

M E M O R A N D U M

TO: Local Agency Formation Commission

FROM: Stephen Lucas, Executive Officer

SUBJECT: **Agenda Item 6.1 - Executive Officer's Report**

DATE: August 28, 2023 for the meeting of September 7, 2023.

ADMINISTRATION:

- Staff was asked to participate with the California Special Districts Association (CSDA) in reorganizing a Butte County Special Districts Chapter. Staff attended their meeting on August 21, 2023, and offered the special districts our support with the endeavor and future needs. Annabel Grimm, Manager of the Chico Area Recreation and Park District accepted the initial presidency in order for the chapter to begin organizing.

PROJECT/GENERAL NOTES:

The following issues/proposals are being reviewed, discussed and/or considered at various stages.

- ***Water Districts*** - Staff has been assisting Butte Water District with service issues related to development proposals in the City of Gridley and its Sphere of Influence. The issues are related to mitigations for open canals that represent significant health and safety issues, which is also a LAFCo concern. There is also frustration with the City's processing of entitlements/projects related to early consultations with affected agencies, timely public hearing notices to affected agencies and landowners, and other irregularities. The Commission has consistently directed its Staff to assist our member agencies when appropriate and we will continue to monitor this issue and assist however we can help so as to resolve these types of issues before a LAFCo application is submitted.
- ***County Service Area (CSA) Reorganization*** – At its June 13, 2023, meeting, the Board of Supervisors was provided with an update on the status of the CSA program, administered by the Butte County Public Works Department. The report indicated that many CSAs within the County are severely underfunded and pursuing additional funding is difficult given the costly Prop 218 process. Ultimately, staff was given direction by the Board to pursue a ballot initiative for CSAs providing essential sewer service, and to coordinate with LAFCo staff to potentially dissolve or consolidate underperforming or underutilized CSAs. LAFCo staff has since met with Public Works staff and Deputy CAO Dawn Nevers to convey our willingness to collaborate on this endeavor.
- ***Chico Island Annexations*** – At its October 6, 2022, and February 2, 2023, meetings, the Commission approved the annexations of the last four remaining island areas within the City of Chico. Consistent with the Island Annexation Agreement (2022), recordation of the islands would be staggered to allow the City reasonable time to prepare for the provision of services to the areas. The Chico Canyon Road Island Area was approved subject to protest proceedings, which concluded on March 29, 2023, resulting in protest ballots received from 40% of the registered voters in the affected territory. As such, the annexation must be confirmed by the registered voters residing in the territory. The Chico City Council called for a special mailed ballot municipal election on October 3, 2023.

- **Water District Map Clean-up** – Staff is working with the Butte Water District to reconcile old and current maps of the District’s boundaries for the purpose of accurate record keeping and collection of stand-by fees. This process entails researching mapping discrepancies using old maps and annexation records. This effort will result in a final electronic (GIS) version of the District’s maps, which will allow for better record keeping, collection of fees, and fairness amongst District customers during drought-years.
- **Proposed Cemetery District Formation** – A group of Durham residents have approached the County and LAFCo seeking a solution to the long-term maintenance and operation of the historical Durham Cemetery to include forming a new independent cemetery district, contracts with other service providers, County operation under the umbrella of the dependent (BOS) Thompson Flat Cemetery District. As with most service issues, funding is the need and the goal. Discussions are ongoing.
- **Gridley-Biggs Area of Concern** – LAFCo adopted the Gridley-Biggs Area of Concern (AOC) in 2004 in response to increased development opportunities that existed between the Cities of Biggs and Gridley. It was agreed by all affected agencies that the AOC would be the growth area for each city moving forward in order to reduce development pressure on substantial agricultural lands bordering the cities and AOC. This was also supported by the Butte County Farm Bureau. Recently, development interest has returned to both cities, and this has created a great opportunity for the affected agencies to renew their efforts to plan the AOC.
- **City of Gridley MSR/SOI Update** – The City has expressed an interest in updating its MSR and SOI Plan in anticipation of new development proposals being considered. Staff anticipates that the City and LAFCo may enter into a Letter Agreement to conduct this effort, similar to agreements with the City of Chico and City of Oroville.
- **City of Oroville MSR Update** – The City of Oroville is starting the process to evaluate its growth goals and has determined that the City needs to update its SOI to accommodate new development goals and at the same time update its MSR to reflect its current service capabilities and financial position. The City has requested LAFCo update its MSR at City expense and executed a Letter Agreement with LAFCo to prepare the MSR update. The City has entered into a contract with Policy Consulting Associates to complete the project under LAFCo supervision. The administrative draft is under review.
- **Paradise Irrigation District MSR Update** – The administrative draft has been delivered to PID and LAFCo staff for review and edit. The MSR will evaluate PIDs current financial position and service capabilities.
- **County of Butte – General Updates** - The County is currently undertaking the following notable planning efforts:
 - [Tuscan Ridge Planned Development \(PUD21-0001\)](#) - The proposed project includes subdivision of the project site to develop a total of 165 single-family residential lots. The 163 acre site on the south side of Skyway about 3 miles west of Paradise and 4 miles east of Chico which was used as staging area for Camp Fire workers in 2018/19 and was previously the former Tuscan Ridge Golf Course. The site is to be served by an existing on-site well for domestic water and an existing permitted on-site wastewater treatment system, both of which were initially proposed to be managed by a newly formed Community Service District (CSD) that would require LAFCo approval. The County now indicates that the sewage disposal and potable water systems could be maintained and operated under a contractual agreement with the Paradise Irrigation District (PID), which may or may not cause the PID to initiate annexation of the site, which is currently

not contiguous to the PID boundaries. The County has released a Notice of Preparation for the Environmental Impact Report on February 23, 2022. The updated project description indicates the PID will annex the territory and maintain the water and sewer systems on-site. Staff has provided initial observations to the project consultant. associated infrastructure requirements and demands.

CALAFCO: (NEW) The 2023 Annual Conference has been scheduled for October 18 - 20th. LAFCo staff will attend the conference as well as CALAFCO Chair, Bill Connelly. This year, Deputy Executive Officer Shannon Costa has volunteered to organize and moderate a general session.

LEGISLATION: The 2022/23 Legislative session is underway. Commissioner Connelly, the Executive Officer and Legal Counsel are voting members of the Legislative Committee.

- AB399 (Assemblymember Tasha Boerner). This bill is a bold attempt by the San Diego Water Authority to circumvent the San Diego LAFCo decision about two smaller local water agencies who desired to change their boundaries. CALAFCO is opposed as well as the Butte County Board of Supervisors and many other organizations who favor local government over Sacramento. Butte LAFCo opposition letter (**Attachment 1**) was submitted to the Legislative Portal as our local Assemblyman and Senator. Officers of the affected districts also penned a letter published in the Sacramento Bee (**Attachment 2**) that shares the tale from their perspective.

APPLICATION ACTIVITY:

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<i>Project Status As of August 28,2023</i>								
File	Applicant	Project Name	Date Application Received	Certificate of Filing	LAFCO Hearing Date	Certificate of Completion	SBE Submittal Date	Additional Comments
11-06	Butte County	CSA No. 114 - Expansion of Powers	02/02/11	N/A	pending	N/A	N/A	Incomplete - On Hold
18-09	TWSD	Clay Pit State Recreation Area Annexation						On hold. Incomplete Application
19-12	County	CSA 158 - Mandville Park Subd. Annex	05/02/19	05/29/19	10/03/19			Approved w/ conditions - 218 Hearing
20-08	Oroville	Municipal Service Review Update (MSR)	05/20/20	N/A				In progress
20-09	LAFCO	Oroville Region Sewer & Water MSR	N/A	N/A				In progress
21-06	Landowners	Tuscan Water District Formation	02/22/21	10/01/21	12/02/21			Approved - waiting on election
22-10	Gridley	W Biggs-Gridley Rd Annexation No. 3	03/28/22	05/16/22	11/03/22			In progress
23-02	Chico	EI Monte Ave Annex. No. 1	08/16/22	09/08/22	11/03/22			Will Record 8-1-25
23-03	Chico	Chico Canyon Annex. No. 8	08/16/22	09/08/22	02/02/23			In progress
23-04	Chico	W Sacramento Ave Annex No. 31	08/16/22	09/08/22	10/06/22	8/1/2023	8/7/2023	Completed
23-05	Chico	W East Ave Annex. No 1	08/16/22	09/08/22	10/06/22			Will Record 8-1-24
23-09	Paradise	PID - MSR Update 2022	11/15/22	n/a				In progress
23-12	Gridley	MSR Update 2022	01/06/23	n/a				In progress
23-13	Biggs	W Rio Bonito Road Annex. No. 8	01/13/23	02/13/23	05/04/23			In progress
23-15	BWD	BWG Water District Reorganization	05/25/23	06/26/23	08/03/23			In progress

- Attachments: 1. Butte LAFCo Letter of Opposition to AB399 – August 23, 2023
 2. Sacramento Bee Editorial on AB399



BUTTE LOCAL AGENCY FORMATION COMMISSION

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August 21, 2023

Assemblymember Tasha Boerner
State of California
77th Assembly District
c/o Robert Charles, Chief of Staff

DELIVERED BY ELECTRONIC MAIL:
robert.charles@asm.ca.gov

SUBJECT: Opposition to Assembly Bill (AB) 399

Honorable Assemblymember Boerner:

The Butte Local Agency Formation Commission (LAFCO) is adamantly opposed to AB 399 which has the intended or unintended consequence of undermining and diminishing the functions and authority of local government in the form of San Diego LAFCo and its locally elected leaders representing seven different jurisdictions and the public at large.

A common refrain from Sacramento is the desire to promote local control and pass along to local agencies numerous unfunded mandated functions so as to relieve the state from accomplishing these tasks. It is therefore ironic that this bill proposes to completely erode the authority of locally elected leaders on San Diego LAFCo and replace their expertise and commitment to their local constituents with that of state government 500 miles away.

Governor Brown and the state legislature created LAFCo's in 1963 for the very explicit purpose of evaluating and regulating the boundaries and services of local agencies in each county. It was understood *then* that local leaders are in the best position to understand and implement local plans and desires of their constituents. It is without question that local LAFCo's expertise in managing local agency boundaries and municipal services to effectuate orderly and responsive growth and development is of paramount importance. As quasi-legislative agencies, LAFCo decisions cannot be appealed to a higher authority and are only subject to judicial intervention. Courts will defer to LAFCo decisions as long as they are procedurally correct, consistent with state law and supported by substantial evidence, all of which San Diego LAFCo accomplished. In this case however, those challenging San Diego LAFCo's decision chose the most damaging and troublesome path of all...seeking overreaching state legislative intervention to change the law mid-stream and erode San Diego LAFCo's authority and dismiss the decisions of locally elected leaders. This is patently counter to the legislative intent for forming LAFCo's in each county.

Should you or your staff have any questions and/or would like to schedule a meeting, please contact LAFCO Executive Officer Stephen Lucas by telephone at 530-538-7784 or e-mail at slucas@buttecounty.net.

Respectfully,

Bill Connelly

Bill Connelly, Chair

cc: Butte LAFCO
Keene Simonds, San Diego LAFCo
Senator Brian Dahle
Assemblyman James Gallagher

THE SACRAMENTO BEE

Losing water agencies shouldn't go crying to the legislature to get what they want | Opinion BY TOM KENNEDY AND JACK BEBEE SPECIAL TO THE SACRAMENTO BEE AUGUST 28, 2023 6:00 AM

Somewhere in California, two small water districts propose to leave a big agency that has long provided the water for another that can provide the very same supply. They agree to hire an outside expert to help a county commission find a fair financial solution. The expert recommends an exit fee of sorts if the water districts want to leave. The commission goes along with the expert. And now the big agency has come to Sacramento looking to abuse the state legislative process in order to undo a perfectly legal local decision. These water districts all happen to be in San Diego County. But this is an abuse of power that can happen anywhere if the Legislature gets into a dangerous habit of changing local decisions about boundaries and governance simply because a powerful government in town wants a different outcome.

What we have here is a water dispute that should stay in San Diego County. Two water agencies that serve communities in northern San Diego County, the Rainbow Water District and Fallbrook Public Utility District, want a different water future. We want to leave the San Diego County Water Authority and join a neighboring agency, the Eastern Municipal Utility District. Why? Both agencies receive the same imported supplies via the Metropolitan Water District of Southern California from the very same distribution facilities. In the far northern end of the Water Authority service area, we have no physical access to the authority's reservoir system or its desalinated supply. Switching to Eastern has two big potential appeals: Eastern's supply will be less expensive in the long run given its long history as a well-run district, and we have long felt that the leadership of the Water Authority, dominated by the City of San Diego, does not listen to us or care about us. Meanwhile, their decisions have made our water among the most expensive in the state. Changing government boundaries is the job of a local county agency formation commission, which exists within every California county. Over three years ago, Rainbow and Fallbrook applied to the San Diego Agency Formation Commission (SDLAFCO) for the boundary shift. But the Water Authority has demanded exorbitant exit charges from us. We have contended that little to no charge is appropriate. The commission voted to approve the switch last month, subject to a sizable exit fee (less than the authority's proposal) to offset the financial impacts as calculated by SDLAFCO's outside expert.

Unwilling to accept a compromise, the city of San Diego and the Water Authority has turned to Sacramento to undo the results of the local process. Assembly Bill 399 by Tasha Boerner, D-Encinitas, seeks to strip the local agency formation commission of its decision-making power. Instead, it proposes an election among the 3.3 million residents who are eligible voters in the entire Water Authority service area. With the vast majority of the county's population, San Diego voters could overwhelm the smaller rural areas, making such a boundary election a nearly impossible hurdle. The current legal system has long required a public vote of those within the boundaries of the agencies that may shift. They face the risks and benefits of the decision. The local LAFCO ruling frames the factual background for that decision. This is a tried-and-true process that is not broken. AB 399 makes it open season on local boundary decision-making. LAFCOs in every county are the watchdogs, the "adults in the room," to sort out thorny issues and adjust boundaries and services so that government is as efficient as it can be. That is why the statewide organization representing these commissions is opposing this bill. Key votes are pending in the state senate. Legislators must oppose AB 399 and send a clear message to agencies like the City of San Diego and SDCWA: Play fair, play by the rules. And if you lose, don't go crying to the Legislature. Tom Kennedy is the general manager of the Rainbow Municipal Water District. Jack Bebee is the general manager of the Fallbrook Public Utility District.