

June 9, 2014

Local Agency Formation Commission
Bruce Baracco, Executive Director
Mendocino County, California
200 School Street, Suite F
Ukiah, California 95482

RE: A. The Redwood Valley County Water District Bureau of Reclamation Loan (See Attachment)
B. California Public Record Act Requests (underlined in text below)

Dear Director Baracco:

The Redwood Valley County Water District (RVCWD), has an outstanding loan for \$7.3Million which has never been paid. (No bonds.) There are some questions with regard to a merger/annexation between the Russian River Flood Control & Improvement Conservation District (RRFCD), and this outstanding loan. I have provided some information regarding this Bureau of Reclamation loan which you may find helpful in answering some questions with regard to this issue.

Subsections (f) and (g) of this section (CA. GOV. CODE Section 56121) of the California Government Code may be of help to you as well with regard to my questions:

LAFCo Question #1: If a loan is a general fund obligation (RVCWD Loan), of a predecessor agency, a subsequent consolidation and/or reorganization by LAFCO of the (RVCWD) predecessor agency into the RRFCD (under the Cortese-Knox Act), will this result in the general fund of the new agency being fully obligated to pay the loan obligation? (Please advise on the LAFCo government code sections regarding this issue under the California Public Records Act.)

LAFCo Question #2: Does LAFCO have the power to change the existing contractual obligations (the duty to the lender by the borrowing agency to pay the loan from the agency's general fund resources) for the benefit of the new agency? (Please advise on the LAFCo government code sections on this issue under the California Public Records Act.)

LAFCo Questions #3: May LAFCO diminish the guarantee of repayment by the original predecessor agency general fund by setting up an illegal, de facto assessment area within the new agency. (This section was amended to correspond to changes in the California Constitution that were implemented in the 1990's.) (Please Advise on the LAFCo government code sections on this issue under the California Public Records Act.)

LAFCo Question #4: Does this section allow board members to be personally sued to recover the full amount of the preexisting loan?

I have provided some information below which you may find helpful in answering these questions:

Section 56121. No change of organization or reorganization, or any term or condition of a change of organization or reorganization, shall impair the rights of any bondholder or other creditor of any county, city, or district. Nor shall any change of organization or reorganization, or any term or condition of a change of organization or reorganization, impair the contract rights, or contracts entered into by a public entity created by a joint exercise of powers agreement established pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code.

LAFCo Question #5: In addition, is the following information correct? Notwithstanding any provision of this division, or of any change of organization or reorganization, or any term or condition of a change of organization or reorganization, each and every bondholder or other creditor may enforce all of his or her rights in the same manner, and to the same extent, as if the change of organization, reorganization, term, or condition had not been made. Those rights may also be enforced against agencies, and their respective officers, as follows:

(a) Annexation or detachment: against the city or district to, or from, which territory is annexed or detached.

(b) Incorporation: against the newly incorporated city.

(c) Formation: against the newly formed district.

(d) Disincorporation: against the successor county receiving distribution of the remaining assets of the disincorporated city.

(e) Dissolution: against the local agency receiving distribution of all or any part of the remaining assets of a dissolved district.

(f) Consolidation: against the consolidated successor city or district.

(g) Reorganization: against the affected city or district, successor county or newly incorporated city or newly formed district, as the case may be, for any of the above enumerated changes of organization or city incorporations which may be included in the particular reorganization.

LAFCo Question #6:

It is alleged that LAFCo can set up some "Zone of Benefit" through LAFCo so that the RVCWD loan obligation, in an annexation/merger between RVCWD and the RRFC, would remain in the RVCWD District to be paid. Does LAFCo have this power and can they set up a "zone of Benefit" for the RVCWD Bureau of Reclamation Loan? (Please advise on the LAFCo government code sections regarding this issue under the California Public Records Act.)

This issue will be coming before LAFCo in the near future when the next RRFCD/RVCWD paperwork is returned to LAFCo. I am interested in knowing the answers to these questions because it is important to understand not only the nature of the debt but whether this debt is transferrable to the the RRFCD in a LAFCo approved merger/annexation.

This type of debt could bankrupt the RRFCD if transferred to them once the merger/annexation is approved and it could cost the people who have contracted for RRFCD water through huge increases in charges for water if this debt is transferred to them through this merger/annexation.

LAFCo Question #7: In addition, the RVCWD has other obligations and debts which may also fall within this category raising the cost for everyone in the Ukiah Valley. Would these obligations and debts all be moved to the new merged entity?

LAFCo Question #8: RRFCD filed a negative CEQA there should be an objection for the following reasons?

8A) Can LAFCo control the amount of water that the RVCWD would use in the future after a merger/annexation takes place since this action could jeopardize the water supplies for current RRFCD contract holders? Would this be another reason why a full CEQA should be prepared?

8B) Can the use of water by the RVCWD, once a merger/annexation is approved by LAFCo, lift the new water hookup moratorium now imposed by a lawsuit against the RVCWD? If this is lifted this action could have huge impacts on all water use in the Ukiah Valley and impair current contract holders. Thus, would not a full CEQA be required prior to any merger/annexation?

I do believe that these questions should be answered prior to any LAFCo approval of a RVCWD/RRFCD annexation/merger. I look forward to hearing from you on these critical issues. If you cannot answer these questions please advise to whom I would write at the State of California (LAFCo), to find these answers.

I look forward to hearing from you on this issue, in the near future, as this issue will, as you know, come before the Mendocino LAFCo in the near future.

If you have any questions or need additional information please contact me at your convenience.

Sincerely,

Rosalind Peterson
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