



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 7b

TO: Local Agency Formation Commission
PREPARED BY: Laura Snideman, Executive Officer
Jackie Gong, Commission Counsel
MEETING DATE: October 6, 2014
SUBJECT: Government Code Section 56133: Impact on Trucked Water

RECOMMENDATION

Understand the impact of Government Code Section 56133 on trucked water and authorize next steps.

SUMMARY

When water from a city or special district is treated and trucked out of agency's jurisdictional boundaries it is considered a "new or extended use" and is subject to LAFCO Commission authorization under certain provisions within Government Code Section 56133. Staff recommends we work with affected parties and conduct additional legal research to draft a recommended policy update to refine the parameters under which trucked water will be reviewed by the Commission.

ANALYSIS

We understand this is likely a very unpopular and frustrating requirement of the law for many people. Until it is changed, it is something that LAFCOs have a legal duty to follow in furtherance of the purpose and policy behind this law. We hope one outcome of this process will be to prompt a closer and more realistic analysis of water reliability during the CEQA process for each individual project undergoing an entitlement process.

The exact extent of the issue is unknown. An informal review suggests that the City of Napa is the primary seller. Several known notable instances that likely require authorization are the Carneros Inn and Woolls Ranch Winery. There are also homeowners who regularly supplement their water supply with trucked water, especially during the drought, but we do not believe this is exclusive to times of drought.

Staff is seeking the Commission's suggestions for a "next steps" plan and consensus to move forward with the following:

- 1) Meet in person with affected parties (providers, users, interest groups, etc.) to understand current practices and hear recommendations for the future. This may include agreeing upon what data may be needed, devising a plan to obtain the data, learning about mutual concerns, and hearing suggestions for policy parameters.
2) Coordinate with legal counsel
3) Draft policy recommendations for future Commission consideration

ATTACHMENT

- 1) Government Code Section 56133

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

**California Government Code**

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.