



# **LAFCO MEETING AGENDA**

**March 5, 2007**

**4:00 P.M.**

**Board Chambers, County Administration Building  
1195 Third Street, Room 305  
Napa, CA**

Jack Gingles, Chair  
Brad Wagenknecht, Vice-Chair  
Cindy Coffey, Commissioner  
Bill Dodd, Commissioner  
Brian J. Kelly, Commissioner  
Juliana Inman, Alternate Commissioner  
Mark Luce, Alternate Commissioner  
*Vacant*, Alternate Commissioner

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Keene Simonds, Executive Officer  
Jacqueline Gong, Commission Counsel  
Tracy Geraghty, Analyst  
Kathy Mabry, Secretary

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**1. CALL TO ORDER; ROLL CALL**

**2. PLEDGE OF ALLEGIANCE**

**3. APPROVAL OF MINUTES**

Minutes of February 5, 2007

**4. PUBLIC COMMENT**

In this time period, anyone may comment to the Commission regarding any subject over which the Commission has jurisdiction, or request consideration to place an item on a future Agenda. No comments will be allowed involving any subject matter that is scheduled for hearing or discussion as part of this Agenda. Individuals will be limited to a three-minute presentation. No action will be taken by the Commission as a result of any item presented at this time.

**5. CONSENT CALENDAR**

Staff recommends approval of all items on the consent calendar without discussion. Proposed changes of organization or reorganization appearing on the consent calendar meet the provisions of applicable sections of the California Government Code that allow the Commission to waive subsequent protest proceedings.

**None**

**6. PUBLIC HEARING ITEMS**

**a) Appointment of a Alternate Public Member (May 2004 – May 2008)**

The voting members of the Commission appointed by the Board of Supervisors and by the City Selection Committee will consider the appointment of an alternate public member to fill an unexpired term that ends in May 2008. There are four applicants for the position.

**b) Amendments to Adopted Fee Schedule**

The Commission will consider a resolution to amend its adopted fee schedule to reflect new filing charges for the California Department of Fish and Game and the County of Napa Assessor-Recorder's Office. The Commission will also consider an amendment to redirect an existing applicant fee involving the editing of the County/LAFCO Geographic Information System.

**7. COMMISSION ACTION ITEMS**

**None**

**8. COMMISSION DISCUSSION ITEMS**

**a) California Government Code §56133**

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

**b) Presentation from County of Napa: Draft General Plan Update**

The Commission will receive a presentation from the County of Napa regarding its recently released Draft General Plan Update.

**c) Approved Study Schedule: 2007 Staff Work Plan**

The Commission will review a work plan for 2007 with respect to its approved study schedule of municipal service reviews and sphere of influence updates. The work plan is being presented for discussion.

**9. EXECUTIVE OFFICER REPORT**

The Commission will receive an oral report from the Executive Officer regarding staff activities, communication, and active and pending proposals and studies. This includes the following items:

- 2007-2008 Fiscal Year Budget
- Countywide Review of Growth Trends (Commissioner Kelly)
- Los Carneros Water District

**10. INFORMATION ITEMS**

Information items are provided for the Commission to receive and file. The Commission may choose to discuss individual items or to receive and file the entire calendar.

**a) Association of Bay of Governments: Projections 2007**

The Commission will receive a report from staff summarizing the Association of Bay Area Governments' recently released growth projections for Napa County.

**11. CLOSED SESSION**

None

**12. COMMISSIONER COMMENTS; REQUEST FOR FUTURE AGENDA ITEMS**

**13. ADJOURNMENT**

Adjournment to next regular meeting scheduled for April 2, 2007.

In compliance with the Americans with Disabilities Act, those requiring accommodation for this meeting should notify the Napa County Clerk of the Board's Office 24 hours prior to the meeting at (707) 253-4196.



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

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

**March 5, 2007**  
**Agenda Item No. 6a**

February 24, 2007

**TO:** Local Agency Formation Commission

**FROM:** Keene Simonds, Executive Officer

**SUBJECT: Appointment of an Alternate Public Member (Public Hearing)**

The Commission will consider an appointment to fill the vacant and unexpired term of the alternate public member position. The term of the alternate public member position ends in May 2008.

Pursuant to California Government Code Sections 56325(d) and 56331, a public hearing has been scheduled for the city and county members of the Commission to consider an appointment to fill the vacant and unexpired term of the alternate public member position. The current term of the alternate public member position ends in May 2008.

There are four applicants for the vacant alternate public member position. The applicants include Dr. Ronald Citron, Dr. Vic Nienu, Gregory Rodeno, and Bradford Simpkins. Each applicant has been invited to attend the meeting and be available to the Commission for questions or to provide statements, though this is not a requirement for appointment.

Procedures for the appointment of the alternate public member are enumerated as part of the Commission's *Conducting Public Hearings for the Appointment of Regular and Alternate Public Members*. Staff has summarized these procedures as part of an attached memorandum.

**Note:** One of the applicants for the alternate public member position, Bradford Simpkins, currently serves on an advisory committee for the County of Napa. The Commission's *Policies Regarding the Positions of the Public Member and Alternate Public Member* specify that no public member shall serve at the same time as an officer or employee of a local public agency or as a member of a public board, commission, or committee that has the authority to make advisory or final decisions relating to the use of land. Mr. Simpkins has been advised of this policy and is prepared to resign from his committee position if appointed to the Commission.

Attachments:

- ~~1) Application Materials from Candidates~~
- ~~2) Memorandum on Commission's Conducting Proceedings for Appointment of Public Member Position~~
- ~~3) Commission's Policies Regarding the Positions of the Public Member and Alternate Public Member~~

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Mayor, City of Calistoga

Cindy Coffey, Commissioner  
Councilmember, City of American Canyon

Juliana Inman, Alternate Commissioner  
Councilmember, City of Napa

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County of Napa Supervisor, 1st District

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

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

Brian J. Kelly, Commissioner  
Representative of the General Public

Vacant, Alternate Commissioner  
Representative of the General Public

Keene Simonds  
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**March 5, 2007**  
**Agenda Item No. 6b**

February 28, 2007

**TO:** Local Agency Formation Commission

**FROM:** Keene Simonds, Executive Officer

**SUBJECT: Amendment to Adopted Fee Schedule (Public Hearing)**

The Commission will consider a resolution to amend its adopted fee schedule to reflect new filing charges for the California Department of Fish and Game and the County of Napa Assessor's Office for lead and responsible agencies under the California Environmental Quality Act. The Commission will also consider an amendment to redirect an existing fee involving the editing of the County/LAFCO Geographic Information System.

California Government Code §56383 authorizes the Commission to establish a schedule of fees for the costs of carrying out its prescribed regulatory and planning responsibilities. In January, staff was notified by the County of Napa Assessor-Recorder's Office that certain filing fees have been increased for lead agencies under the California Environmental Quality Act (CEQA) as a result of Senate Bill 1535. The County Assessor's Office has also increased its own administrative processing fee, which is now applied to all filings. A summary of these new filing fees are summarized below:

<u>Filing</u>	<u>Old Fee</u>	<u>New Fee</u>
Negative Declaration	\$1,250	\$1,800
Environmental Impact Report	\$850	\$2,500
County Assessor-Clerk Processing Fee	\$35	\$50

In addition to amending the adopted fee schedule to address the new filing fees of the Department of Fish and Game and the County staff recommends that the Commission redirect an existing applicant fee involving the County/LAFCO Geographic Information System (GIS). Currently, applicants processing an annexation with LAFCO are required to pay \$125 to the County to edit the GIS data files that LAFCO originally constructed for cities and special districts through an outside consultant in 2001. This arrangement was established because LAFCO staff was not trained in editing GIS data files. However, staff has subsequently completed a number of training courses and is now capable of assuming these responsibilities. In assuming this additional work, the adopted fee schedule should be amended to redirect the \$125 fee for performing GIS edits to LAFCO.

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Keene Simonds  
Executive Officer

A draft resolution has been prepared and is being presented to the Commission for its consideration. This draft resolution codifies the proposed changes to the Commission's adopted fee schedule as reflected in Exhibit "A."

**Recommendation**

It is recommended that the Commission take the following action:

- 1) Approve the attached draft resolution amending the Commission's adopted fee schedule as reflected in Exhibit "A."

Respectfully submitted,

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Keene Simonds  
Executive Officer

Attachments:

- ~~1) Draft Resolution to Amend Adopted Fee Schedule~~
- ~~2) State of California Office of Planning and Research: Memorandum on Department of Fish and Game Fee Increases~~
- ~~3) County of Napa Assessor Recorder Fee Schedule~~



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

February 27, 2007

**TO:** Local Agency Formation Commission

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

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

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

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

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

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Keene Simonds  
Executive Officer

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

## **Background**

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

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

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

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

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

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

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

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

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

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

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

American Canyon: Successor Agency

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

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

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

## **Discussion**

### Intent of G.C. §56133

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

### New or Extended Services

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

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

### Constitutional Provision

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

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

## **Analysis**

### Intent of G.C. §56133

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

### Past LAFCO Practice

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

### New and Extended Services

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

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

#### Constitutional Provision

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

#### **Commission Options**

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

- **Option A: General Enforcement**

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

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

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

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

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

<b>Advantages</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>• Consistent with G.C. §56133.</li><li>• Would help formalize service provision in south Napa County.</li><li>• Would clarify where LAFCO would be inclined to allow services to be provided in south Napa County.</li></ul>	<ul style="list-style-type: none"><li>• Does not address local conditions and circumstances underlying service arrangements that were established prior to G.C. §56133.</li><li>• Would diminish the meaning and intent of spheres of influence as they relate to signaling future growth and annexation by the affected agencies.</li><li>• Would likely create conflicts for LAFCO in terms of applying this same policy with other agencies in Napa County as it relates to promoting orderly and logical development.</li></ul>





- **Option C: County Service Area**

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

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

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

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

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

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

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

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

**Advantages**

- Would formally recognize local conditions and circumstances underlying water service arrangements that were established prior to the enactment of G.C. §56133.
- Would be consistent with the past practice of LAFCO to acknowledge the water service area inherited by American Canyon as the successor agency to ACCWD.

**Disadvantages**

- Would diminish the intent of G.C. §56133 for LAFCOs to be part of the decision-making process involving the extension of outside services into unincorporated territory.
- Would remove LAFCO from any future review of future outside service arrangements in south Napa County.
- Establishes a policy precedent that LAFCO would apply to similar agreements involving NCFWCWD in Napa County with unknown consequences.
- Does not address the issue of outside sewer service as it relates to G.C. §56133.

## **Summary**

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

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

## **Commission Discussion**

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

Attachments:

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

### **California Government Code Section 56133**

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

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

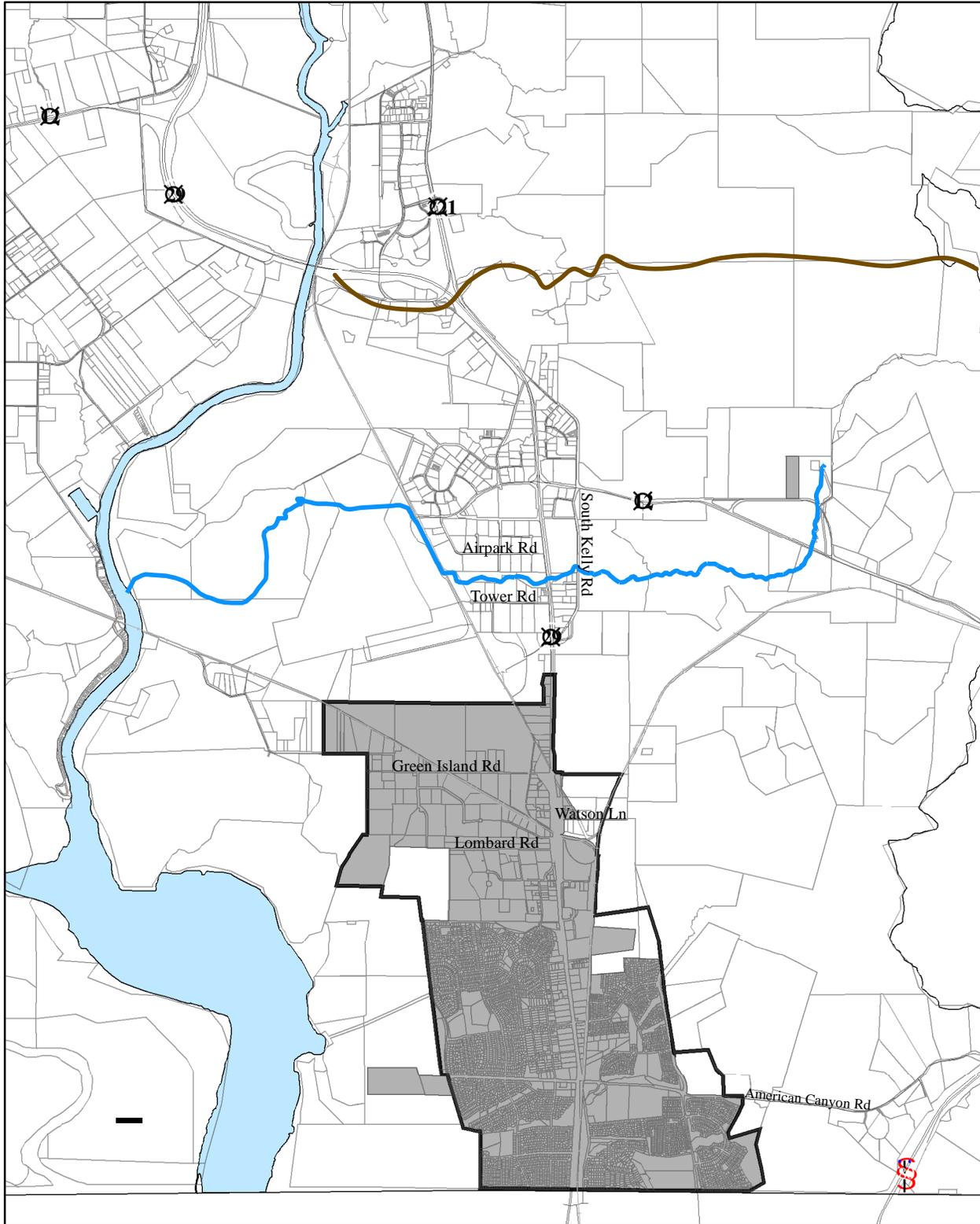
(c) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries and outside its sphere of influence to respond to an existing or impending threat to the public health or safety of the residents of the affected territory if both of the following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

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

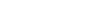
(d) The executive officer, within 30 days of receipt of a request for approval by a city or district of a contract to extend services outside its jurisdictional boundary, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request is determined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

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

# City of American Cayon



## Legend

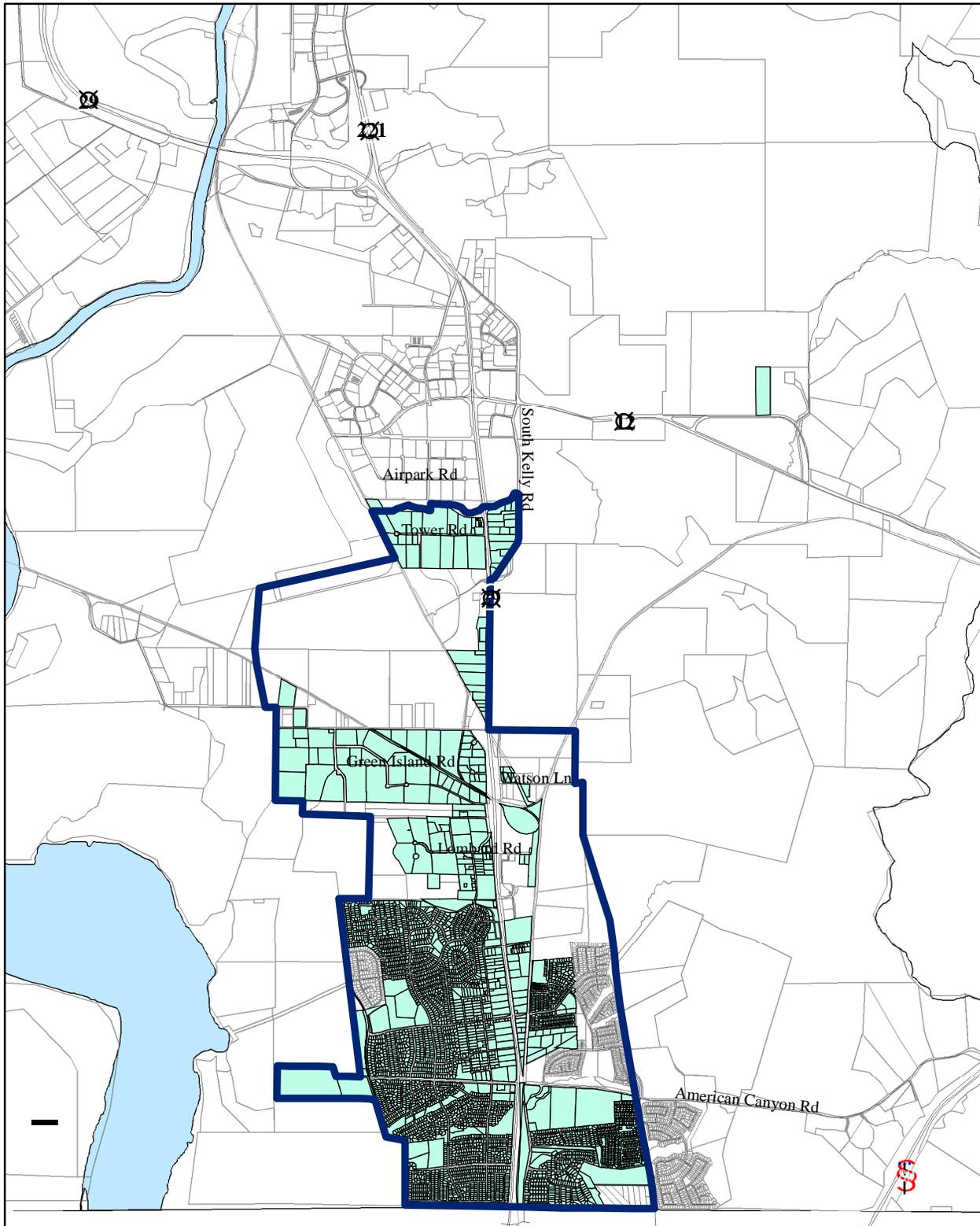
-  City of American Canyon
-  City of American Canyon Sphere of Influence
-  Fagan Creek
-  Soscil Ridge (approximate location)
-  Area to the south represents American Canyon's inherited sewer service area
-  Area to the south represents American Canyon's inherited water service area

*Not to Scale  
February 2007  
Prepared by KS*

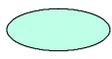


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# American Canyon County Water District



## Legend

-  ACCWD Jurisdictional Boundary
-  ACCWD Sphere of Influence

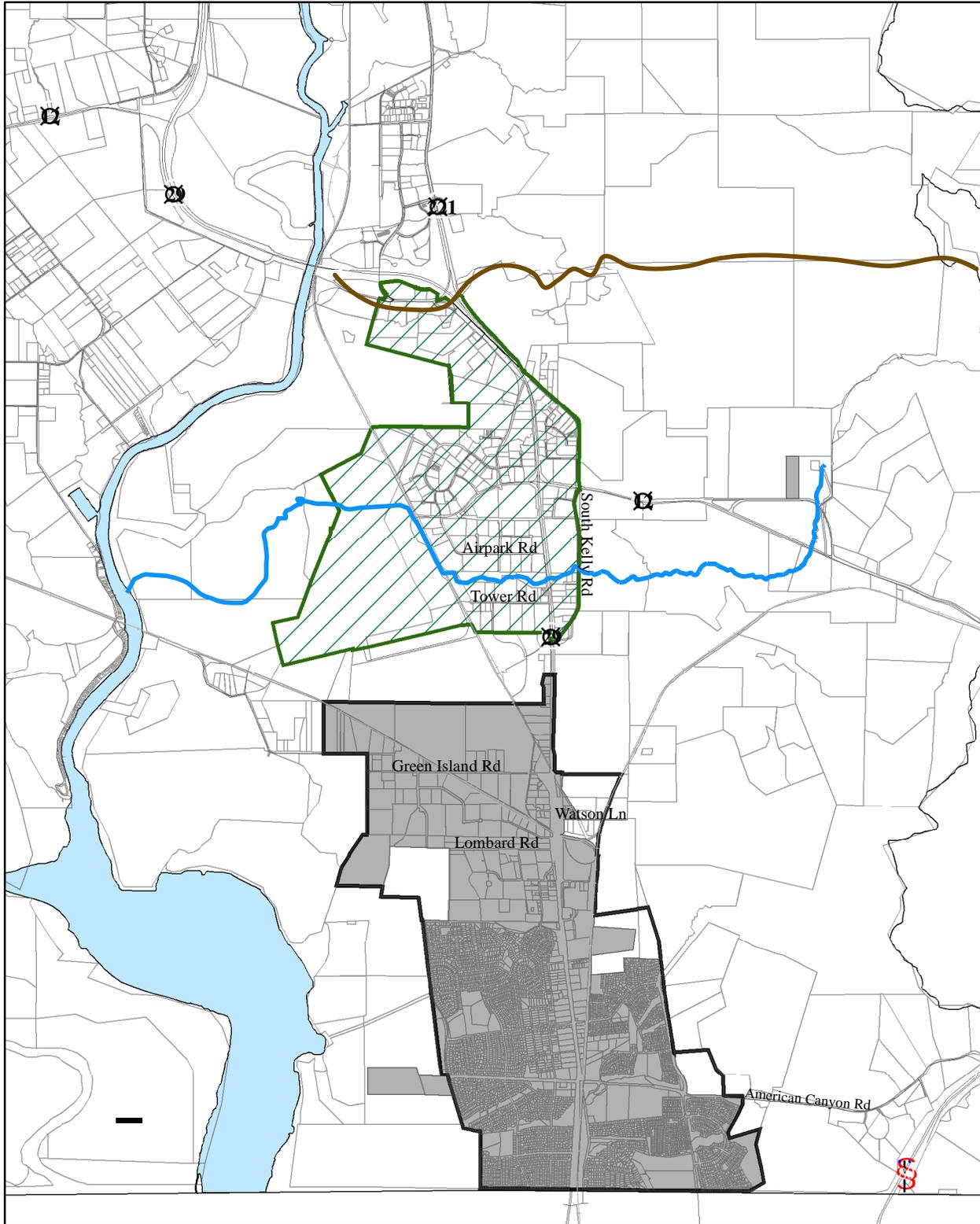
*ACCWD's jurisdictional boundary and sphere of influence depicted are GIS-based recreations of an original 40"x42" map available for viewing at the LAFCO office.*

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

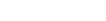


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# City of American Canyon County Service Area No. 3



## Legend

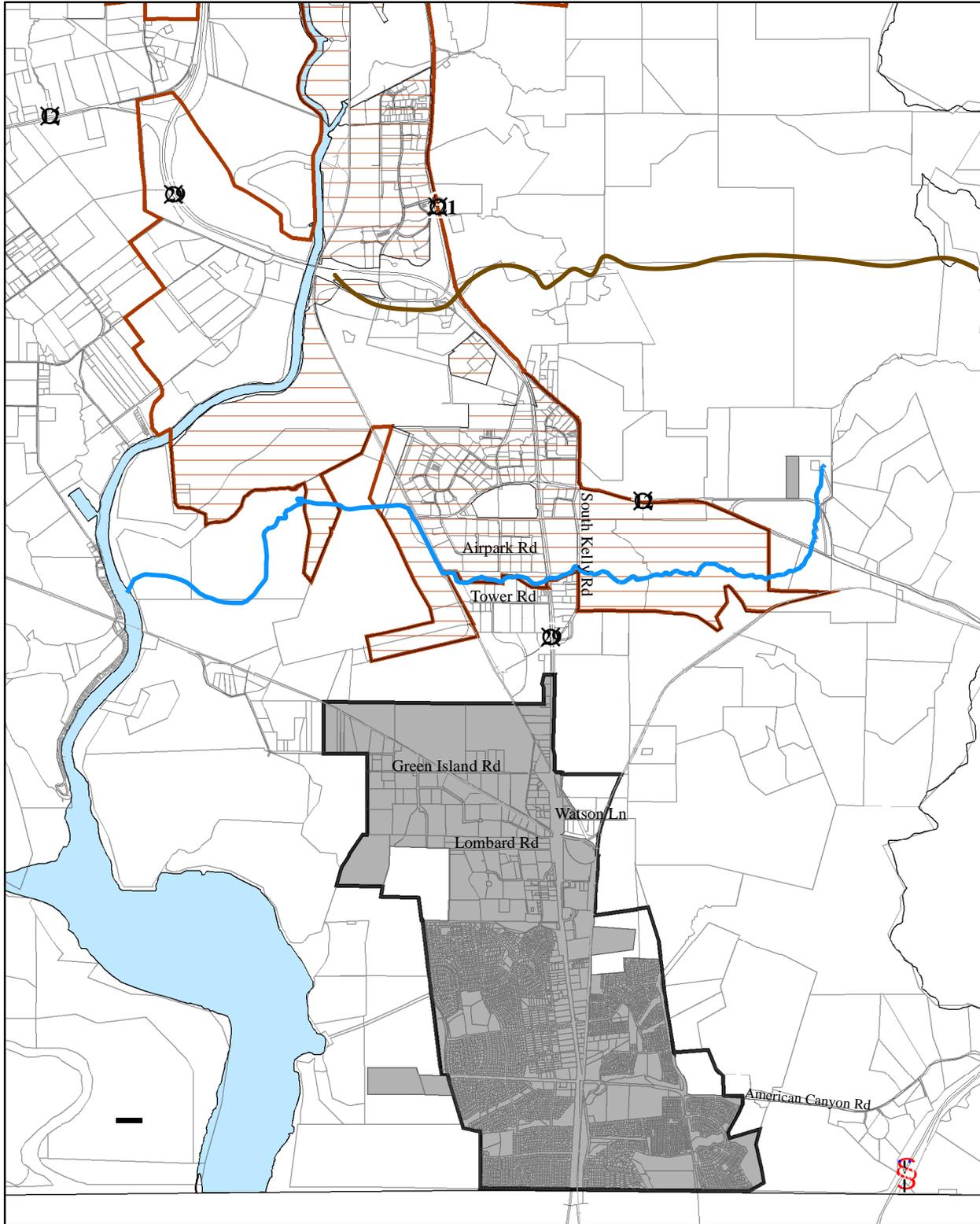
- |                                                                                     |                                                                             |                                                                                     |                                               |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

*Not to Scale  
February 2007  
Prepared by KS*



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# City of American Cayon Napa Sanitation District



## Legend

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

*Not to Scale  
February 2007  
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**March 5, 2007**  
**Agenda Item No. 8b**

February 27, 2007

**TO:** Local Agency Formation Commission

**FROM:** Keene Simonds, Executive Officer

**SUBJECT: Presentation from the County of Napa: Draft General Plan Update (Discussion)**

The Commission will receive a presentation from the County of Napa regarding its recently released Draft General Plan Update.

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On February 16, 2007, the County of Napa released its Draft General Plan Update along with an accompanying Draft Environmental Impact Report for public review and comment. County Planning Director Hillary Gitelman has volunteered to make a presentation to the Commission highlighting the key planning and policy components underlying the Draft General Plan Update and to be available for questions. Staff will return at the Commission's April 2, 2007 meeting with a comment on letter on the Draft General Plan Update for its review and consideration. The comment period on the Draft General Plan Update ends April 16, 2007.

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Jack Gingles, Chair  
Mayor, City of Calistoga

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Councilmember, City of American Canyon

Juliana Inman, Alternate Commissioner  
Councilmember, City of Napa

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

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

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

Brian J. Kelly, Commissioner  
Representative of the General Public

Vacant, Alternate Commissioner  
Representative of the General Public

Keene Simonds  
Executive Officer



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

February 27, 2007

**TO:** Local Agency Formation Commission

**FROM:** Keene Simonds, Executive Officer

**SUBJECT: Approved Study Schedule: 2007 Staff Work Plan (Discussion)**

The Commission will review a staff work plan for 2007 with respect to its approved study schedule for municipal service reviews and sphere of influence updates. The work plan is being presented for discussion.

At its October 11, 2001 meeting, the Commission approved a study schedule to complete its new municipal service review and sphere of influence update requirements under California Government Code §56430 and §56425, respectively. The initial schedule outlined several multi-phased and overlapping studies involving the 22 cities and special districts under the jurisdiction of the Commission. At its March 11, 2004 meeting, the Commission modified the schedule to consolidate and add studies as well as to adjust the projected starting dates to reflect the two year delay by the State of California Office of Planning and Research in issuing final service review guidelines. In 2005, California Government Code was amended to extend the statutory deadline for LAFCOs to complete all service reviews and sphere of influence updates to January 1, 2008.

In order to meet its service review and sphere of influence update requirements by the legislative deadline of January 1, 2008, staff has outlined a work plan for the rest of the calendar year. The work plan draws on the Commission's approved study schedule and is divided between service reviews and sphere of influence updates required for each of the local agencies that fall under the jurisdiction of the Commission. As indicated below, there are only five service reviews that need to be completed as compared to sixteen sphere of influence updates. However, staff anticipates only five of the sixteen remaining updates will require changes to the affected agency's existing sphere of influence. A complete listing of the work plan follows.

**2007 Staff Work Plan: Service Reviews**

<b>Agency</b>	<b>Start Date</b>	<b>Draft Report</b>	<b>Final Report</b>
NCFCWCD	December 2006	April 2, 2007	June 4, 2007
Town of Yountville	February 2007	June 4, 2007	August 6, 2007
City of St. Helena	April 2007	August 6, 2007	October 1, 2007
City of Calistoga	June 2007	October 1, 2007	December 3, 2007
Public Cemeteries *	June 2007	October 1, 2007	December 3, 2007

\* Includes a service review of the Monticello and Pope Valley Cemetery Districts

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Keene Simonds  
Executive Officer

**2007 Staff Work Plan: Sphere of Influence Updates**

<b>Agency</b>	<b>Start Date</b>	<b>Draft Report</b>	<b>Final Report</b>
Silverado CSD	February 2007	-----	April 2, 2007
NRRD No. 2109	February 2007	-----	April 2, 2007
American Canyon FPD	March 2007	June 4, 2007	August 6, 2007
CSA No. 3	March 2007	June 4, 2007	August 6, 2007
NCFCWCD	April 2007	-----	June 4, 2007
Circle Oaks CWD	April 2007	June 4, 2007	August 6, 2007
Town of Yountville	May 2007	-----	August 6, 2007
City of St. Helena	May 2007	August 6, 2007	October 1, 2007
Spanish Flat WD	June 2007	-----	October 1, 2007
Lake Berryessa RID	June 2007	-----	October 1, 2007
Napa Berryessa RID	June 2007	-----	October 1, 2007
Congress Valley WD	August 2007	October 1, 2007	December 3, 2007
City of Calistoga	October 2007	-----	December 3, 2007
Los Carneros WD	October 2007	-----	December 3, 2007
Monticello Cemetery	November 2007	-----	December 3, 2007
Pope Valley Cemetery	November 2007	-----	December 3, 2007

In preparing the work plan, staff has not scheduled items to be presented to the Commission at its May, September, and November meetings. This provides an opportunity for staff to maintain a more conservative and realistic pace in preparing and presenting the reports while offering the opportunity for the Commission to cancel these meetings if appropriate without disrupting the work plan.



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**March 5, 2007**  
**Agenda Item No. 10a**

February 28, 2007

**TO:** Local Agency Formation Commission

**FROM:** Keene Simonds, Executive Officer  
Tracy Geraghty, Analyst

**SUBJECT:** Association of Bay Area Governments' *Projections 2007*

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The Association of Bay Area Governments (ABAG) recently circulated copies of its *Projections 2007* to local agencies and interested parties. These projections provide growth estimates for all nine Bay Area counties and their cities with respect to total households, jobs, and residents through 2035. These projections will be key factors in the housing allocation each city and county must include in their updated housing elements. The housing allocation numbers are expected to be released in draft form in June.

ABAG's process for developing its projections begins by preparing growth estimates for each Bay Area county. These growth estimates are based on modeling that draws on historical growth and employment trends. ABAG then disburses the county growth estimates among the local jurisdictions (county and cities) based on a variety of planning factors and policies. An important input helping guide the disbursement process is the designation by ABAG of long-term planning areas for the cities. In Napa County, ABAG uses the cities' spheres of influence as their long-term planning areas with the notable exception of the City of Napa. (At its request, Napa's adopted urban growth boundary is used as its long-term planning area.)

*Projections 2007* anticipates continued minimal population growth in the upvalley and unincorporated communities through 2035. The cities of Napa and American Canyon are expected to see nearly 90% of the county's overall population growth with annual increases of 0.5% and 1.4%, respectfully.

Attachment:

~~1) *Projections 2007*~~

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Dr. Andrew Alexander, Vice-Chair  
Mayor, City of Calistoga

Kevin Block, Commissioner  
Councilmember, City of Napa

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Councilmember, City of American Canyon

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