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NAPA COUNTY  
LAFCO

July 15, 2020

Honorable Commissioners:

The Congress Valley Water District (District) Board of Directors appreciates this opportunity to offer comments on Napa County LAFCO's proposed Countywide Water and Wastewater Municipal Service Review.

The draft MSR acknowledges that there is no duplication of service between the District and the City, but nonetheless suggests that there is "potential for greater efficiency of service...as two separate agencies are not needed to offer the current level of services," and suggests that dissolution and reorganization is therefore appropriate. This outlook misunderstands the relationship of the District and City as wholesaler and retailer, and discounts the important representative function that the District plays for its landowners.

### **The District Plays an Important Role in the Provision of Water to its Landowners**

The District is a landowner voting district, formed and organized under the California County Water District Law (Water Code section 30000 and following). It is empowered, among other things, to "do any act necessary to furnish sufficient water in the district for any present or future beneficial use," (§ 31020) to sell, use, and dispose of surplus water (§ 31023); to construct and operate waterworks (§ 31005); and to restrict the use of water in times of drought (§ 31026). Its authority to manage water within its boundaries is unique and distinct from that of the City or County, and it exercises that authority in part by negotiating water service agreements, by reviewing proposed new connections to its system, and by providing a voice for District landowners in water management issues in the area.

For example: the District and the City of Napa are parties to a long-term water service contract (Agreement), originally entered into in 1951, renegotiated in 1987, and amended in 2017 and 2018. Under the current operating terms of that agreement, the City provides the District with wholesale water at the then-current Outside City rates. Consistent with the 2018 Amendment, the District has authorized the City to directly bills its customers for their water use at the Inside City rates that had been in place under the prior iterations of the Agreement. The District funds any differential through reserves, paying the City directly to account for the differential.

The District Board is a conscientious and responsible steward of its resources, and it exercises appropriate oversight over billing and financial operations. In 2018, the Board underwent a significant financial planning effort, resulting in a partial refund to its landowners of past charges and an on-going arrangement to off-set the then pending City rate increase for as long as the finances of the District would responsibly allow. These efforts demonstrate the Board's commitment to serving its constituents, and the unique fiscal and fiduciary responsibilities it exercises on behalf of its landowners.

It is important to understand that District's land uses and voter makeup are also distinct from those of City residents, and the City's current governance structure provides no avenue for representation of these voters. As the draft report acknowledges, annexation into the City for these lands is not feasible in the near term. Elimination of the District's board and administrative structures (which are already lean), likewise eliminates these landowners' primary form of advocacy and representation before their water service provider. Unlike City residents, who may vote to unseat a councilmember if they are unsatisfied with their water service, District landowners' sole recourse is through the District Board. That Board is empowered and authorized to negotiate on its landowners behalf with the City as a wholesaler, and has done so for many years.

Finally, though the City bears responsibility for the operation, maintenance and replacement of the District's water delivery system, that system is not included within the City's Capital Improvement Plan. The District is actively engaged with consultants and engineers to identify additional capital outlays that would benefit its landowners, including upgrades to existing deliveries, improved efficiencies, and the implementation of water storage resiliencies.

### **Dissolution is Not Consistent with the Goals of Government Code section 56133.5**

Government Code section 56133.5 establishes a pilot program under which, notwithstanding the

The District is required to initiate and facilitate discussions with the City, LAFCO, and Napa County to establish a transition plan 2 years before the Agreement's expiration. The District formally initiated that discussion on July 14, 2020. The resolution "may include some combination of the District's initiation of dissolution proceedings, the City otherwise taking over the District's responsibilities to provide water service, a longer term commitment by the District to continue to provide water service, or another option mutually agreeable by the District and the City."

Section 56133.5 was intended to allow for the provision of services in special circumstances where that extension not only avoids duplication, but is also consistent with the needs of the landowners and constituents in the area proposed for service. Here, the services are already available to landowners at an appropriate cost and high degree of efficiency, and the extension would result in the disenfranchisement of the same landowners with nominal actual benefit to their water deliveries. Landowners without existing connections at the time of dissolution would be further disadvantaged, in that they would be required to appeal to the City for the provision of services under Section 56133.5, instead of simply opting into existing deliveries under the District's contract.

Section 56133.5 is intended to facilitate the efficient provision of services where a deficiency has been identified: it is not intended to eliminate existing small suppliers, and it should not be used to hasten the dissolution of the District in favor of replacing one service provider with another.

**Recommendation #2 (District Website) Has Already Been Addressed**

Finally, the Board wishes to report on progress made since the issuance of the Draft report. The District previously adopted an exemption from Government Code section §54954.2's website requirements. The need for this exemption was driven by the lack of available expertise on staff and the volume of work necessary to ensure that the District's website was not only full operational, but compliant with the more detailed posting and update requirements of both AB 2257 and other access and publication rules, including the Americans with Disabilities Act. In early 2020, the District directed staff to obtain quotes for outside consultants who could maintain and operate a compliance website. The District expects to award that work and have an operational website in place by the fall of 2020.

The District thanks the LAFCO commissioners for their consideration of these comments.

Sincerely,

A handwritten signature in blue ink that reads "Richard Nominni". The signature is written in a cursive style with a large, sweeping initial "R".

Richard Nominni  
Director, Congress Valley Water District