



Date: January 27, 2010 for February 3<sup>rd</sup> Agenda

To: LAFCO Commissioners

From: Executive Officer

Subject: Continued Discussion of Revising Water Policies and Establishing a Water Policy Committee

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*Summary: The Commission has listed a review of its water policies as a top priority item on its work program. The staff has revised the policy paper that it prepared for the November 4, 2009 meeting. The Commission should reconsider the number of Commissioners assigned to this committee.*

*Recommendation: Rescind the decision to establish a 4-person committee to work on water policy and appoint a 3-person committee.*

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At its January 6, 2010 meeting, LAFCO set up a 4-person committee to work on revising Santa Cruz LAFCO's water policies. Subsequent to January 6<sup>th</sup>, LAFCO Counsel has performed additional research and has sent the Commission a confidential memo evaluating the options available for Brown Act compliance. While the law is not perfectly clear on the standing of a 4-person committee, the Commission may want to reconsider the number of people on the committee. A 3-person committee, comprising less than a quorum of the Commission, is more customary and has clear precedents in Brown Act compliance. The committee has not met, and has not scheduled a meeting.

The staff has attached a paper titled "Review of Water Policies," which staff has augmented since the November 4, 2009 meeting. The additions are shown in italics.

In order to structure the Water Policy Committee's work, staff offers the following points to consider including in the Commission's instructions to the committee:

- 1) The first committee meeting should be held in February 2010.
- 2) The committee will make progress reports at each Commission meeting. Oral progress reports are acceptable.
- 3) The committee will conduct its business in open meetings subject to the Brown Act.
- 4) The committee should complete its work by August 4, 2010, or sooner if possible.

While the purpose of the committee seems to be clearly understood by all Commissioners and staff, I'll summarize my understanding of its assignment:

- a. Review existing Santa Cruz LAFCO policies that concern water services and recommend any deletions, changes, and additions it deems advisable.
- b. During its review, the committee should include in its work an examination of water policies of other LAFCOs.

Attachment: Review of Water Policies

**Santa Cruz LAFCO**  
**Review of Water Policies**  
**Updated January 2010**

(Revisions from November 2009 Version are shown in italics)

On its work program, the Commission has set as a top priority the review of its water policies. To start the review process, the staff has prepared this memo

The Commission, in accordance with state law, has eight types of applications to consider and act upon concerning water agencies:

- 1) Sphere of Influence Amendment
- 2) Annexation
- 3) Detachment
- 4) District Formation
- 5) District Dissolution
- 6) Conversion to be a Subsidiary District of a City
- 7) District Consolidation
- 8) Extraterritorial Service Authorization (providing service outside a water agency's boundaries).
- 9) Areawide Approval of Service Area Outside Agency Boundaries.

The following table lists number of applications the Commission has reviewed in each category during the 29-year period since January 1, 1981.

Type	Number of Applications
1) Sphere of Influence Amendment	24
2) Annexation	46
3) Detachment	7
4) District Formation	1
5) District Dissolution	0
6) Conversion to be a Subsidiary District of a City	0
7) District Consolidation	1
8) Extraterritorial Service Authorization	27
9) Areawide Approval of Service Area Outside Agency Boundaries	2
TOTAL	108

**CURRENT POLICIES**

Policies in State LAFCO Law

Most of the State LAFCO law is process-oriented. The mission objectives for LAFCO in State law are:

- to encourage efficient service areas for services provided by cities, counties, and special districts;
- to guide urban development away from prime agricultural lands and open space resources; and
- to promote orderly growth and discourage urban sprawl.

One section of State LAFCO law is particularly pertinent to water issues is Government Code Section 56668, which lists the factors that a LAFCO must consider when reviewing a boundary change applications. One factor is:

(k) The timely availability of water supplies adequate for projected needs as specified in Section 65352.5.

Government Code Section 65352.5 (attached) requires a water department, water district, or other water supplier to provide specified water supply information to a city or county when a general plan or substantial general plan amendment is being drafted. The purpose of the law is to provide a standardized process for determining the adequacy of existing and planned future water supplies to meet existing and planned future demands on these water supplies.

The law further authorizes each of the 58 LAFCOs to adopt more specific local LAFCO policies to guide the decision-making process in each County. Santa Cruz LAFCO has adopted the following policies that have direct bearing on water issues:

### Santa Cruz LAFCO Sphere of Influence Policies and Guidelines<sup>1</sup>

#### Guideline III 9

When more than one agency could serve an area, the agencies' services capabilities, costs for providing services, and the desires of the affected community will be key factors in determining a sphere of influence.

### Santa Cruz LAFCO Standards for Evaluating Proposals<sup>2</sup>

#### Standard 1.2.2

For proposals concerning water and sewer district annexations, need shall be established by lack of services to existing urban land uses, or a building permit application or allocation for a single-family dwelling or, for a larger project, by (a) a tentative or final land use entitlement (tentative subdivision map use permit, etc.) conditioned on obtaining water or sewer service and (b) a growth rate and pattern that the subject area will be developed within 5 years.

#### Standard 1.5.1

It is the general policy of the Commission to disapprove annexations to water and sewer agencies (including cities that provide either service) while there is a connection moratorium or other similar service limitation involving the subject water or sewer service. The Commission will consider exceptions to this general policy on a case-by-case basis. The Commission may approve an annexation that meets one or more of the following criteria:

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<sup>1</sup> Santa Cruz LAFCO's Sphere of Influence Policies are available on its website at: <http://santacruzlafco.org/pages/spheresofinfluence.html> . The Commission utilizes these policies when adopting or amending a city's or district's sphere of influence.

<sup>2</sup> Santa Cruz LAFCO's Standards for Evaluating Proposals are available on its website at: <http://santacruzlafco.org/pages/standards.html> . The Commission utilizes these policies when reviewing applications for annexations, detachments, district formation, and other changes of organization.

- 1) To replace a private water source that has failed, such as a well that has gone dry. New service connections shall not be sized to accommodate more intensive development.
- 2) To replace a septic system that has failed. New service connections shall not be sized to accommodate more intensive development.
- 3) To implement a transfer of service between two existing agencies in a manner that is consistent with the adopted Spheres of Influence of those agencies.
- 4) To change a boundary, in a manner consistent with an adopted Sphere of Influence, so that an agency boundary does not divide a property that could only be conveyed under a single deed.

Between January 1, 1986 and the time the service limitation is totally lifted, the Commission shall limit the annexations so that the number of cumulative connections made under the above exemption criteria do not exceed 1% of the total agency's flow (as expressed in equivalent single family dwelling units) in service on January 1, 1986.

An additional criterion, not subject to the 1% cumulative impact limitation, is as follows:

- 5) To provide facilities or funding that will allow the agency to lift its service limitation

#### Standard 1.6.1

For proposals involving the extension of water, or general municipal services to proposal areas greater than 50 acres, the proponent shall either (a) plan staged growth beginning closest to an existing urban area or (b) demonstrate why such a plan does not promote urban sprawl and an inefficient pattern of services.

#### Standard 2.1.1

New or consolidated service shall be provided by one of the following agencies in the descending order of preference:

- annexation to an existing city,
- annexation to an existing district of which the Board of Supervisors is the governing body,
- annexation to an existing multi-purpose district,
- annexation to another existing district
- formation of a new county service area,
- incorporation of a new city,
- formation of a new multi-purpose district,
- formation of a new single-purpose district.

## Policies and Regulations for Agencies to Provide Services to Private Parties Outside Agency Boundaries<sup>3</sup>

### Section 5 Areawide Approvals

Before granting an areawide approval, the Commission shall determine that the city or district is able to provide the service in a manner that does not negatively affect the services that are provided within the agency's boundaries and sphere of influence, and in a manner that does not negatively affect the resources in the area. Also, before granting an areawide approval, the Commission shall determine that the approval is consistent with the requirements of law and LAFCO policies.

### *Section 9 Policies*

*The Cortese-Knox Local Government Reorganization Act of 1985 and this Commission's adopted policies to implement that act stress the primacy of spheres of influence in coordinating services and protecting resources. Therefore, the Commission intends to reinforce that the standard manner in which services will be extended is by annexation (and sphere of influence amendment, if necessary). The Commission shall limit its extraterritorial service authorizations to public health emergencies and circumstances where:*

- A) Facilities are already in place, and*
- B) Annexation would not be practical, and*
- C) Extraterritorial service is determined by the Commission to be consistent with the policies adopted in and pursuant to the Cortese-Knox Act.*

## **WATER AGENCIES SUBJECT TO LAFCO'S BOUNDARY REGULATION**

The Countywide Service Review<sup>4</sup>, using data gathered in 2005, contains supply, demand, and infrastructure data for the nine water agencies subject to LAFCO's boundary and service area regulation. The following tables have been extracted from that report. *It should be noted that the supply and demand figures were provided by each agency based upon reports available in 2005. Agencies may use differing methodologies to calculate supply and demand amounts. Therefore, the supply and demand amounts in the first table should not be directly used when applying any current LAFCO policy or any revised LAFCO policy that comes out of this policy review. In reviewing any future application, LAFCO should use the best water data available at the time the application is being reviewed.*

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<sup>3</sup> Santa Cruz LAFCO's Policies and Regulations for Agencies to Provide Services to Private Parties Outside Agency Boundaries are available on its website at:

<http://santacruzlafco.org/Library/Extraterritorial%20%20Policies%202008.pdf>

<sup>4</sup> The Countywide Service Area is available on Santa Cruz LAFCO's website at:

<http://santacruzlafco.org/pages/reports/CSR%20Public%20Review%20Draft/02.Water.PublicRevwDraft.06-05.pdf>

**Potable Supply and Demand Summary**  
(Acre-feet/Year)

Agency	Existing Supply	Existing Demand	Difference	Projected Supply 2020	Projected Demand 2020	Difference
City of Santa Cruz	13,328	13,328	0	15,826	15,826	0
City of Watsonville	7,635	7,077	558	9,326	8,881	445
Central Water District	636	625	11	736	703	33
Davenport County Sanitation District	56	56	0	NP	NP	
Lompico County Water District	88	88	0	90	90	0
Pajaro Valley Water Management Agency	NA	NA	NA	NA	NA	NA
San Lorenzo Valley Water District	2,125	1,820	305	2,210	1,915	295
Scotts Valley Water District	2,031	2,031	0	1,868	1,868	0
Soquel Creek Water District	5,786	5,786	0	4,800	5,430	(630)
<b>TOTAL</b>	<b>31,685</b>	<b>30,811</b>	<b>874</b>	<b>34,856</b>	<b>34,713</b>	<b>143</b>

*Note: Watsonville's surplus is based upon pumping, treatment, and storage, not necessarily "safe yield" of the PV aquifer.*

**Domestic Water Infrastructure Summary**

Agency	Total No. of Connections	No. of Wells	Treatment Capacity	No. of Pump Stations	Miles of Pipeline	No. of Interties
City of Santa Cruz	23,724	3	2 mgd	17	292	2
City of Watsonville	13,542	12	2.5 mgd	14	150	0
Central Water District	842	5	NA	4	15	2
Davenport County Sanitation District	114	0	.05 mgd	0	3.5	0
Lompico County Water District	498	4	0.4 mgd	4	24	0
Pajaro Valley Water Management Agency	NA	NA	NA	NA	NA	NA
San Lorenzo Valley Water District	5,805	6	1.8 mgd	24	125	2
Scotts Valley Water District	3,700	16	3.4 mgd	9	55	1
Soquel Creek Water District	13,570	16	7.6 mgd	11	138	4

**COORDINATION BETWEEN WATER AGENCIES AND LAND USE PLANNING AGENCIES**

There are a number of state statutory provisions that specify coordination between retail water providers and land use regulatory agencies. General Plan law<sup>5</sup> requires a city or county, when preparing a general plan or a substantial general plan amendment, to refer its new plan to any public water system that serves the planning area. The public water system must provide the planning agency with specified information regarding the water supply.

The Urban Water Management Act<sup>6</sup> requires water agencies that have 3,000 or more connections, or which supply more than 3,000 acre-feet per year, to prepare

<sup>5</sup> Government Code Sections 65352 and 65352.5 (The later section is attached to this memo.)

<sup>6</sup> Water Code Section 10610 et seq.

and adopt Urban Water Management Plans every five years. The planning horizon is 20 years. An Urban Water Management Plan contains information about past and projected water use, identifies conservation measures in use, evaluates additional water conservation and management measures that could be implemented, and sets a schedule for implementing the recommended actions.

Senate Bill 610 (Costa, 2001)<sup>7</sup> requires the preparation of Water Supply Assessments for larger new developments, including those with 500 or more residential units; 500,000 or more square feet of retail development; and 250,000 or more square feet of office development. The assessment is prepared by the water agency. The assessment must determine whether projected water supplies will be sufficient to satisfy project demands in addition to planned future uses. If it concludes that existing supplies will be insufficient, the water agency must submit plans for acquiring additional water supplies. The Water Supply Assessment becomes part of the environmental impact report or other environmental review document prepared under the California Environmental Quality Act (see below). Senate Bill 221 (Kuehl, 2001)<sup>8</sup> requires a public water system to prepare a Water Supply Verification when a land use agency is approving large subdivisions. The water agency must show that there is a sufficient water supply to serve the new development.

The California Environmental Quality Act<sup>9</sup> (CEQA) includes water supply availability and impacts on water resources as potential environmental impacts that must be evaluated; disclosed; and, where feasible, mitigated prior to a land use agency approving a development project or a water agency approving a water supply project. CEQA does allow the lead agency to proceed with a project that has unmitigated environmental impacts by making a statement of overriding determinations.

## **POTENTIAL POLICIES--CODIFICATION OF PAST PRACTICES**

In the consideration of re-drafting water policies, staff has started with a potential block of policies that would supplement existing written policies by codifying the basis for its water decisions over the last 25+ years. The following policies (A-C) could be added to represent a codification of past practices:

- A) Governance -It is preferable that the people who use water also participate in the governance of the system that provides the water. Therefore, in making decisions on spheres of influence and boundary changes, the Commission will favor water supply entities for which the users of the system participate in the governance of the system (such as cities, water districts, mutual water companies, and individually-owned wells) over investor-owned private water companies.

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<sup>7</sup> Water Code Sections 10910-10912

<sup>8</sup> Government Code Section 66473.7

<sup>9</sup> Public Resources Code Section 15000 et seq.

- B) Extraterritorial Service When Annexation is Practical--When the Commission authorizes the emergency provision of water or sanitary sewer services via extraterritorial service outside an agency's boundaries, and annexation is practical, the Commission will require annexation to be completed within two years.
- C) Reorganization Studies--The Commission will use Sphere of Influence adoptions and reviews, Municipal Service Reviews, and special studies to evaluate options for re-structuring the agency boundaries and/or the governance structure in a manner that would promote a more efficient provision of public services.

## **POTENTIAL POLICIES--NEW DIRECTIONS**

If the Commission want to shift policies away from past practices, the following *three* policies (D-F) demonstrate directions in which to policy shift could go.

- D) Adequate, Reliable, and Sustainable Supply (SLO LAFCO Policy)--  
In any proposal requiring water service, the Commission requires that the agency to which the annexation is proposed should demonstrate the availability of an adequate, reliable and sustainable supply of water. In cases where a phased development is proposed, the agency should demonstrate that adequate service capacity will be provided as needed for each phase. In cases where a proposed annexation will be served by an onsite water source, the proponent should demonstrate its adequacy (Government Code Section 56668 (k)).
- E) Best Practices--In reviewing any sphere of influence adoption or amendment, or any boundary change application, the Commission will favor an agency that is maximizing the application of best practices to conserve natural resources over an agency that has not fully applied best practices.
- F) *Greater Specificity in Application Information (El Dorado LAFCO Policy)--  
All applicants must provide the following:*
  - (a) *A capacity analysis which states:*
    1. *the number of service units available (units can be described as parcels, meters, equivalent dwelling units or other project specific units of measure as approved by the Executive Officer);*
    2. *the number of service units currently allocated;*
    3. *the total number of service units within agency boundaries, including assessment districts which may cross district boundaries, that are entitled to receive service;*

*4. the number of service units proposed to be added as a result of the annexation;*

*5. the total number of service units entitled to receive services as a result of the proposed project. In the event that the applicant or annexing agency finds that there are not enough service units available to provide for number 5, the applicant shall provide a plan for obtaining the capacity necessary to provide service.*

*(b) A description of the size, location and capacity of existing infrastructure.*

*(c) A statement from the annexing agency disclosing its disposition regarding responsibility to reserve capacity for unserved property within agency boundaries and current estimates of unserved property within its current boundaries.*

*(d) A list of the conditions that the applicant must meet in order to receive services from the annexing agency, such as annexation costs, facility plan report, fire flow requirements, on and off site construction requirements, or easements, and a statement regarding who is responsible to fund required items.*

*(e) A statement of intent to provide services by the annexing agency, including a description of the applicant's requirements to fund infrastructure so that areas within the district can be served, or will continue to be served, at the same or higher level of service, and proposed service areas will be accommodated at the same or a higher level of service. If the annexing agency cannot provide the latter guarantees, then the applicant or annexing agency shall provide a written justification for project approval despite anticipated negative impacts.*

**Government Code 65352.5.**  
**Coordination between Water Suppliers and Planning Agencies**

(a) The Legislature finds and declares that it is vital that there be close coordination and consultation between California's water supply agencies and California's land use approval agencies to ensure that proper water supply planning occurs in order to accommodate projects that will result in increased demands on water supplies.

(b) It is, therefore, the intent of the Legislature to provide a standardized process for determining the adequacy of existing and planned future water supplies to meet existing and planned future demands on these water supplies.

(c) Upon receiving, pursuant to Section 65352, notification of a city's or a county's proposed action to adopt or substantially amend a general plan, a public water system, as defined in Section 116275 of the Health and Safety Code, with 3,000 or more service connections, shall provide the planning agency with the following information, as is appropriate and relevant:

- (1) The current version of its urban water management plan, adopted pursuant to Part 2.6 (commencing with Section 10610) of Division 6 of the Water Code.
- (2) The current version of its capital improvement program or plan, as reported pursuant to Section 31144.73 of the Water Code.
- (3) A description of the source or sources of the total water supply currently available to the water supplier by water right or contract, taking into account historical data concerning wet, normal, and dry runoff years.
- (4) A description of the quantity of surface water that was purveyed by the water supplier in each of the previous five years.
- (5) A description of the quantity of groundwater that was purveyed by the water supplier in each of the previous five years.
- (6) A description of all proposed additional sources of water supplies for the water supplier, including the estimated dates by which these additional sources should be available and the quantities of additional water supplies that are being proposed.
- (7) A description of the total number of customers currently served by the water supplier, as identified by the following categories and by the amount of water served to each category:
  - (A) Agricultural users.
  - (B) Commercial users.
  - (C) Industrial users.
  - (D) Residential users.
- (8) Quantification of the expected reduction in total water demand, identified by each customer category set forth in paragraph 7, associated with future implementation of water use reduction measures identified in the water supplier's urban water management plan.
- (9) Any additional information that is relevant to determining the adequacy of existing and planned future water supplies to meet existing and planned future demands on these water supplies.