

SACRAMENTO LOCAL AGENCY FORMATION COMMISSION
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April 7, 2004

TO: Sacramento Local Agency Formation Commission

FROM: Peter Brundage, Executive Officer

RE: **REQUEST FOR RECONSIDERATION:**
FLORIN RESOURCE CONSERVATION DISTRICT
ANNEXATION OF ELK GROVE WATER SERVICE TERRITORY
(10-03) [CEQA Exemption]

RECOMMENDATION

Deny the Florin Resource Conservation District's Request for Reconsideration of your Commission's determinations of March 3, 2004, regarding the Florin Resource Conservation District Annexation of Elk Grove Water Service Territory (10-03).

BACKGROUND

On April 2, 2004, the Florin Resource Conservation District Board of Directors filed a request with staff asking that your Commission reconsider Condition 12 (h) of Resolution LAFC No. 1267, adopted March 3, 2004.

As you recall, the Commission added the following condition to Resolution LAFC 1267:

"As a condition of approval, the Commission requires that the Florin Resource Conservation District become a signatory to the Water Forum Agreement and provide evidence of same to the Executive Officer prior to the completion of these proceedings."

It is this condition the Florin Resource Conservation District Board of Directors requests that your Commission reconsider.

RECONSIDERATION PROCESS

The person or agency shall file the written request within 30 days of the adoption of initial or superseding resolution by the Commission making determinations.

Upon receipt of a timely request, the Executive Officer shall not take any further action until the Commission acts on the request.

The Executive Officer shall place the request on the Agenda for which notice can be given.

At the meeting, the Commission shall consider the request and receive any oral or written testimony. The Commission may determine to hear the matter upon its request for reconsideration. The Commission may deny the request for reconsideration. The Commission may determine to hear the reconsideration request and set the matter for a specified date. The reconsideration hearing may be continued from time to time but not to exceed 35 days from the date specified in the notice.

The person or agency which files the request may withdraw it at any time prior to the conclusion of the hearing.

If the Commission denies the request for reconsideration, it shall not adopt a new resolution making determinations.

At the conclusion of its reconsideration hearing, the Commission may approve or disapprove with or without amendment, wholly, partially, or conditionally, the matter brought before it to reconsider.

If the Commission considers the request for reconsideration and amends its determinations as a result of its hearing, the Commission shall adopt a new resolution making determinations that shall supersede the resolution previously adopted.

The determinations of the Commission shall be final and conclusive. No person or agency shall make any further request for the same change or a substantially similar change as determined by the Commission.

DISCUSSION

The attached letter from Florin Resource Conservation District constitutes a written request for reconsideration.

LAFCo Policies require the following:

The written request for reconsideration should precisely and specifically describe the basis for the request. The only request for reconsideration that LAFCo will approve are as follows:

- a. **Compelling new evidence exists, including a significant and previously unavailable evidence that might alter LAFCo's decision;**
- b. **There are elements which were previously overlooked, or have changed, such as the repeat of an applicable federal, state or local law that might alter LAFCo's decision.**
- c. **Item(s) of procedure are challenged.**

ANALYSIS

To date, the District has not articulated any factual evidence that indicates the district or its rate payers would be negatively impacted by becoming a signatory to the Water Forum Agreement. In fact, in my opinion, the Request for Reconsideration is incomplete because it does not clearly state any new reasons or compelling new evidence to be considered by your Commission. In my opinion, the Florin Resource Conservation District has not made a good faith effort to resolve outstanding issues regarding terms and conditions in connection with becoming a signatory with the Water Forum Successor Effort.

Currently, the Florin Resource Conservation District is the only public entity water purveyor in Sacramento County that is not a member of the Water Forum Agreement.

The Water Forum Agreement requires signatories make certain commitments. The following list represents typical terms and conditions required of signatories:

In order to achieve the Water Forum's two co-equal objectives, providing a safe reliable water supply and preserving the values of the Lower American River, all signatories to the Water Forum Agreement need to endorse and, where appropriate, participate in each of seven complementary actions:

Increased surface water diversions.

Actions to meet customer's needs while reducing diversions in drier years.

Support for an improved pattern of fishery flow releases from Folsom Reservoir.

Lower American River Habitat Management Element.

Water Conservation Element.

Ground Water Management Element.

Water Forum Successor Effort.

The Water Forum Agreement has provided the following direction related to small districts that rely on groundwater and water meters:

City of Galt, Florin County Water District, Del Paso Manor County Water District. It is recognized that residential water meter retrofit along with quantity based pricing are important tools for improving the efficiency of water use. This helps extend the supply while also reducing the need for increased groundwater pumping or diversions from the American River.

It is also recognized that these three relatively smaller water purveyors currently rely totally on groundwater and will not realize immediate water supply benefits from participating in the Water Forum Agreement. Therefore, until such time as these three purveyors need discretionary approvals for new or expanded surface water supplies, an active voluntary meter retrofit with incentives is acceptable. Nothing in the Water Forum Agreement prevents purveyors from deciding to undertake a more rapid meter retrofit program.

At such time as any of these purveyors needs discretionary approvals for new or expanded surface water supplies they agree to annually retrofit at least 3.3% - 5% of the total number of unmetered residential connections and read and bill as set forth below.

If in the future any of these purveyors receives benefits from another agency's conjunctive use program, it agrees to discuss its meter retrofit program with the Water Forum Successor Effort.

A draft agreement between the Water Forum Agreement stakeholders and Elk Grove Water Service was negotiated but never finalized (copy attached).

Moreover, if the Elk Grove Water Service becomes a member of the Water Forum Successor Effort, it is the Water Forum's requirement that Sacramento County Water Agency is responsible to pay Florin Resource Conservation District annual membership fee. The share of cost is based on the number of connections. The current cost estimate that SCWA will contribute is approximately \$22,000. This is not a cost to Florin Resource Conservation District but falls entirely on the Sacramento County Water Agency.

Proposed State Law for Water Meters

Assembly Bill 2572 (Kehoe) (2004) requires water meters to be installed on all service connections constructed prior to January 1, 1992. The proposed law applies to all urban water purveyors. This bill was previously introduced but not enacted. It appears that it has a strong chance of becoming law this year. If approved, this law requires that water purveyors install water meters on all service connections constructed before January 1, 1992.

CONCLUSION

Thus, the arguments made by the Florin Resource Conservation District do not appear to create a new financial burden on the District (either membership cost or cost to retrofit meters). The Water Forum staff concurs that there should not be any significant impact to the Florin Resource Conservation District on becoming a signatory to the Water Forum Agreement. Staff sees a regional benefit to the District's membership in the Water Forum Agreement.

Initial comments from Water Forum staff indicate that Florin Resource Conservation District could become a signatory without a requirement to retrofit meters to existing service connections in Tariff Area No. 1 (Old Elk Grove service area). The Water Forum Successor

Effort also manages the Central Water Ground Authority which directly impacts Florin Resource Conservation District and the Central Ground Water Basin.

The one outstanding issue is that Florin Resource Conservation District, as well as other signatories of the Water Forum Agreement, must agree not to oppose legislation that requires retrofitting for meters in order to encourage water conservation. However, this is one of the basic premises of the Water Forum Agreement itself.

PB:Maf
Attachment

(FRCD Reconsideration)