

LOCAL AGENCY FORMATION COMMISSION
SAN BENITO COUNTY

2301 Technology Parkway
Hollister, CA 95023
Phone: (831) 637-5313

October 23, 2014 (Agenda)

Local Agency Formation Commission
2301 Technology Parkway
Hollister CA 95023

**Status of the Pacheco Pass Water District and
Initiation of Dissolution Proceedings**

Dear Members of the Commission:

RECOMMENDATION

It is recommended the Commission:

1. Review this report and adopt the attached resolution initiating proceedings to dissolve the Pacheco Pass Water District.
2. Refer this matter to the Santa Clara LAFCO for its response and recommendations since the Pacheco Pass Water District has territory in Santa Clara County.
3. Direct staff to notify the County of San Benito, San Benito County Water District and Santa Clara Valley Water District of this matter and request their input.
4. Direct staff to schedule a public hearing on the proposed dissolution for the meeting for January 22, 2015 or thereafter depending on the responses from other interested public agencies.

DISCUSSION

Pacheco Pass Water District

The Pacheco Pass Water District is one of the agencies we have studied since embarking on our Commission-directed program to update the Sphere of Influence of each city and special district.

The District was formed in 1931 in San Benito and Santa Clara Counties. San Benito is the “principal county” since it is “the county having the greater portion of the entire assessed value, as shown on the last equalized assessment roll of the county or counties, of all taxable property within a district or districts for which a change of organization or reorganization is proposed.”

The District owns the Pacheco Dam, built in 1936, that is located on the North Fork of Pacheco Creek. It stores up to 6,000 acre-feet of local runoff for release to recharge groundwater in downstream areas. It also owns and operates a smaller 500 acre-foot facility, Las Viboras Dam and Reservoir, which is situated in San Benito County.

It is an “independent” special district, which means it has a legislative body all of whose members are elected by registered voters or landowners within the district, or whose members are appointed to fixed terms.

A situation has arisen regarding governance and existence of the District. In preparing our Directory of Local Agencies we became aware of a question of whether or not it has a legally constituted Board of Directors

The San Benito County Elections staff recently informed us the District has no current board members. A District contact, Michael O’Connell, is a former District Board member but his term on the Board expired in 2012. Another contact is the Secretary Ann Strickland, who is also not a member of the Board.

Relationship with Overlapping Water Districts

The portion of the District situated within San Benito County is within the San Benito County Water District and the portion in Santa Clara County is within the Santa Clara Valley Water District.

On July 24 we arranged a meeting with staff representatives of the San Benito County Water District Santa Clara Valley Water District, Santa Clara LAFCO and San Benito LAFCO. The contact for the Pacheco Pass Water District was invited but was unable to attend to a last-minute schedule conflict.

Since getting involved your staff has become aware that there have been discussions for several years about the best way to manage the District’s physical assets and services and complete essential capital improvements for the Districts’ North Fork Dam.

We have been advised by the Santa Clara LAFCO staff that the Santa Clara Valley Water District staff has expressed interest in dissolving the District and having LAFCO appoint the San Benito Water District and Santa Clara Valley Water District as the two successor agencies.

Based on these preliminary discussions, District assets in Santa Clara County (e.g. North Fork Dam and revenues) would be transferred to the Santa Clara Valley Water District; its assets in San Benito County (e.g. smaller dam and revenues) would transfer to San Benito Water District.

These two successor agencies would enter into a joint use agreement to ensure existing services the District provides would continue to be provided in both counties. It appears both Districts may be in general agreement with these concepts and it is expected they can and will work out any remaining issues.

LAFCO Authority to Initiate Dissolution

The Commission is authorized under certain circumstances to initiate the dissolution of special districts. Government Code Section 56375 (2) provides that:

“The commission may initiate proposals by resolution of application for any of the following:

- (A) The consolidation of a district, as defined in Section 56036.
- (B) The dissolution of a district. (Emphasis added)
- (C) A merger.
- (D) The establishment of a subsidiary district.
- (E) The formation of a new district or districts.
- (F) A reorganization that includes any of the changes specified in subparagraph (A), (B), (C), (D), or (E).”

Section 56375 (3) states:

“A commission may initiate a proposal described in paragraph(2) only if that change of organization or reorganization is consistent with a recommendation or conclusion of a study prepared pursuant to Section 56378, 56425, or 56430 and the commission makes the determinations specified in subdivision (b) of Section 56881.

Referenced Code Section 56378 states:

In addition to its other powers, the commission shall initiate and make studies of existing governmental agencies. Those studies shall include, but shall not be limited to, inventorying those agencies and determining their maximum service area and service capacities.

The other Sections 56425 and 56430, respectively, direct LAFCO to (1) prepare and update Spheres of Influence and (2) prepare Municipal Service Reviews.

In our view, this report including the documents referenced below constitutes a sufficient study of the Pacheco Pass Water District to allow the Commission to adopt the attached resolution initiating dissolution of the District. This is especially true given the fact there is not a valid, legally selected and operating board of directors.

If the Commission initiates the dissolution as recommended, it would conduct a public hearing to consider the proposed dissolution and accept testimony from all interested parties including any individuals associated with the Pacheco Pass Water District, other interested public agencies and any residents or landowners within the District.

It is recommended the staff be directed to schedule a public hearing on the proposed dissolution for the Commission meeting for January 22, 2015 or thereafter depending on the responses from other interested public agencies.

Supporting Documentation

Included are the following documents:

- Santa Clara LAFCO-adopted Countywide Water Service Review (December 2011)
- San Benito LAFCO – Resolution No. 2007-24 Approving an Update to the Sphere of Influence for the Pacheco Pass Water District (December 20, 2007)
- San Benito LAFCO: Countywide Municipal Services Review (November 2007)
Public Review Draft – Section 5.0 Pacheco Pass Water District
- Santa Clara Valley Water District – Board Agenda Memo re: Potential Reorganization of the Pacheco Pass Water District (9/23/14)

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- Santa Clara Valley Water District – Board Agenda Memo re: Principles of Agreement for Joint Investigation of Future Alternatives for Pacheco Reservoir (9/23/08)

Attached Resolution Initiating Dissolution

It is recommended the Commission adopt the attached resolution of application that will start the process of dissolving the Pacheco Pass Water District.

The resulting public hearing will provide an opportunity for all interested parties to make their views known, at which time the Commission can determine whether to proceed with the dissolution. At that time appropriate conditions would be included for the fair and equitable distribution of District assets to successor agencies.

Please contact the LAFCO office should you have any questions.

Very truly yours,



BOB BRAITMAN
Executive Officer

cc: Jeff Cattaneo, District Manager/Engineer, San Benito County Water District
Beau Goldie, Chief Executive Officer, Santa Clara Valley Water District
Joseph Horwedel, Director, San Benito County Public Works Department
Neelima Palacherla, Executive Officer, Santa Clara LAFCO
Pacheco Pass Water District c/o Secretary Ann Strickland

RESOLUTION OF APPLICATION OF SAN BENITO LOCAL AGENCY FORMATION
COMMISSION INITIATING PROCEEDINGS FOR DISSOLUTION OF THE
PACHECHO PASS WATER DISTRICT

WHEREAS, the Commission is authorized by Government Code Section 56375 (2) to initiate a proposal for the dissolution of a special district provided the proposal is consistent with a recommendation or conclusion of a study by the Commission pursuant to Section 56378 and the Commission makes the determinations specified in subdivision (b) of Section 56881.

WHEREAS, studies of existing governmental agencies allowed by Section 56378 shall include, but are not be limited to, inventorying those agencies and determining their maximum service area and service capacities.

WHEREAS, the Commission has considered the circumstances surrounding the Pacheco Pass Water District, including various reports and materials prepared by the Commission and the Santa Clara Valley Water District, and

WHEREAS, based on available information the Commission determines that the public service costs resulting from dissolving the District are likely to be less than or substantially similar to the costs of alternative means of providing the service and the dissolution and resulting transfer of public services will likely promote public access and accountability for community services needs and financial resources.

WHEREAS, this proposal is initiated pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act (Sections 56000 et seq. of the Government Code); and

WHEREAS, at the times and in the manner required by law the Executive Officer has given notice of the Commission's consideration of the matter; and

WHEREAS, the Local Agency Formation Commission finds the initiation of the dissolution of the Pacheco Pass Water District to be justified and appropriate and in the potential best interests of the affected area and the total organization of local governmental agencies.

NOW, THEREFORE, BE IT RESOLVED DETERMINED AND ORDERED by the Local Agency Formation Commission of San Benito County as follows:

San Benito LAFCO
Initiation of Dissolution of Pacheco Pass Water District

(1) The Commission hereby initiates dissolution of the Pacheco Pass Water District and assigns the distinctive short-form designation:

DISSOLUTION OF THE PACHECO PASS WATER DISTRICT

(2) The boundaries of the District are found to be definite and certain and set forth in the map attached hereto and made a part hereof.

(3) The Executive Officer is directed set the proposed dissolution for hearing and provide adequate notice to affected parties including potential successor agencies.

This resolution was adopted on October 23, 2014 and is effective on the date signed by the Chair.

AYES:

NOES:

ABSTAINS:

Dated: _____

Chair
San Benito Local Agency Formation Commission

ATTEST

Bob Braitman, Executive Officer
San Benito Local Agency Formation Commission

Figure 7-1

