

SONOMA LOCAL AGENCY FORMATION COMMISSION

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Staff Report

Meeting Date: November 1, 2023

Agenda No. Item 5.1

Agenda Item Title: Alexander Valley Water District Formation Proposal Study Session

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Analysis

Background

Local water availability for users of groundwater or surface water sources in Sonoma County have become ever more constrained in recent years, largely in part to recent drought conditions but also due to impaired groundwater basins.

These conditions have led to two primary actions: the formation of three Groundwater Sustainability Areas (GSAs) to monitor and govern groundwater use, and the imposition of impairment orders on the upper reaches of the Russian River, limiting withdrawals. There is some likelihood that two additional groundwater basins may be designated as impacted, including one in the Alexander Valley, which would lead to the formation of additional GSAs.

A group of property owners in the Alexander Valley area are preparing a proposal to form a new water district to submit to LAFCO, and have requested that the Commission conduct a study session to familiarize themselves with their plans. Staff has prepared background information to assist the Commission in understanding aspects of the potential proposal, and asks that the Commission provide guidance to staff and the applicants.

Groundwater Sustainability Areas

Three groundwater basins (broadly in the Sonoma Valley, Petaluma Valley, and Santa Rosa Plain regions) are now governed by Joint Powers Authorities constituted of local governmental agencies (the County, Sonoma Water, the Sonoma Resource Conservation District, local cities, and water districts). The authorities have the charge of monitoring, metering, and regulating the use of groundwater to protect the viability of groundwater resources.

The GSAs typically have technical advisory committees where groundwater users can participate and recommend policies, but only government agencies can serve on GSAs.

Although the county has only three GSAs, there are additional areas that are potentially considered to be named as moderately impaired basins in the future, which would lead to the formation of GSAs. The Alexander Valley region on the upper reaches of the Russian River is a leading contender for such a designation. (A map showing the existing impaired basins is shown in Attachment 1; a map showing all of the identified basins in the County, including the Alexander Valley basin, is shown in Attachment 2.)

Agricultural water users have been vocal in their desire to sit on GSA JPAs – they do so through the North Bay Water District in the Sonoma Valley and Petaluma Valley GSAs, but have no direct representation on the Santa Rosa Plain GSA.

Representatives of North Bay Water have periodically met with LAFCO staff to determine the process by which the agency could seek a sphere of influence amendment and subsequent annexation of Santa Rosa Plain territory to the District, allowing it to seek membership in the Santa Rosa Plain GSA JPA. The District has also floated the concept of including the Alexander Valley basin area in that proposal.

Despite those consultations, North Bay Water has not sought a Municipal Service Review/Sphere of Influence study from the Commission, which is the prerequisite for seeking reorganization of the District.

There are public agencies that serve the territory of the Alexander Valley basin – the County, the Sonoma Resource Conservation District, the City of Cloverdale, and Sonoma Water (which may have limited interest in serving on a GSA for the area) – however, there are no water districts, or other urban water providers in the area.

Russian River Curtailments/Potter Valley Diversions

The portion of the northern reaches of the Russian River in Sonoma County, extending from north of Cloverdale to the confluence of Dry Creek southwest of Healdsburg have experienced significant effects of recent drought conditions, and are further imperiled by the potential closure of the Potter Valley Hydroelectric Project in Mendocino County.

The Potter Valley project produces modest hydroelectric generation through the use of two dams and a structure that diverts water from the Eel River into the east fork of the Russian River, which subsequently flows to Lake Mendocino. Pacific Gas and Electric Company, which owns the project, has sought for many years to decommission the project.

It appears clear that decommissioning the project would include dismantling the two dams on the Eel River, but it is unknown whether continued diversions of water from the Eel to the east fork of the Russian River will continue. Representatives of Sonoma Water have indicated that without continued diversions, Lake Mendocino could have no outflows south in two years out of ten, and diminished flows in the other eight years.

For the agricultural and residential users of river water in the Alexander Valley, the loss of Potter Valley diversions would represent a dire threat to water supplies. The area has voluntarily complied with curtailment orders during two recent drought years, but may face the need to manage river diversions almost every year, as well as groundwater diversions should the basin be declared impaired.

(Diversions from the river can happen directly, or through wells that are hydrologically connected to river flows. These wells are typically fairly shallow and nearby to the river.)

In the recent drought years (2021 and 2022), a re-constituted Russian River Property Owners Association (“RRPOE”) assisted Alexander Valley property owners affected by curtailment orders by collecting curtailment affidavits for submission to the state.

District Formation Proposal

The proponents have proffered a draft proposal for the formation of a California Water District, dated November 2022 (Attachment 3). The proposal lists the following purposes for the proposed district:

- to gain the official legal standing to participate in regional water supply discussions and projects, including the disposition of the Potter Valley Project and the Eel River inter-basin transfer in coordination with State and federal agencies, the Sonoma County Water Agency, other County agencies, nearby cities, tribes, non-governmental organizations, and other affected water users
- to invest in and operate infrastructure that expands and conserves water supply through monitoring usage, pricing and water sharing mechanisms, increased local storage, developing groundwater recharge, expanding use of recycled water, and water conservation measures
- to participate in a Groundwater Sustainability Agency (when it is mandated by the State) with other public agencies having land or water use authority in the Alexander Valley
- to have the authority to engage in River and tributary restoration and habitat conservation projects
- to protect existing agricultural water rights

With regard to 2 above, proponents at different times have indicated that they would meter water use for agricultural properties within the district, and that they would not. Proponents at this time do not have any firm capital project plans for water infrastructure.

With regard to 3 above, the proponents have indicated a potential desire to act as the administrator of a GSA if one is mandated.

With regard to 4 above, staff notes that the Sonoma Resource Conservation District has broad authority to pursue restoration and conservation projects in most of the County, including the Alexander Valley area. One of the missions of LAFCO is to ensure the efficient delivery of services, which includes ensuring that agencies do not provide competing services.

The Principal Act denoting the powers of a California Water District indicates (§35401):

“A district may acquire, plan, construct, maintain, improve, operate, and keep in repair the necessary works for the production, storage, transmission, and distribution of water for irrigation, domestic, industrial, and municipal purposes, and any drainage or reclamation works connected therewith or incidental thereto...”

The proponents of the formation of the District note that they believe that water districts have recently been formed elsewhere in the state specifically for the purposes of participating in joint powers authorities managing Groundwater Sustainability Agencies.

District Formation Application Requirements

Without describing the entirety of the process for considering a district formation proposal, staff will note the requirements for filing a complete proposal, which include items that will be costly or otherwise time-consuming for the applicants.

A complete application must include:

- A sufficient number of petitions supporting the proposal, in this case from land owners within the proposed district boundaries. For landowner-governed districts, the petitions carry the “weight” of the land value of parcels, and for properties that are owned by more than one individual or by a corporation, owners are able to “vote” only their proportional ownership share. For corporately-owned properties, petitions must be accompanied by documentation indicating that the signatory has authority to act on behalf of the owners.
- A deposit against actual expenses incurred by LAFCO to process the proposal. Should accrued expenses exceed the deposit amount, work to process the proposal will cease until additional funds are received.
- A map of the proposed district territory that conforms to State Board of Equalization requirements. Because the proponents are not able to use any existing agency boundaries, the cost of preparing a map is likely to be in the tens of thousands of dollars.
- A Plan for Service document that describes what activities and services the proposed district will provide, where revenues will come from, and how those revenues will be expended. The Plan for Service should include a preliminary budget for the first five years of district operations in conformance with typical government agency budget formats.
- An environmental determination regarding the proposed district formation. Generally, formation of districts can be found to be exempt from the requirements of the California Environmental Quality Act, but it is necessary for the proponents to make that claim.

Beyond direct staff costs, applicants will be called upon to pay any legal noticing costs (such as postings in the media and direct mailings to affected landowners and voters), as well as all costs related to elections.

District Formation Through Special Legislation

The proponents have indicated that they might seek to bypass the LAFCO district formation process by seeking special legislation at the state (see Attachment 4).

In particular, the proponent’s legislative proposal notes “Due to anticipated delays and potential Sonoma LAFCO denial of a landowner petition to form a California Water

District, there is an urgent need to create a public water district in the Alexander Valley to facilitate acquisition of additional water supplies in the Alexander Valley and to represent Alexander Valley landowners in local, State and federal processes.”

Staff has countered that LAFCO is the recognized authority for considering district formation requests, and that efforts to bypass this authority through the legislative process are generally opposed by LAFCOs throughout the state, and are generally not successful.

Furthermore, staff notes that many of the procedural matters required for a district formation proposal through LAFCO cannot be bypassed through legislation. Notably, proponents will still be required to prepare a map of the proposed district territory in order to designate a taxation area with the State Board of Equalization, and the proponents will still need to conduct elections to form the district, authorize taxation, and elect board members. Lastly, staff does not believe that seeking special legislation will offer any particular time advantage compared to filing a proposal with LAFCO.

Status of Application/Proposal

Proponents of the formation of the district have not filed a notice of intent to circulate petitions supporting an application, which is the first step in formally beginning the process. Proponents have met extensively with staff, largely to seek guidance on the application process.

Discussion

As stated above, LAFCO staff have spent significant resources briefing the potential applicants regarding the processing of a formation proposal, and have recently commented on a processing document prepared by the applicants.

Staff contends that these processes are interpretations of the Cortes Knox Herzburg Act and other than some discretionary timelines for responding to applicant submissions, the process is largely governed by code, including matters such as noticing requirements and the holding of necessary elections.

Given that understanding, we believe that the Commission’s best use of time during this study session, beyond gaining an understanding of the water supply and management options in the Alexander Valley area, is to consider what activities a potential water district would or should undertake to represent a viable public agency.

Staff has prepared a number of possible discussion areas:

- A California Water District has a very narrow set of allowed services, fundamentally including securing a source or sources of water, transporting that water through a conveyance, and metering and billing users of the water. The proponents of the district note that they will need to seek out water supplies, and that they expect to undertake water supply projects (such as aquifer storage) in

the future, though these projects are not fully scoped. The proponents also indicate that the Russian River will be the primary conveyance of water supply.

The proponents have indicated at different times that they would consider metering of large water users in the area as a service, both to verify compliance with curtailment orders and to meet the requirements of a GSA, and at other times that they do not plan to undertake a metering program. Staff believes that undertaking metering would be a critical component of the services of a water district, and therefore to the viability of the proposal.

- One of the primary reasons for forming the district, according to proponents, is to participate in a Groundwater Sustainability Agency if one is formed in the area, and to potentially act as the administrator for the GSA. It is unclear when or even if the basin will be declared impaired, necessitating the formation of a GSA; therefore it may be premature to form the district if other services that the district might provide are not otherwise a justification for formation.
- The potential district is proposed to be governed by landowners rather than voters. Although staff believes that a landowner district is more difficult to manage (particularly with regard to elections), it is reasonably clear that a voter-governed district is likely infeasible given the low population density in the area.

Staff Availability and Resources

Staff would like to note that contrary to an assertion by the formation proponents that Sonoma LAFCO has “limited resources to oversee the formation of a new California Water District”, staff believes that it can effectively process an application should one be filed. If necessary LAFCO staff can recommend procuring consultant or other support if needed with approval of the Commission, and the costs for processing a proposal are borne by the applicant whether in-house or other services are used.

Staff would also like to proffer that the Commission’s fee schedule allows for one hour of pre-application consultation with potential applicants, after which the proponents are expected to pay a deposit to cover further consultations. Staff has provided extensive consultation for the potential applicants exceeding this limit by an order of magnitude, and has indicated that the proponents need to file a deposit for future consultation activities.

Recommendation

Staff is requesting that the Commission conduct a study session to better understand the conditions in the Alexander Valley with regard to water supply, and the incipient proposal from the Russian River Property Owners Association to form a California Water District either through an application to LAFCO or through state legislation.

Attachments

1. Map of Existing Groundwater Sustainability Agencies
2. Map of Other Groundwater Basins in Sonoma County
3. Russian River Property Owners Association District Formation Proposal
4. Russian River Property Owners Association Legislative Proposal