MEMORANDUM
LOCAL AGENCY FORMATION COMMISSION

TO: Local Agency Formation Commission
FROM: Stephen Lucas, Executive Officer
SUBJECT: LAFCO File NO 19-04 - Initiate Dissolution of County Service Area No. 26
DATE: March 27, 2019 for the meeting of April 4, 2019

Summary:

The Butte Local Agency Formation Commission has received a Notice of Inactive Special District in Butte County (Attachment 1) from the California State Controller's Office that indicated County Service Area No. 26 (Thermalito Drainage) is deemed "inactive". This designation requires LAFCO to either initiate the dissolution or challenge the "inactive" district designation. Staff requested the Butte County Auditor confirm the "inactive" designation and the County Auditor provided a letter (Attachment 2) confirming CSA 26 met the "inactive" criteria. The LAFCO adopted Municipal Service Review (MSR) for CSA 26 and the Butte County Auditor confirms the State Controller's Office finding that CSA 26 meets the requirements for an inactive district and should be dissolved.

At its February 4, 2019 meeting, the Commission adopted a Resolution of Application to dissolve the CSA 26 for a demonstrated history of non-sue of powers and having no revenue or expenditures. The Commission will now hold a noticed public hearing to determine whether the CSA should be dissolved for being inactive or if the CSA retains a legitimate purpose to exist.

Recommendation:

Staff finds, and the County Auditor affirms, that CSA 26 is an inactive district and as such, should be dissolved.

Background/Discussion:

New Law

In 2017, the Little Hoover Commission produced a report entitled, "Special Districts: Improving Oversight & Transparency", which recommended approval of legislation to streamline the LAFCo dissolution process for inactive districts.

Legislation adopted in 2017 (Government Code Section 56879) created an expedited process for LAFCos to dissolve inactive districts that meet certain criteria defined under Government Code Section 56042 which describes an inactive special districts as having:

(1) no financial transactions in the previous fiscal year;
(2) no assets and liabilities; and
(3) no outstanding debts, contracts, liens, or claims.

If the State Controller's Office (SCO) deems a special district inactive and notifies the LAFCo, it is required to initiate dissolution within 90 days of receiving the notice. The Commission is required to hold one public hearing and dissolve the inactive district.
CSA 26 - Overview

CSA No. 26 (Thermalito Drainage District) is located in the Thermalito area of Oroville and was formed by Board of Supervisors in 1965 for the purpose of providing sewerage maintenance (Attachments 3 and 4). The sewer function was never implemented and was eliminated in 1983 and replaced with the power to provide funding for a storm drainage system in the area. A vote by the residents within CSA 26 to tax themselves for CSA 26 stormwater services was defeated and no funding source for CSA 26 was ever established and the services were never provided. In 2008, the Butte County Board of Supervisors passed Resolution No. 08-139 supporting maintaining the power to provide stormwater drainage maintenance services, the reasoning being CSA 26 should exist should funding become available in the future. Since the passage of that Resolution in 2008, no funding sources for CSA 26 have been identified.

The Commission adopted a Municipal Service Review (MSR) and Sphere of Influence Plan for CSA 26 in 2016 which found that:

- The CSA 26 has no revenues or expenditures or fund balance.
- Butte County does not prepare a budget for CSA 26.
- There is no action on the part of Butte County to try to identify funding for CSA 26.
- The CSA 26 should be reorganized or dissolved.

The MSR contains the following determinations:

**MSR Determination No. 4:** Although empowered to do so, CSA 26 does not provide stormwater drainage maintenance services. CSA 26 has no funding, no expenditures, and no fund balance. Butte County does not prepare an annual budget for CSA 26.

**MSR Determination No. 7-1:** Since CSA 26 does not provide the authorized stormwater drainage maintenance services and has no revenue source, it would appear that this CSA should be dissolved. However, in 2008 the Butte County Board of Supervisors specifically determined that CSA 26 should retain the power to provide stormwater drainage maintenance services in the event should funding become available in the future.

**MSR Determination No. 7-2:** Butte County, the City of Oroville, the Thermalito Water and Sewer District, and Butte LAFCo should begin discussions to determine what the best course of action should be undertaken to address the lack of stormwater drainage maintenance services in the Thermalito area and to determine the future of CSA 26. Options include dissolving the CSA for non-use of corporate powers; merging with TWSD and have TWSD perform functions or becoming a subsidiary district of TWSD.

**Environmental Review**

The Butte LAFCo is the lead agency under CEQA for the subject dissolution. A project is defined in CEQA Guidelines § 21065, in part, as “an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” The dissolution of a district that provides no services would have no direct or reasonably foreseeable indirect impact on the environment, and is therefore not considered to be a project. Therefore, it is recommended that the Commission find that the subject dissolution
is exempt from CEQA pursuant to § 15061(b)(3) of the CEQA Guidelines, which states that “Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.” The draft resolution contains a finding that the Commission’s action is exempt from CEQA pursuant to § 15061(b)(3) of the CEQA Guidelines.

Notice of Public Hearing

Pursuant to Government Code § 56879(c), the Commission’s action associated with the subject dissolution must occur following a public hearing. To meet the legal notice requirements, LAFCo provided notice of the hearing by means of publishing in the Oroville Mercury Register/Chico Enterprise Record on Thursday, March 14, 2019.

Conclusions

The CSA 26 has a demonstrated history of non-sue of powers and no revenue or expenditures. The LAFCO adopted MSR for CSA 26 and the Butte County Auditor’s letter supports the State Controller’s Office finding that the CSA meets the requirements for an inactive district and should be dissolved.

Action Requested:


Alternative Actions: None

Attachments: 1. California State Controller's Office Notice of Inactive Special District
2. Butte County Auditor Confirmation Letter
3. CSA 26 Map
4. CSA 26 MSR Data Sheet
5. Draft Resolution No. 12 2018/19
November 6, 2018

Stephen Lucas
Butte LAFCO
1453 Downer Street, Suite C
Oroville, CA, 95965-4950

SUBJECT: Notification of Inactive Special Districts in County

Dear Mr. Lucas:

Chapter 334, Statutes of 2017, also known as Senate Bill (SB) 448, added various provisions to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 regarding special districts that are inactive. It requires the State Controller’s Office (SCO) to create a list of inactive special districts based on information in the special district’s Financial Transactions Report (FTR), to publish the list of inactive special districts on its website annually, and to notify the local agency formation commission in the county or counties in which the inactive special district is located.

Pursuant to Government Code (GC) section 56042, an “inactive special district” must:

- Meet the definition set forth in GC section 56036;
- Have no financial transactions in the previous fiscal year; and
- Have no assets, liabilities, outstanding debts, judgments, litigation, contracts, liens, or claims.

Pursuant to GC 56879, within 90 days of receiving this notice, the Commission is required to initiate dissolution of inactive special districts by resolution, unless the Commission determines that a district does not meet the criteria set forth in GC 56042. Additionally, the Commission is required to notify the SCO if it determines that district does not meet the dissolution criteria in GC 56042. Once the dissolution process is complete, please inform the SCO using the contact information on the next page.

The enclosure lists the special districts within your jurisdiction that are inactive, based on financial data in each special district’s fiscal year 2016-17 FTR. The complete list of inactive California special districts may be found at:
If you have any questions or need to notify us of a special district’s status, please contact Derek Miller by telephone at (916) 322-5579, or by email at dmiller@sco.ca.gov.

Sincerely,

PHILLIP PANGILINAN
Manager
Local Government Reporting Section

Enclosure: 2016-17 County Inactive Districts List

<table>
<thead>
<tr>
<th>County Name</th>
<th>District Name</th>
<th>District Type</th>
<th>Email Address</th>
<th>Street Address</th>
<th>City, State, ZIP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Butte</td>
<td>County Service Area No. 26 (Butte)</td>
<td>Dependent</td>
<td><a href="mailto:aliu@buttecounty.net">aliu@buttecounty.net</a></td>
<td>25 County Center Drive, Oroville, CA 95965-3383</td>
<td></td>
</tr>
</tbody>
</table>

Note: Email Address belongs to the Financial Transactions Report preparer; in some cases this may be an outside consultant.
November 21, 2018
Mr. Stephen Lucas, Executive Officer
LAFCO
1453 Downer Street, Suite C
Oroville, CA 95965-4950

Dear Mr. Lucas:
We concur with the determination of the State Controller’s Office regarding County Service Area No. 26 (Thermalito Drainage District). The District last received property tax direct assessments in 2015. The District had no financial transactions in the previous year, has no assets and liabilities, and has no outstanding debts, judgements, litigation, contracts, liens or claims.

The Auditor-Controller’s Office has no concerns or comments related to the dissolution of County Service Area No. 26, Thermalito Drainage District.

Sincerely,

David A. Houser
Auditor-Controller, County of Butte

cc: Shari McCracken, Chief Administrative Officer, County of Butte
    Casey Hatcher, Economic and Community Development Manager, County of Butte
District Data Sheet

County Service Area 26 (Thermalito Drainage District)

Contact: Butte County Public Works Department - Land Development Division
Address: 7 County Center Drive, Oroville, CA 95965
Phone: (530) 538-7266
Webpage: www.buttecounty.net

Governing Board

Butte County Board of Supervisors

Normal Board Meeting Dates: 2nd and 4th Tuesdays of each month at 9:00 a.m.

Board Meeting Location: Board of Supervisors Chambers, 25 County Center Drive, Suite 205, Oroville, CA 95965

Formation Information

LAFCo Conducting Authority
Resolution No.: Unknown Butte County Board of Supervisors
Date Adopted: Unknown Date Adopted: December 28, 1965

Resolution No.: 65-140
Effective Formation Date: December 1965

Purpose

1. Enabling Legislation: GC § 25210.1 et. seq.
2. Authorized Services:
   • Stormwater drainage maintenance
3. Provided Services:
   • None

Area Served

1. Supervisorial District: 4
2. No. of Parcels: 2,565
3. District Size: 2,750 acres
4. Estimated Population: 6,075
5. Location: Thermalito area, Oroville.
6. Sphere of Influence: Coterminal with approved district boundaries.

Financial Information

Fiscal Year 2014-15
Revenues: $0
Expenditures: $0
Fund Balance beginning of FY 2015-16: $0

Revenue Sources:
• None
RESOLUTION OF THE BUTTE LOCAL AGENCY FORMATION COMMISSION APPROVING THE DISSOLUTION OF COUNTY SERVICE AREA No. 26 (Thermalito Drainage)

WHEREAS, on October 6, 2016, the Butte Local Agency Formation Commission adopted the Municipal Service Review/Sphere of Influence Update for County Service Area No. 26 - Thermalito Drainage (CSA 26); and

WHEREAS, the adopted Municipal Service Review/Sphere of Influence Update determined that CSA 26 provides no services, has no budget, no funding, no expenditures and no fund balance; and further recommends that the CSA be reorganized or dissolved; and

WHEREAS, in accordance with Government Code Section 58879 (Senate Bill 448) the State Controller’s Office has sent LAFCO a Notification of Inactive District confirming that CSA 26 has had no financial transactions in the previous year, has no assets and liabilities, and has no outstanding debts, judgments, litigation, contracts, liens or claims; and

WHEREAS, the Butte County Auditor has confirmed the finding of the State Controller that CSA 26 is inactive and should be dissolved; and

WHEREAS, pursuant to Government Code Section 56879, LAFCO held a public hearing on February 7, 2019, considered the request, receive public comment and adopted a resolution of application initiating the dissolution of CSA 26 for being inactive; and

WHEREAS, the Commission caused the publication of notice in the newspaper on March 14, 2019, which set a public hearing to consider the dissolution of CSA 26 at its April 4, 2019 meeting; and

WHEREAS, the Commission heard and considered all oral and written testimony for and against the proposal including, but not limited to, the LAFCo Staff Report including the staff recommendation and recommended exemption from the California Environmental Quality Act (CEQA).

NOW, THEREFORE BE IT RESOLVED, the Butte Local Agency Formation Commission does hereby:

1. Adopt this resolution dissolving County Service Area No. 26- Thermalito Drainage as depicted in Exhibit A, pursuant to the Cortese Knox Hertzberg Local Government Reorganization Act of 2000, Government Code Section 56879.

2. The subject proposal is assigned the following distinctive short form designation: LAFCO 19-04 - LAFCO - COUNTY SERVICE AREA NO. 26 – DISSOLUTION.

3. The subject proposal is exempt from the CEQA pursuant to §15061(b)(3) of the CEQA Guidelines, and LAFCo staff is directed to file a Notice of Exemption as the lead agency pursuant to § 15062 of the CEQA Guidelines.
4. Pending the issuance and recordation of a Certificate of Completion, CSA 26 shall not: (1) appropriate, encumber, expend, or otherwise obligate, any revenue of CSA 26, or (2) hire any staff or contractors.

5. Upon the effective date of the dissolution (i.e., recordation of the Certificate of Completion), CSA 26 shall be dissolved, its existence shall be terminated, and all of its powers shall cease.

PASSED AND ADOPTED by the Local Agency Formation Commission, County of Butte, State of California, this 7th day of April 2019, by the following vote.

AYES:
NOES:
ABSENT:
ABSTAINS:

ATTEST:

______________________________  ______________________________
Stephen Lucas, Executive Officer   Carl Leverenz, Chair
 ________________________________
Butte Local Agency Formation Commission