



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

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

Agenda Item 7g

TO: Local Agency Formation Commission

PREPARED BY: Laura Snideman, Executive Officer

MEETING DATE: December 1, 2014

SUBJECT: Amend the Commission's Outside Service Agreements Policy to Address Trucked Water

RECOMMENDATION

Amend the Commission's Outside Service Agreements policy to add a new section "**IV B. Trucked Water**" and make minor technical corrections per the attached policy.

SUMMARY

When water from a city or special district is treated and trucked out of the agency's jurisdictional boundary it is considered a "new or extended use" and is subject to LAFCO Commission authorization under certain provisions within Government Code Section 56133 ("56133"). Incorporating additional language into the Commission's existing policy clarifies some exemptions, creates a streamlined process for single family homes, and maintains flexibility for Commission discretion for business enterprises.

ANALYSIS

The four primary LAFCO goals under the Government Code are to:

- A) Discourage urban sprawl
- B) Preserve open space
- C) Efficiently provide government services
- D) Encourage orderly formation and development of local agencies

By concentrating new development in existing cities utilizing existing city services, all of these goals are met. When a particular new development, whether it be a single family home or a new tourist destination, is outside of a city or special district providing water and does not have a sufficient reliable source of water, there is concern that the process used to permit such facilities is failing us all. There is a further concern that reliance on long-term trucked water to solve the water supply problem is not the answer as it doesn't meet LAFCO goals, especially the one about efficiently providing government services. Structuring a policy around trucked water needs to balance various concerns.

Joan Bennett, Vice Chair
Councilmember, City of American Canyon

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

Brian J. Kelly, Chair
Representative of the General Public

Greg Pitts, Commissioner
Councilmember, City of St. Helena

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

Gregory Rodeno, Alternate Commissioner
Representative of the General Public

Juliana Inman, Alternate Commissioner
Councilmember, City of Napa

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

Laura Snideman
Executive Officer

The intent of this additional policy language is to include review of those who are regularly using trucked water for various domestic and commercial uses, to maintain a flow of water for basic health and safety purposes during emergencies and for shorter-term uses, to discourage long-term reliance on trucked water, and to exempt water being used for firefighting or dust control for short-term construction projects. In addition, this approach provides the Commission the broadest possible flexibility and latitude at this junction. However, the recommendation is not as strong as some would like it to be and it does not define all of the terms used in 56133. Therefore, as additional data is obtained and as specific applications are made to LAFCO, it is likely future policy modifications will be recommended.

As a first step in discouraging long-term reliance on trucked water, the recommended addition to the Commission's current policy is as follows:

IV. B Trucked Water

- 1) Properties receiving more than 0.1 acre-feet (32,585 gallons) of trucked water in any calendar year must receive appropriate authorization in compliance with Government Code Section 56133 and this policy.
- 2) Trucked water used solely for active firefighting or the purpose of dust control on construction projects lasting fewer than 90 days is exempt from these requirements.
- 3) The finding of the "threat to the public health or safety of the residents" shall be made by the Napa County Health Officer.
- 4) Requests for authorization of trucked water to single family homes not served by a public water system may be handled administratively in accordance with Policy Section IV. A. 4).
- 5) All reports and requests to the Commission shall include a written plan from the County of Napa for a long-term solution for water supply specific to the property seeking authorization.
- 6) In accordance with California Health and Safety Code Section 116555(a)(3) requiring a "reliable" source of potable water, trucked water is not considered reliable and will not be authorized for those served by public water systems, whether residential, industrial, agricultural, or commercial.
- 7) Authorizations shall automatically expire on December 31 each calendar year and LAFCO re-authorization in accordance with the policy in effect at the time of application is required to continue receiving trucked water after this time.

ATTACHMENT

- 1) Outside Service Agreements Policy



LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

Outside Service Agreements

I. Background

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

II. Purpose

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

III. Objective

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

IV. Outside Service Agreement Policies

A. General Statements

- 1) Annexations to cities and special districts involving territory located within the affected agency's sphere of influence is generally preferred to outside service agreements. The Commission recognizes, however, there may be instances when outside service agreements involving territory within the affected agency's sphere of influence is appropriate given local circumstances.
- 2) The Commission shall authorize a city or special district's request to provide new or extended services outside their jurisdictional boundary and sphere of influence only in response to either an (a) existing or (b) impending threat to public health or safety in accordance with Government Code Section 56133(c).
- 3) The Commission recognizes the importance of proactively addressing impending threats to public health and safety in considering requests for outside water and sewer services in support of existing and planned residential uses with reasonable access to existing infrastructure. Accordingly, the Commission will consider outside water and

Adopted: November 3, 2008

Amended: June 6, 2011, December 1, 2014

sewer service requests for purposes of addressing an impending public health or safety threat if all of the following criteria is applicable:

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

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

B. Trucked Water

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B.C. Form of Request

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

C.D. Review of Request

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

D.E. Consideration of Request

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

- 1) The ability of the applicant to extend the subject service to the affected land.
- 2) The application’s consistency with the policies and general plans of all affected local agencies.

- 3) The application's effect on growth and development within and adjacent to the affected land.

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