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FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCO)  
EXECUTIVE OFFICER'S REPORT

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AGENDA ITEM NO. 8

DATE: July 13, 2016

TO: Fresno Local Agency Formation Commission

FROM: David E. Fey, AICP, Executive Officer 

SUBJECT: Consider Amendment of the Fresno LAFCo policies standards and procedures to align with the Sustainable Groundwater Management Act

RECOMMENDATION: Consider the draft water policy and provide direction.

Executive Summary

At its June hearing, the Commission directed staff to prepare a draft water policy. Staff presents this policy discussion to explore the means for the LAFCo to integrate its analyses with existing water management regulations.

Analysis

The challenge for the Commission is to balance its interest in service delivery with an appropriate level of involvement in local agencies' current water management requirements.

LAFCo's strength is its broad powers to approve, approve with conditions, or deny proposals. It alone determines the spheres of influence for local agencies, and the SOI is pivotal to other determinations like annexations, extension of service, activates—or divests—special districts' latent powers.

LAFCo has no police powers, doesn't manage resources or deliver services, and has no land use authority, its broad authority places the Commission in a pivotal position to influence orderly and logical development, as allowed by statute.

The Commission should seek to find the appropriate balance of its limitations and authority, and consider water resource policies that take advantage, when possible, of efforts local agencies are already performing. For example, local agencies<sup>1</sup> are already occupied with a wide range of water resource management requirements and mandatory reports. As noted in a recent publication,

*Water management in the San Joaquin Valley currently consists of historical management, which includes all of the legal and institutional tools, combined with a significant number of new, additional targeted efforts. ... (including but not limited to):*

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<sup>1</sup> Under CKH sec. 56054, "local agency" means a city, county, or district. In comparison, in the context of SGMA, A "local agency" is a public agency that has water supply, water management, or land use responsibilities within a groundwater basin. Water Code sec. 10721(m)

1. *The Endangered Species Act revised Biological Opinions of 2008 and 2009 for the Sacramento-San Joaquin Delta – implementation plans of 2009 and beyond impact water exports south of the Delta*
2. *SBX 7-1 of 2009, formation of the Delta Stewardship Council and its responsibilities for co-equal goals of Delta ecosystem sustainability and water exports*
3. *SBX 7-6, 2009, CASGEM, measurement requirements of depth to groundwater elevations by designated agencies*
4. *SBX 7-7, 2009, water measurement requirements for water users, including urban and agricultural users*
5. *California State Water Resources Control Board, Recycled Water Policy of 2009, salt and nutrient management plans required for water users over groundwater basins*
6. *Central Valley Flood Protection Plan of 2009, standards and requirements for levees, setbacks and other protection facilities*
7. *California Regional Water Quality Control Board, Central Valley Region, Irrigated Lands Regulatory Program, 2012 Update, includes assessment and protection of groundwater from water and materials applied to irrigated lands*
8. *AB 658 of 2012, The Right to Clean Drinking Water Act, making clean drinking water the highest priority action for California water investments*
9. *The California Water Action Plan of 2014, executive branch implementation plan priorities for water management*
10. *The Sustainable Groundwater Management Act of 2014, local groundwater agencies required to develop sustainability plans, prevent undesirable results*

In addition, local agencies are also already accountable for water management activities not directly involving LAFCo. These activities include, but are not limited to, compliance with:

- GC sec. 65352.5 (Planning and Zoning Law) declares “that it is vital that there be close coordination and consultation between California’s water supply or management agencies and California’s land use approval agencies” and provides coordination by water supply or management agencies when cities and counties proposed substantial general plan amendments.
- The Sustainable Groundwater Management Act (SGMA) requires water management agencies to form a Groundwater Sustainability Agency (GSA) by of June 30, 2017 and GSA Groundwater Sustainability Plan due to DWR by January 31, 2020.
- Urban Water Management Plans (UWMPs) prepared by California's urban water suppliers that either provides over 3,000 acre-feet of water annually, or serves more than 3,000 urban connections is required to assess the reliability of its water sources over a 20-year planning horizon, and report its progress on 20% reduction in per-capita urban water consumption by the year 2020, as required in the Water Conservation Bill of 2009 SBX7-7.

Nonetheless, LAFCo’s responsibility for orderly, logical, and efficient development involves an understanding of the water resource management activities of local agencies.

### **Policy Discussion**

This discussion draft proposes LAFCo policy amendments and changes to staff’s practices, to insure that local agencies are coordinating their respective water management planning efforts and that the Commission has considered these efforts when making determinations.

Staff has prepared this discussion draft to supplement, not duplicate, the water management

activities, reports, coordination and planning performed by local agencies. This discussion draft proposes a new issue of concern, as well as new LAFCo policy and amended staff practices in pursuit of approved policies.

**I. Proposed new issue of concern**

- *The necessity for coordinated interagency water resource management planning.*

**II. Proposed new LAFCo policy to address new issue of concern**

- # *The Fresno LAFCo carries out its purposes and responsibilities by:*
- *Planning and shaping the logical and orderly development and coordination of local governmental agencies subject to its jurisdiction;*
  - *Providing for the present and future needs of the county and its communities; and*
  - *Enacting policies designed to promote the logical and orderly development of areas within each sphere of influence.<sup>2</sup>*

**III. Proposed new LAFCo policy**

- # *It is a policy of Fresno LAFCo that orderly growth and development of local agencies shall be determined based on water resource management planning that accounts for proposals' potential increased demands on water supplies or impact to water resource management. "Planning" will be demonstrated by evidence of close coordination between local agencies that manage water supply and those with land use authority. This evidence will be considered during periodic municipal service reviews and when reviewing proposals.*

**IV. New Municipal Service Review policy<sup>3</sup>**

- # *LAFCo will evaluate a local agency's water supply and management to support determinations of the adequacy of existing and planned future water supplies to meet existing and planned future demands on these water supplies and the impact of land use decisions on the management of the basin's water resources.*

Proposed Amendment of Staff's MSR Program

As Fresno LAFCo considers determinations identified in GC sections 56425 and 56430, it shall have considered,

1. The *current<sup>4</sup>* version of its urban water management plan, adopted pursuant to Section 10610 of the Water Code.
2. The current version of its capital improvement program or plan.
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 sold or supplied by the water supplier in each of the previous five years.
5. A description of the quantity of groundwater that was sold or supplied by the water supplier in each of the previous five years.

<sup>2</sup> This proposed policy is paraphrased from GC.sec. 56425 (a) which establishes LAFCo's responsibility when determining local agencies' spheres of influence.

<sup>3</sup> This section is largely drawn from GC. 65352.5.

<sup>4</sup> "Current" is italicized to highlight that the commission evaluates proposals in light of existing adopted documents, rather than holding an agency accountable for conditions that have not been subject to the local agency's own public policy approval process.

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 above, 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.
10. The current version of the local agency's groundwater sustainability plan or alternative adopted pursuant to Water Code sec. 10720.
11. A report on the anticipated effect of implementation of the local agency's general plan or master plan on implementation of a groundwater sustainability plan pursuant to Water Code sec. 10720.

#### Proposed Amendment of Staff's Proposal Evaluation Practice

A "Proposal" is defined in GC sec. 56069 as a desired change of organization or reorganization initiated by a petition or by resolution of application of a legislative body or school district for which a certificate of filing has been issued. These are largely, but not exclusively, the annexation applications routinely submitted to LAFCo for consideration.

GC sec. 56668 lists "factors to be considered in the review of a proposal" including:

1. The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.  
"Services," as used in this subdivision, refers to governmental services whether or not the services are services which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.
2. The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.
3. The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities in Section 56377.
4. The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.
5. The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.

6. The comments of any affected local agency or other public agency.
7. The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.
8. Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.

Staff will ensure that these factors are addressed with each proposal.

### **Individuals and Agencies Receiving this Report**

- Ken Price, LAFCo Counsel
- Bernard Jimenez, Deputy Director of Public Works and Planning
- Chris Linneman, Panoche Water District
- Mike Prandini, Building Industry Association

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