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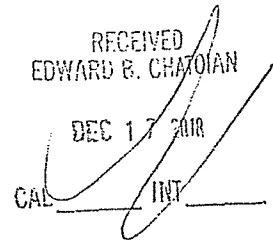
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December 14, 2018



David E. Fey
Executive Officer
Fresno County Local Agency Formation
Commission
2607 Fresno Street
Fresno, CA 93721

Received

DEC 17 2018
Fresno LAFCo

Re: Response to Your Letter of December 3, 2018
Firebaugh Resource Conservation District
Silver Creek Drainage District

Dear Mr. Fey:

The Firebaugh Canal Water District and the above districts that work with the Firebaugh Canal Water District have received notice from you dated December 3, 2018 that you have designated Silver Creek Drainage District and the Firebaugh Resource Conservation District as inactive districts, and at least the Commission's staff views itself as "LAFCO is now required to initiate dissolution proceedings..." no later than January 9, 2019. Section 56879 of the Government Code states that there is an exception:

- (b) . . . unless the commission determines that the district does not meet the criteria set forth in Section 56042. The commission shall notify the Controller if the commission determines that a district does not meet the criteria set forth in Section 56042.

Pursuant to Government Code section 56042, only special districts as defined in section 56036 are to be considered for dissolution. Government Code section 56036, subdivision (b), states:

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- (b) "District" or "special district" includes a county service area, but excludes all of the following:

...

- (5) An assessment district or special assessment district.

- (6) An improvement district.

...

- (10) A zone of any special district.
(Gov. Code, § 56036, subd. (b).) (Emphasis added.)

As you are aware, this area of Fresno County is devoted to farming purposes and, periodically, a resource conservation district is able to participate in agricultural support, grants, loans, and projects coordinated by the United States or the State of California. Therefore, a failure or a lack of activity for a period of years is simply a sign that there is no ongoing program to be implemented under the State or Federal laws for resource conservation purposes. Be assured that this function is effectively an assessment district function. If there is a State or Federal program, it requires local funding and there must be a mechanism for that local funding. The Resource Conservation District then springs into action. The members of the Board are appointed or re-appointed by the Board of Supervisors, an assessment is noticed, and the project moves forward.

The geniuses in Sacramento are not able to understand this process. We hope you will be able to understand it so that we can avoid sentencing this area to the substantial costs of re-forming a resource conservation district, going through all of the paperwork, fees, costs, environmental studies, and all of the other actions that are now required to establish a resource conservation district.

With regard to the Silver Creek Drainage District, a similar condition exists. When Silver Creek floods and damages require applications for Federal or State aid, it is necessary for a public district to receive and administer the construction or repair contracts, and to comply with the requirements of the Federal or State loan or grant program. This is best done by the local districts because when there are flooding conditions, there is generally no assessment district to pay local share costs, nor is there a county service area administered by the county. The flooding incidents and damages that

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occurred recently have not been accompanied by any State or Federal grant loan program that would be needed, and the local landowners have simply allied together and repaired or remedied the problem with the help of the County Public Works Department.

Again, we have faith in our local representatives at LAFCo to understand that the dissolution of what appears in Sacramento to be "inactive special districts" is not appropriate in these cases. The definition of a special district in Government Code section 56036 provides authority. These agencies do not even qualify as districts under that definition. However, our main plea to your Board is that we make this plea on behalf of the other water districts and county service areas listed as inactive districts in Fresno County as well. At some point in time, local interests need to apply logic and reason to some of the purported "requirements or determinations" that come out of Sacramento. It is easy to expend \$25,000 to \$100,000 in obtaining a metes and bounds description of a new exterior boundary for forming a district when State and Federal loan or grant programs require a local recipient, and a consideration of these districts as inactive simply means that there will be no way to get the loan grant funds unless the county can form a county service area, hold a formation election for the substantial formation costs, levy assessments, and lend the money or issue warrants or bonds which will be repaid by the local districts. What is interesting is that if you think about the device of dropping a district's name from the list of agencies supervised by LAFCo, then the county being required to form a county assessment district when these emergency programs kick in, and the costs of forming and administering a county service area, the definition of a "district" considered to be inactive in Government Code section 56036 brings the process to a total circular loop of organization because a county service area is treated as a district that is inactive.

Your agency would be required in a scenario in which you dissolve these districts and the taxpayers have to bear the costs of formation of a substitute district or a county service area, there will simply be another period of inactivity and dissolution of those entities, followed by forming yet another found of district when the next emergency condition occurs. Obviously, the legislation is merely a paper exercise, and we suggest that you make a determination that these two districts are not districts as described in Government Code section 56036 because they are utilized or utilizable solely for assessment purposes, and simply report to the State Controller's Office that LAFCo has studied the matter, believes there is no savings to be achieved by declaring these districts inactive within the definition of Government Code section 56036.

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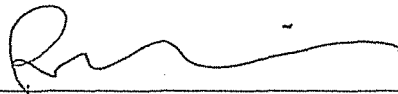
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Thank you for your help and, obviously, if you have questions, please contact either Jeff Bryant, Manager of the Firebaugh Canal Water District, who is conversant with the functioning of these agencies in the past, or this office.

Very truly yours,

MINASIAN, MEITH,
SOARES, SEXTON & COOPER, LLP

By:



PAUL R. MINASIAN

PRM:dd

cc: Jeff Bryant, Manager, Firebaugh Canal Water District
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