

Colusa Local Agency Formation Commission

MEMORANDUM
December 7, 2017

TO: LAFCo Commissioners
FROM: John Benoit, Executive Officer
RE: CCWD Reorganization

- A. Letter from Paul Minasian representing four Peterson Children's Trusts
- B. Email November 30, 2017 from Shelly Murphy, CCWD District Manager
- C. CCWD Loan Repayment Schedule
- D. Letter sent to those landowners being annexed
- E. Letter sent to those landowners being detached

As requested, a letter was sent out to landowners who would have their property formally annexed or formally detached to the Colusa County Water District. As of November 30th, I received one inquiry and the CCWD received inquiries regarding the detachments even though all landowners were notified and had previously consented to the process. According to the district, the landowners did not realize in order to receive water, they will have to pay assessments and base rate costs that would have to be paid as well as install pipelines at their own expense in order to access water of which none is available.

A letter was received by LAFCo on November 30, 2017 from Minasian, Meith, Soares, Sexton and Cooper, LLP regarding concerns with this reorganization (see Attachment A. Please see the attached letter. Also see an email from Shelly Murphy, District Manager

A list of concerns brought forth are:

The district does not have any additional allotments of water. The district has no additional water entitlement so remaining in the district would not result in being supplied with water.

An environmental concern related to ground water recharge on the parcels to be using district allocated water has been raised. At this late date, I do not have a response to that question and have asked the district for a response if indeed this is the case.

In some cases, the areas to be detached would exceed the maximum elevation where the Bureau would be able to provide water.

The Landowners of the parcels would be required to construct and pay for infrastructure so water could be conveyed.

I understand Landowners would be required to pay any and all district assessments back to the 1990's on each acre of land to remain in the district even though no water is provided. (See attached repayment schedule)

Colusa Local Agency Formation Commission

According to CCWD Resolution 2017-05 the Landowners had previously consented to this process. This may not be the case in light of the letter received by Paul Menasian with a landowner seemingly opposed to this reorganization.

It appears since the areas to be detached have not been paying assessments and the areas currently receiving district water have; then there should be no increased debt costs upon other rate payers district wide.

Since there is the potential for a significant financial burden imposed upon the landowners of parcels or portions of parcels to be detached I recommend four additional conditions to be considered to be included Resolution 2017-0006 as follows:

“The Colusa County Water District (CCWD) shall pass a resolution stating that any landowner subject to being detached included in this resolution be exempted from any CCWD assessments, detachment fees and (or) other fees prior to LAFCo filing the certificate of completion”.

“The District (CCWD) shall provide LAFCo with documentation the Bureau will not charge any assessments, fees and (or) detachment fees resulting from the territory being removed from the CCWD Boundary prior to LAFCo filing the certificate of completion”

“The District shall provide to LAFCo a statement that no groundwater recharge using district water has been applied within the areas to be detached prior to LAFCo filing the certificate of completion”

“The District shall provide a statement to LAFCo assuring that those parcels remaining in the district boundary will not incur increasing Debt as a result of this reorganization prior to LAFCo filing the certificate of completion”

Recommendation:

Please review this memo including attachments A, B and C and consider the discussion at the meeting and provide direction to staff regarding the following alternative actions: a) requiring a public hearing to take since apparently at this time there is not 100% landowner consent, b) continuing the meeting*, c) approving the application, as amended, or denying this application without prejudice and noticing a new hearing on this reorganization.

*(note there is a 70-day period before which LAFCo must make a decision by January 12th, 2018. LAFCo's next regular meeting is scheduled for January 4th 2018)

**MINASIAN, MEITH,
SOARES, SEXTON &
COOPER, LLP**

ATTORNEYS AT LAW
A Partnership Including Professional Corporations

1681 BIRD STREET
P.O. BOX 1679
OROVILLE, CALIFORNIA 95965-1679

Writer's e-mail: pminasian@minasianlaw.com

PAUL R. MINASIAN, INC.
JEFFREY A. MEITH
M. ANTHONY SOARES
DUSTIN C. COOPER
EMILY E. LaMOE
ANDREW J. McCLURE
JACKSON A. MINASIAN

TELEPHONE:
(530) 533-2885

FACSIMILE:
(530) 533-0197

WILLIAM H. SPRUANCE,
Retired

MICHAEL V. SEXTON,
Retired

November 29, 2017

Via facsimile & email: (916) 797-7631

John Benoit, Executive Officer
Colusa County Local Agency Formation Commission

johnbenoit@surewest.net
lafco@countyofcolusa.org

Board of Directors
Colusa County Water District
840 1st Street
Arbuckle, California 95912

facsimile (530) 476-3047

Re: Agenda Item, November 30, 2017
Proposed detachment of lands from Colusa County Water District

Ladies and Gentlemen:

We would ask that the proposed annexation and detachment approval sought by Colusa County Water District which is on your Agenda for November 30 be tabled until proper document is presented to your Executive Officer:

1. The proposal seeks to rely upon a Notice of Exemption under California Environmental Quality Act. Colusa County Water District has not submitted any financial plan or declaration to the LAFCO Executive Officer or explained the impacts or effects of detaching 4,908 acres, and the report includes no explanation of the amounts of debt which will be placed upon the remaining landowners within Colusa County Water District as a result of the action. No explanation is provided, even though the remaining outstanding debt of the District is in excess of \$5,750,000, which amounts to a debt of approximately \$146.32 per acre.

2. No study or estimation is included of the amount that the approximately 4,900 acres currently contributes to the operation and maintenance overhead of operating the District. Which of the remaining landowners in the District will be required to pick up this overhead, manager's salary, insurance and other costs, and what is that amount?

To: John Benoit, Executive Officer, Colusa County Local Agency Formation Commission
Colusa County Water District
Re: Agenda Item, November 30, 2017
Proposed detachment of lands from Colusa County Water District
Date: November 29, 2017

Page 2

3. Finally, no explanation is given regarding groundwater recharge and the benefits received from the Colusa County Water District by these 4,800 acres. If the land is allowed to detach without paying for groundwater recharge benefits arising from the District's supply of surface water to surrounding lands, will not the detaching lands simply install wells and pump more than their share of the sustainable yield had Colusa County Water District not provided substituted groundwater recharge within the area? This is a potential significant environmental impact. Clearly, there are significant environmental impacts from the proposed detachment which arise directly and indirectly from both the financial debt of the District and the continuing operation of the District which need to be considered, and a determination if the conditions for detachment which are fair and reasonable to both the detaching and remaining landowners within the District needs to be presented.

4. Annexation: As to the annexation of lands which are described as "Always being served by Colusa County Water District," no annexation fees or provision is included for repayment of District formation and other costs which these lands may have benefitted from. It may be that these lands since the 1960s have paid these costs through in lieu charges and have borne their share of the District's debt at all times since, but there is no report to indicate that fact.

5. Further, if the lands are not within the boundaries of the District, are the lands permitted to be served under the current Colusa County Water District/Bureau of Reclamation contract? Water Code Section 31023 applies to County Water Districts and prohibits service of water to lands located outside the boundaries of a district except in circumstances where there is surplus water. There is no surplus water under the Bureau's Contract with Colusa County Water District, as 2014-2015 and many other years have proven.

Water Code Section 31023 states:

"A district may sell water or the use thereof for any useful purposes and, whenever there is a surplus, dispose of the surplus to . . . consumers located without the district."

If this is simply a paper mistake and these landowners have paid all amounts that they would otherwise have paid had the clerical error not occurred, that history can be documented and proven by District records and equity may well require that consideration be given to their annexation.

To: John Benoit, Executive Officer, Colusa County Local Agency Formation Commission
Colusa County Water District
Re: Agenda Item, November 30, 2017
Proposed detachment of lands from Colusa County Water District
Date: November 29, 2017

Page 3

6. However, there is a clear potential environmental impact in that these lands are not currently within the boundaries of the District, and the addition of approximately 2,000 acres without increasing the Bureau allocation of water potentially dilutes the amounts of water available under the Bureau Contract to all other landowners.

7. As a Trustee for the four Peterson Children's Trusts, landowners within the District, I have a fiduciary duty and LAFCO has a duty to protect those children's interests in lands already located within the Colusa County Water District. I cannot do that in this circumstance without a full outline of all terms and potential environmental impacts, nor can the Local Agency Formation Commission do its duties, without such a full disclosure of all of the implications of this proposal in a written report sent to LAFCO. Without the Colusa County Water District providing a full explanation as to the effects, alternatives, and impacts both upon sustainable groundwater and the financial resources of the District, as well as to other landowners within the District, and the availability of water at public meetings in which landowners within Colusa County Water District are invited to review the information before LAFCO seeks to act, this proposal should be tabled or rejected until accompanied by the requisite materials.

Please take this matter off of your Agenda until those reports, processes and information have been conducted or produced.

Very truly yours,

MINASIAN, MEITH,
SOARES, SEXTON & COOPER, LLP

*- dictated but not read;
signed in writer's absence to avoid delay -*

By: Paul R. Minasian / dd
PAUL R. MINASIAN

PRM:dd
Peterson\Benoit-Colusa Lafco&Colusa Co W.D.11.29.17.wpd

November 29, 2017

John –

Per our conversation yesterday attached is the loan repayment schedule for the lands within Colusa County Water District. As we have discussed lands on the annexation list have been paying these costs since they were approved for annexation and have been included in the District water allocation under its Bureau contract. The lands on the list for detachment were Exempt from paying fees associated with this loan as the landowners requested exclusion which the board approved in 1988. The Exempt lands did not receive an allocation of water as they were not included and had no provisions for service installed.

I have included a copy of the District Policy from 1988. In 1992, the Board stopped accepting new annexations requests due to contract limitations with the Bureau. As I mentioned, the lands due to be detached not only have no provisions for service but no water supply available for allocation. Furthermore, if they were to want to stay in the District the same would apply as to the annexations they would have to pay the back assessment fees of the roughly \$350/acre (see attached).

Also attached is a letter from the Minasian Law Firm that I assume you will receive shortly. Although, it references a hearing on this matter on November 30th (just got it at 5:02, November 29th) I believe the hearing is actually on December 7th. Either way, I'm not sure what proper documentation they would like provided to you however, as we've discussed numerous time the annexation of these lands has no impact on the current water users as they were already allocated the pro-rata share of the water contracted through the Bureau. They have been paying assessments, District O&M costs as well as purchasing and using water on land. Again, those being Detached have no impact as they were never allocated any water nor has there land been attributed with any District costs.

I appreciate, Paul Minasian's concern in looking out for his clients, I do not believe the item needs to be tabled. Unfortunately, I will not be able to attend the December 7th meeting however, the Board President, Doug Griffin plans to attend and answer any question.

Sincerely,

Shelly Murphy
General Manager
Colusa County Water District
PO Box 337
Arbuckle, CA 95912
530-476-2669

Colusa County Water District
Loan Repayment
Schedule

Year	9D Payment	USL Payment	9-D Reserve	Total Annual Cost	District Acreage	Estimated Per Acre Assessment	Actual Assessment
1988		103,426					5.80
1989	370,000.00	262,763	5,000	637,763	40,000	15.94	15.05
1990	370,000.00	306,899	5,000	681,899	40,000	17.05	16.30
1991	370,000.00	306,899	5,000	681,899	40,000	17.05	16.00
1992	370,000.00	306,899	5,000	681,899	40,000	17.05	16.40
1993	370,000.00	306,899	5,000	681,899	40,000	17.05	16.55
1994	370,000.00	288,436	5,000	663,436	40,000	16.59	16.45
1995	370,000.00	288,436	5,000	663,436	40,000	16.59	16.45
1996	362,405.02	288,436	5,000	655,841	40,000	16.40	16.50
1997	369,050.64	288,436	5,000	662,486	40,000	16.56	16.00
1998	369,050.64	288,436	5,000	662,486	40,000	16.56	16.10
1999	369,050.64	288,436		657,486	40,000	16.44	16.30
2000	369,050.64	288,436		657,486	40,000	16.44	15.30
2001	369,050.64			369,051	40,000	9.23	8.60
2002	369,050.64			369,051	40,000	9.23	8.60
2003	369,050.64			369,051	40,000	9.23	8.40
2004	369,050.64			369,051	40,000	9.23	8.40
2005	369,050.64			369,051	40,000	9.23	8.40
2006	369,050.64			369,051	40,000	9.23	8.40
2007	369,050.64			369,051	40,000	9.23	8.40
2008	369,050.64			369,051	40,000	9.23	8.40
2009	369,050.64			369,051	40,000	9.23	8.75
2010	369,050.64			369,051	40,000	9.23	8.75
2011	369,050.64			369,051	40,000	9.23	9.25
2012	369,050.64			369,051	40,000	9.23	9.25
2013	369,050.64			369,051	40,000	9.23	9.25
2014	369,050.64			369,051	40,000	9.23	9.25
2015	369,050.64			369,051	40,000	9.23	9.25
2016	369,050.64			369,051	40,000	9.23	9.25
2017	369,050.64			369,051	40,000	9.23	9.25
2018	369,050.64			369,051	40,000	9.23	9.25
2019	369,050.64			369,051	40,000	9.23	9.25
2020	369,050.64			369,051	40,000	9.23	9.25
2021	369,050.64			369,051	40,000	9.23	9.25
2022	369,050.64			369,051	40,000	9.23	9.25
2023	369,050.64			369,051	40,000	9.23	9.25
2024	369,050.64			369,051	40,000	9.23	9.25
2025	369,050.64			369,051	40,000	9.23	9.25
2026	369,050.64			369,051	40,000	9.23	9.25
2027	369,050.64			369,051	40,000	9.23	9.25
2028	369,050.64			369,051	40,000	9.23	9.25
Totals	\$14,762,025.50	\$3,612,834.48	\$50,000.00	\$18,321,432.50		\$458.04	\$349.05

As of last paid installment the debt per acre is... \$108.99

D

COLUSA LAFCO

NOTICE TO LANDOWNERS

COLUSA COUNTY WATER DISTRICT ANNEXATION

The Colusa County Water District (CCWD) is requesting an annexation of 1,607.39 acres more or less of territory currently receiving CCWD water and detachment of 4,998.56 acres more or less of territory that has never have received CCWD water. The District is therefore requesting annexation to include those areas that currently receive and have been receiving district water for years so in district water service may continue. The District is also requesting detachment of those lands who have never received water since the district's formation and therefore do not have a need to be within the district boundary.

You are being sent this notice because your property receives CCWD water service yet have never been within the district boundary. This action will bring your property into the district. Please see the attached sheet showing the parcel numbers and acreages of those properties being formally annexed to the district. You are welcome to visit the Colusa LAFCo Website under the page "CCWD Cleanup Reorganization" to view the maps showing areas to be annexed (Annexation Exhibits A and B). www.colusalafco.org .

The purpose of this action by the CCWD and LAFCo is to **clean up the district boundary** and no one who presently receives water will loose any right to that water. Likewise those landowners who have never received water will remain in the district.

LAFCo will be holding a public meeting at 3:00 PM on Thursday December 7, 2017 at the County of Colusa Board of Supervisor's room located at 546 Jay Street in Colusa.

If you have any questions, please do not hesitate to call Shelly Murphy, Colusa County Water District Manager at (530) 476-2669 or by email at ccwd2@frontiernet.net or call John Benoit, LAFCo Executive Officer at (530) 458-0593 or by email at lafco@countyofcolusa.org .

Exhibits A-1 – A-8 Descriptions and B-1 – B-8 Maps

List of Annexations to the Colusa County Water District

1.	Frank and Vada Ruggieri Vann Bros, Inc. Myers and Charter	018-180-040 018-180-041	62.56 acres 30.00 acres
2.	Michael and Kirsten Doherty	018-250-002	320.00 acres
3.	Sachreiter Ranch LLC	018-270-006	80.00 acres
4.	Thomas Charter	018-260-022 018-270-019	319.47 acres
5.	Michael and Ellen Vorhees Jeffery Charter Daniel and Irma Grajedo, David Bisek, Michael Charter Jerome and Irene Family Trust	021-060-068, 109 110,111,155 and 156	175.46 acres
6.	Henry Struckmeyer Et Ux	021-290-083	318.95 acres
7.	Bruce Myers and Jeffery Charter	021-320-001,014 & 031	248.98 acres
8.	Don Peart Ranch	051-010-032	51.97 acres
		TOTAL ACRES:	1,607.39

E

COLUSA LAFCO

NOTICE TO LANDOWNERS

COLUSA COUNTY WATER DISTRICT DETACHMENT

The Colusa County Water District (CCWD) is requesting both an annexation of 1,607.39 acres more or less of territory currently receiving CCWD water and detachment of 4,998.56 acres more or less of territory that has never have received CCWD water. The District is therefore requesting annexation to include lands currently receiving water and have been receiving district water for years so in district water service may continue. The District is also requesting detachment of those lands that do not and have never received water since the district's formation and therefore have never had a need to be within the district boundary.

You are being sent this notice because your property does not receive water service and never has received water from the CCWD and your property is proposed to be removed from the district boundary. Please see the attached sheet showing the parcel numbers of those properties being formally detached from the district. You are welcome to visit the Colusa LAFCo Website under the page "CCWD Cleanup Reorganization" to view the maps showing areas to be detached (Detachment Exhibits C and D). www.colusalafco.org .

The purpose of this action by the CCWD and LAFCo is to **clean up the district boundary** and no one who presently receives CCWD water will loose any right to that water.

LAFCo will be holding a public meeting at 3:00 PM on Thursday December 7, 2017 at the County of Colusa Board of Supervisor's room located at 546 Jay Street in Colusa.

If you have any questions, please do not hesitate to call Shelly Murphy, Colusa County Water District Manager at (530) 476-2669 or by email at ccwd2@frontiernet.net or call John Benoit, LAFCo Executive Officer at (530) 458-0593 or by email at lafco@countyofcolusa.org .

ATTACHMENT #4

List of Detachments from the Colusa County Water District

1.	County of Colusa	018-160-046	72.80 acres
2.	U S A	018-160-048	2.50 acres
3.	Bracket Ranches LP	018-160-078-081 & 082	537.60 acres
4.	Strain and Charter	018-170-009,015,073 074,075 & 018-260-024 & 025	947.61 acres
5.	Strain	018-170-053	14.26 acres
6.	Dorherty Bros and Colusa County	018-250-010 & 011	75.10 acres
7.	Crimsonco, LLC	018-280-019	19.00 acres
8.	Schmit	022-100-006	5.00 acres
9.	Doherty	022-100-014	6.00 acres
10.	White Road Farms, Mafrici And Tule Wildlife Habitat	022-160-04,05,06,010, 040,053,055,056,063, 064 and 065	1,471.48 acres
11.	Smith Company	022-090-028 & 029	105.00 acres
12.	Northern Crane, Inc.	022-150-053,054 and 056	32.04 acres
13.	Northern Crane, Inc.	022-150-055	0.45 acres
14.	Sun Valley Milling, LLC	022-150-121	1.23 acres
15.	Meier, Powell and Basuino	021-200-062,066, 087, 117 and 118	1161.9 acres
16.	Vann Bros	062-020-005 & 017	385.81 acres
17.	Scolfield & Dhillon	062-010-04,06 & 07	160.78 acres
TOTAL ACRES TO BE DETACHED			4,998.56 acres