No. 7a

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

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

Option E:

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 1st 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 1st 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 polices 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 1st 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 NCFCWCD contract.)

Recommendation

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

Respectfully submitted,

Keene Simonds Executive Officer	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

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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 <u>all</u> 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

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

Nancy Watt
County Executive Officer

cc. Richard Ramirez
Board of Supervisors

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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 15th day of October, 2007, by the following vote:

AYES: Commissioners _____

NOES: Commissioners _____

ABSENT: Commissioners _____

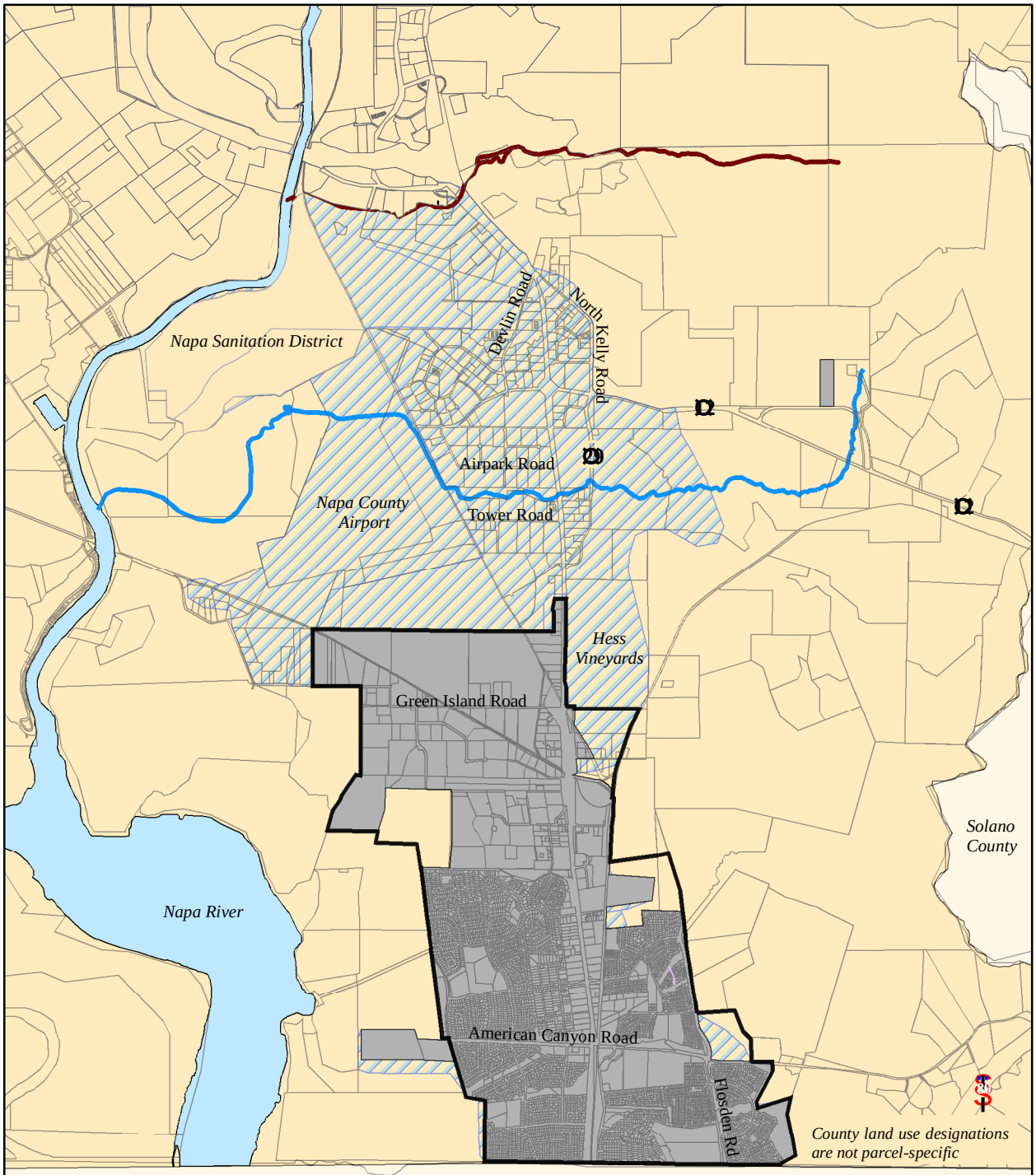
ABSTAIN: Commissioners _____

ATTEST: Keene Simonds
Executive Officer

Recorded by: _____
Kathy Mabry
Commission Secretary

City of American Canyon
Extraterritorial Water Service Area

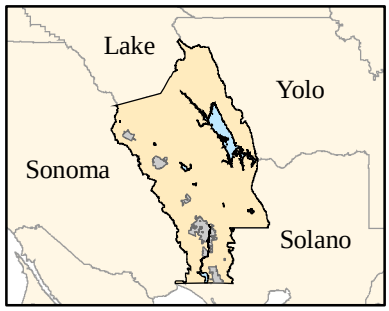
EXHIBIT A



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

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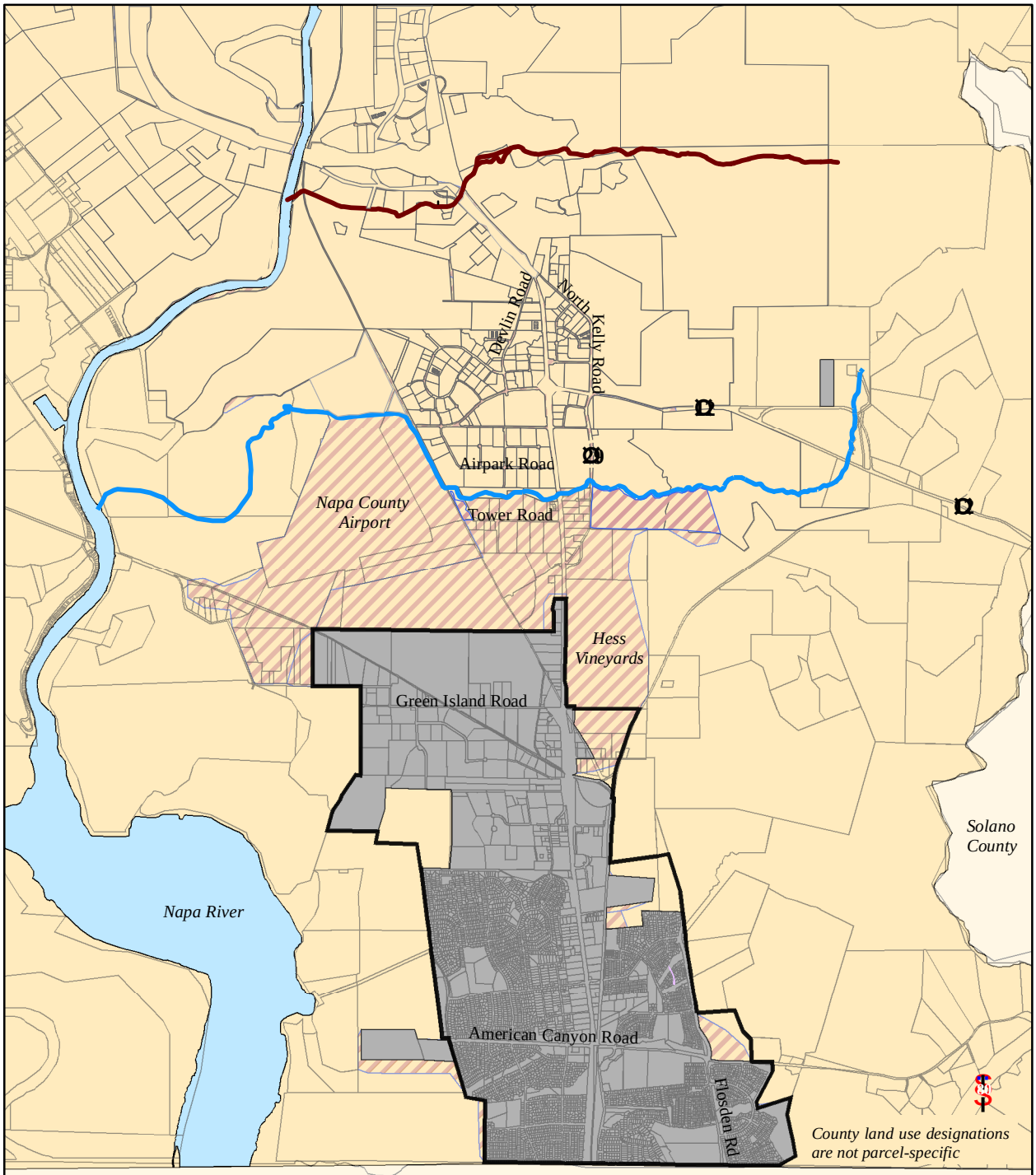
City of American Canyon
Extraterritorial Sewer Service Area

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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(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 15th day of October, 2007, by the following vote:

AYES: Commissioners _____

NOES: Commissioners _____

ABSENT: Commissioners _____

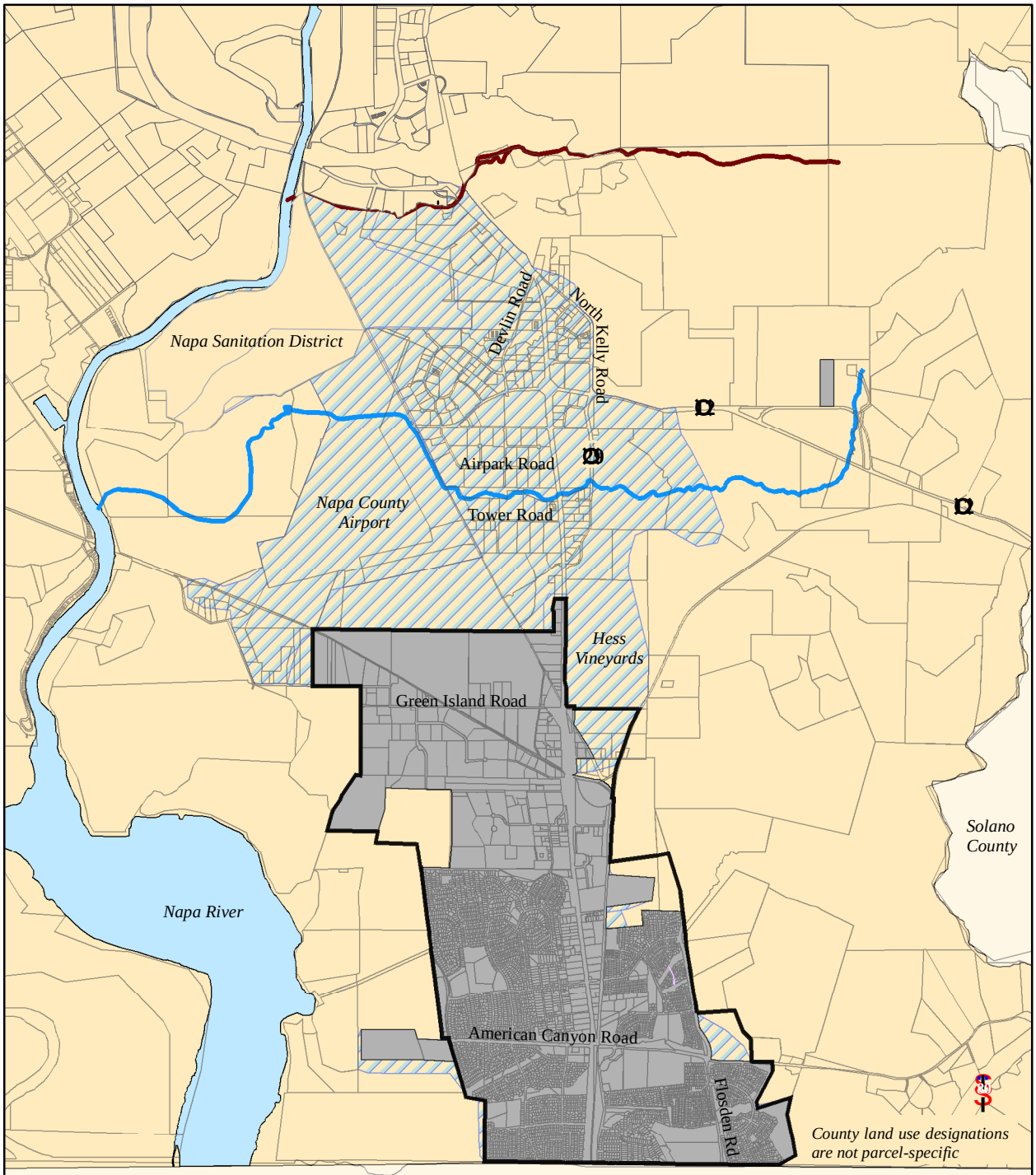
ABSTAIN: Commissioners _____

ATTEST: Keene Simonds
Executive Officer

Recorded by: _____
Kathy Mabry
Commission Secretary

City of American Canyon
Extraterritorial Water Service Area

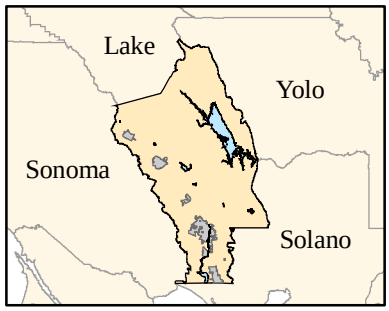
EXHIBIT A



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

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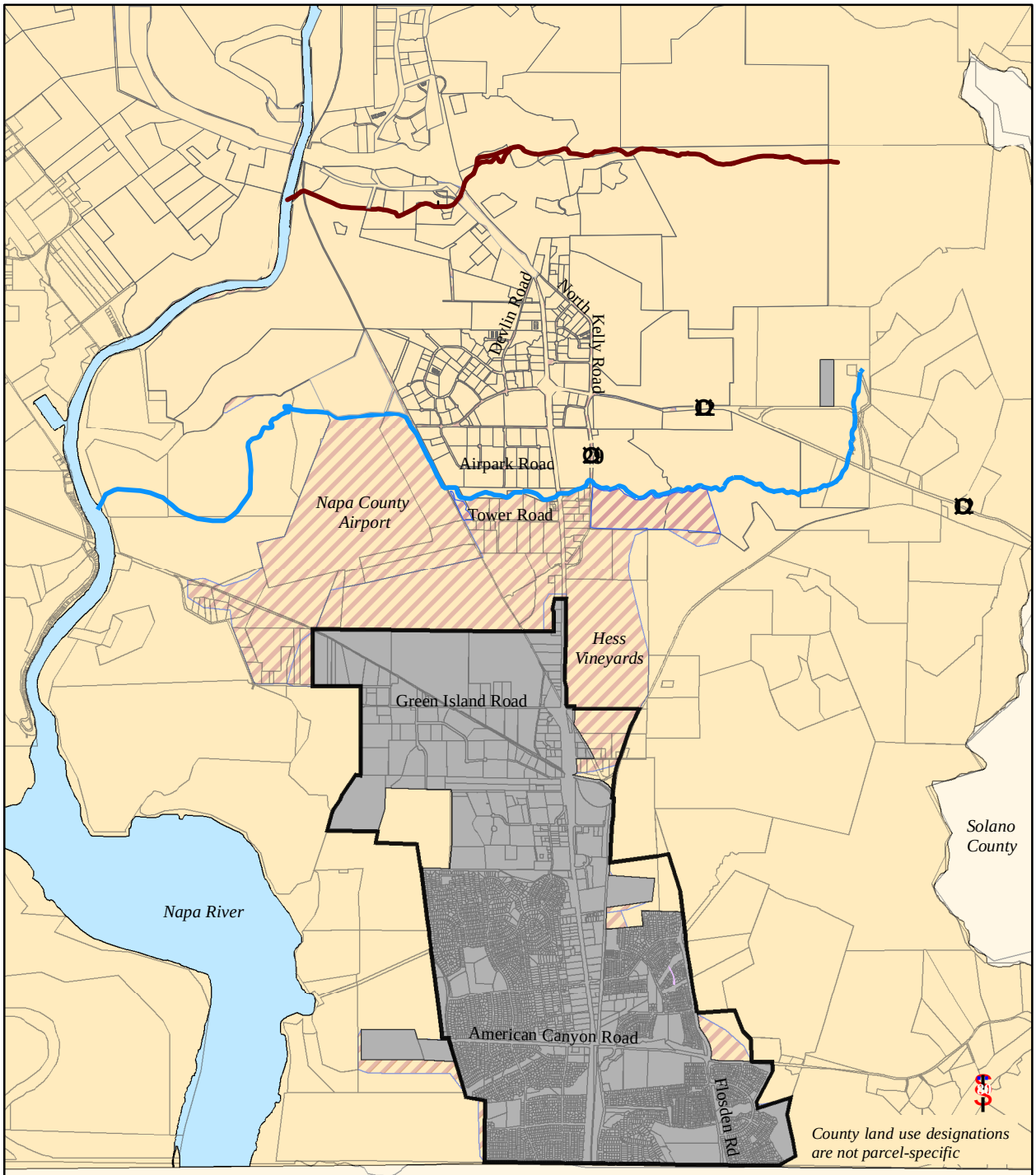
City of American Canyon
Extraterritorial Sewer Service Area

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

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RESOLUTION NO. _____

RESOLUTION OF THE
LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

POLICY DETERMINATION

DETERMING 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 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

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 _____

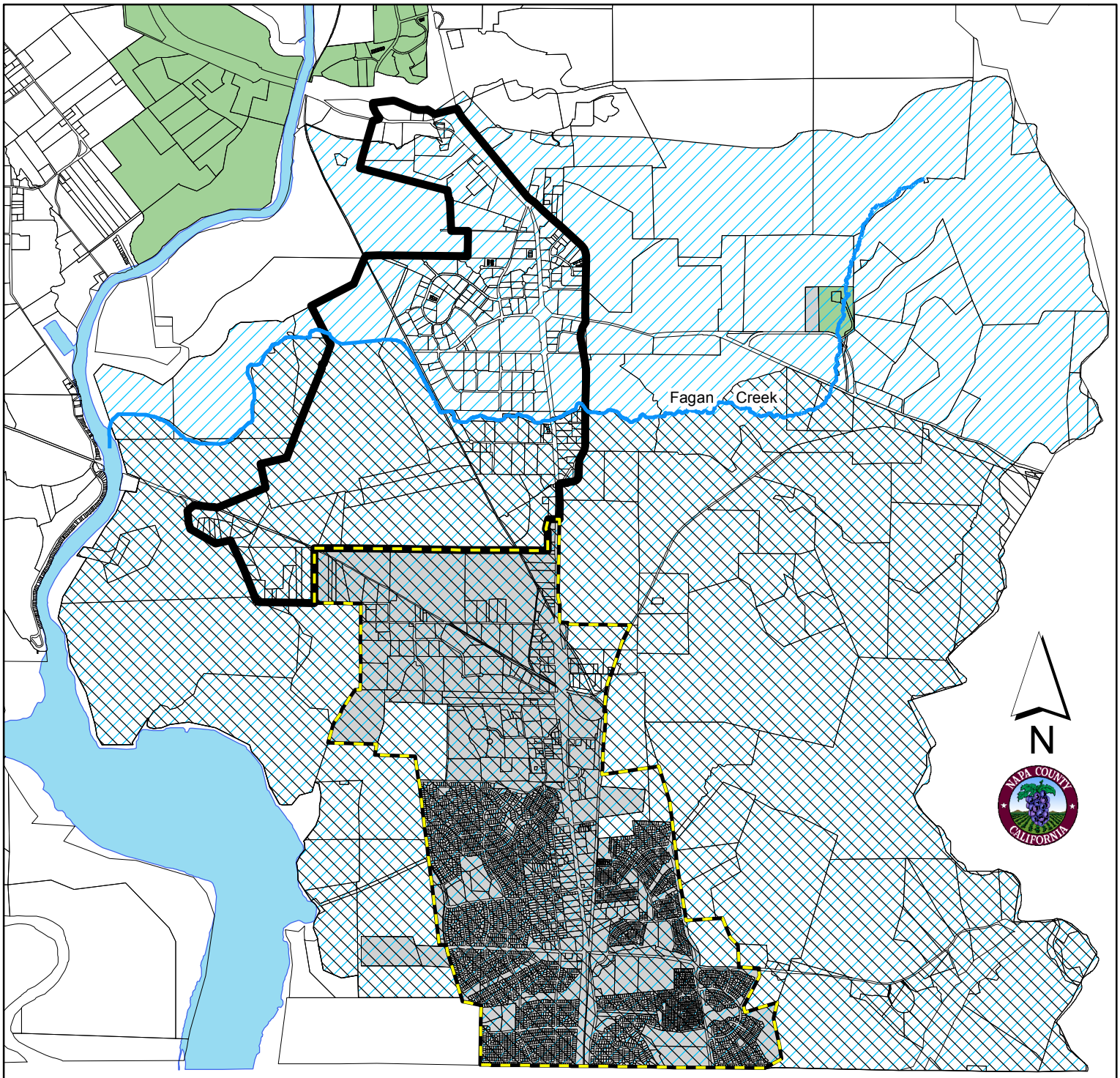
ABSENT: Commissioners _____

ABSTAIN: Commissioners _____

ATTEST: Keene Simonds
Executive Officer

Recorded by: _____
Kathy Mabry
Commission Secretary

Exhibit - A



Legend

- Extraterritorial Sewer Service Area
- Extraterritorial Water Service Area
- Airport Industrial Area
- American Canyon Sphere of Influence
- Parcels
- American Canyon
- Napa

Ver. 02

Extraterritoral Service Areas & Airport Industrial Area

0 0.25 0.5 1 1.5 2 Miles

Napa County

October 8, 2007