

SACRAMENTO LOCAL AGENCY FORMATION COMMISSION
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May 5, 2004

TO: Sacramento Local Agency Formation Commission

FROM: Peter Brundage, Executive Officer

RE: **Florin Resource Conservation District**
Request for Reconsideration of:
Florin Resource Conservation District Annexation of
Elk Grove Water Service Territory (10-03)

RECOMMENDATION

Open a reconsideration hearing to allow the Florin Resource Conservation District to provide the Commission with new and compelling evidence that was not available at the hearing of March 3, 2004.

DISCUSSION

On March 3, 2004, your Commission approved the Annexation of the Elk Grove Water Service Territory to the Florin Resource Conservation District in Resolution No. LAFC 1267. Resolution No. 1267 has conditioned the annexation upon condition 12 (h):

"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 completion of these proceedings."

It is condition 12 (h) that the Florin Resource Conservation District wishes your Commission to reconsider. The Florin Resource Conservation District believes that it cannot comply with this condition in the time period needed to record the Certificate of Completion prior to June 30, 2004. See attached letter dated April 28, 2004. Based on the progress made to date, this appears to be the case.

I would like to remind your Commission of Government Code Section 56895 (a) regarding reconsiderations:

"...The request shall state the specific modification to the resolution being requested and shall state what new or different facts that could not have been presented previously are claimed to warrant the reconsideration."

On March 3, 2004 District representatives could not respond to Condition 12 (h) imposed by your Commission because they were not present. On April 7, 2004, the District requested a reconsideration of the Water Forum condition and then a continuance to May 5, 2004 of their reconsideration request. At the same time, the District states it needs this annexation completed by the date of June 30, 2004, to meet the November 2004 election deadline.¹ As you recall, residents living within the portion of this service area are not in the Florin Resource Conservation District and, therefore, cannot vote for Directors.

Process and Schedule

The proposed effective date of the annexation is upon filing the Certificate of Completion with the County Clerk-Recorder. The Certificate of Completion needs to be recorded by June 30, 2004 to meet the deadline required for the Registrar of Voters. The Executive Officer cannot record the Certificate of Completion until condition 12 (h) has been satisfied. It is unlikely an Agreement will be reached by June 30, 2004.

However, if condition 12 (h) is either amended or deleted, the following schedule represents an optimistic timeline for the completion of the annexation.

May 5, 2004	Delete or add new condition.
June 6, 2004	End of Reconsideration Period if no new Request for Reconsideration is filed.
June 8-20, 2004	Hold Conducting Authority Hearing
June 20-25, 2004	Issue/ Record Certificate of Completion
June 30, 2004	Forward to Registrar of Voters for November 2004 Election.

RECOMMENDATION

Revised Condition

After discussion with Jim McCormack, Water Forum Staff, I recommend your Commission amend Condition 12 (h) to require the Florin Resource Conservation District to sign a Procedural Agreement with the Water Forum Successor Effort. An example of this type of agreement is attached.

A Procedural Agreement identifies the outstanding issues that need to be finalized before a Purveyor Specific Agreement can be approved by both parties. The Procedural Agreement

¹ The Florin Resource Conservation District acquired the Elk Grove Water Service in 1999 through the process of eminent domain (neither a LAFCo public process nor a process in which Elk Grove Water Service ratepayers had any participation in electing representatives to the Board of Directors). The District did not submit its application for annexation of the Water Service territory to LAFCo staff until December 15, 2003.

describes a process by which those outstanding issues will be addressed. **The Procedural Agreement also allows either the purveyor or the Water Forum Successor Effort to cancel upon 60 days notice by either party.**

Based on the cancellation provision, it appears that this Procedural Agreement is not binding on either party. Nonetheless, it is an important attempt to keep the door open for good faith negotiations to develop policies and agreements for regional water issues.

If Florin Resource Conservation District signs the Procedural Agreement, the Sacramento County Water Agency will be required to pay annual membership fees of approximately \$20,000. The Florin Resource Conservation District is not liable for membership fees. There appears to be no binding commitment or requirements regarding membership in the Water Forum for Florin Resource Conservation District if they sign the Procedural Agreement.

Florin Resource Conservation District Position

The District Board of Directors strongly believes even a Procedural Agreement with the Water Forum Successor Effort is premature until such time as the District has the time to analyze the potential effects of such an Agreement to its ratepayers.

PB:Maf
Attachment
(Reconsideration)