

**Lassen Local Agency Formation Commission**

**Regular Meeting Agenda**

**MONDAY – August 10, 2015**

**3:00 PM**

**Board of Supervisors Chambers  
707 Nevada Street  
Susanville, CA.**

**(website [www.lassenlafco.org](http://www.lassenlafco.org))**

**1. Call to order**

Commissioners

Todd Eid, Chair, Public Member  
Brian Wilson, City Member, Vice Chair  
Rod De Boer, City Member  
Jeff Hemphill, County Member  
Jim Chapman, County Member

Alternate Members

Bob Pyle, County Member Alt.  
Kathie Garnier, City Member Alt.  
Andrew Wellborn, Public Member Alt.

LAFCO Staff

John Benoit, Executive Officer  
John Kenny, LAFCO Counsel  
Gwenna MacDonald, Clerk

**2. Approval of Agenda (Additions and Deletions)**

**3. Election of Chair and Vice-Chair for Fiscal Year 2015-2016**

- a. Election of Chair*
- b. Election of Vice-Chair*

**4. Correspondence:**

**5. Approval of Minutes: *June 8, 2015***

**4. Public Comment**

This is the time set aside for citizens to address the Commission on any item of interest to the public that is within the subject matter jurisdiction of the Commission. For items that are on the agenda, public comment will be heard when the item is discussed. If your comments concern an item that is noted as a public hearing, please address the Commission after the public hearing is opened for public testimony. The Chairman reserves the right to limit each speaker to three (3) minutes. Please understand that by law, the Commission cannot make decisions on matters not on the agenda.

## **PUBLIC HEARING**

**6. Public Hearing regarding LAFCo file 2015-01 Dissolution of County Service Area #2 Johnstonville Water**

- a) *Conduct Public Hearing regarding the Dissolution of CSA #2*
- b) *Continue Public Hearing or consider resolution 2015-0005 Dissolving CSA #2 Johnstonville Water.*

### **Action Items:**

**7. Implementation of the Herlong MSR and SOI.**

- a) *Provide Direction to staff regarding implementation of the Herlong MSR and SOI adopted by LAFCo on October 6, 2014.*
- b) *General Discussion regarding SB 88 signed by the Governor on June 24, 2015.*

**8. Authorize Payment of Claims for June and July 2015.**

- a. *Approve payment of expenses for June and July 2015.*

**9. Hold General Discussion regarding the MSR and SOI for the Honey Lake Valley RCD.**

- a. *Hold General Discussion regarding the RCD and provide direction to staff.*

**10. Executive Officer's Monthly Report – Information items and (or) Discussion with Commissioners. No decisions will be made regarding the following items:**

*Meyers Healthcare District Annexation  
Fall River Mills FPD-McArthur FPD Consolidation  
Big Valley Water Users Legislation  
Capistrano Taxpayers Assn, Inc. v. City of San Juan Capistrano  
SB-88 Water Districts Consolidation Bill*

**11. Commissioner Reports - Discussion**

*This item is placed on the agenda for Commissioners to discuss items and issues of concern to their constituency, LAFCO, and legislative matters.*

This item is placed on the agenda for Commissioners to discuss items and issues of concern to their constituency, LAFCO, and legislative matters.

**12. Adjourn to the next Meeting to take place on October 5<sup>th</sup> at 3:00 PM as a Special Meeting since October 13<sup>th</sup> is Columbus Day and a City-County Holiday.**

***Any member appointed on behalf of local government shall represent the interests of the public as a whole and not solely the interest of the appointing authority***  
***Government Code Section 56325.1***

*The Commission may take action upon any item listed on the agenda. Unless otherwise noted, items may be taken up at any time during the meeting.*

**Public Comment**

Members of the public may address the Commission on items not appearing on the agenda, as well as any item that does appear on the agenda, subject to the following restrictions:

- Items not appearing on the agenda must be of interest to the public and within the Commission's subject matter jurisdiction.
- No action shall be taken on items not appearing on the agenda unless otherwise authorized by Government Code Section 54954.2 (known as the Brown Act, or California Open Meeting Law).

**Public Hearings**

Members of the public may address the Commission on any item appearing on the agenda as a Public Hearing. The Commission may limit any person's input to a specified time. Written statements may be submitted in lieu of or to supplement oral statements made during a public hearing.

**Agenda Materials**

*Materials related to an item on this agenda submitted to the Commission after distribution of the agenda area available for review for public inspection in the Clerk's office located at the City of Susanville, 66 North Lassen Street, Susanville CA. and the Lassen Co. Community Development Office located at 707 Nevada Street, Susanville CA. [such documents are also available on the Lassen LAFCo website ([www.lassenlafco.org](http://www.lassenlafco.org)) to the extent practicable and subject to staff's ability to post the documents prior to the meeting]*

**Accessibility**

An interpreter for the hearing-impaired may be made available upon request to the Executive Officer 72 hours before a meeting. The location of this meeting is wheelchair-accessible.

**Disclosure & Disqualification Requirements**

Pursuant to Government Code Sections 56700.1 and 57009 of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, and 82015 and 82025 of the Political Reform Act applicants for LAFCO approvals and those opposing such proposals are required to report to LAFCo all political contributions and expenditures with respect to a proposal that exceeds \$1,000. LAFCO has adopted policies to implement the law, which are available on the Commission's webpage. These requirements contain provisions for making disclosures of contributions and expenditures at specified intervals. Additional information may be obtained by calling the Fair Political Practices Commission at (916) 322-5660.

A LAFCO Commissioner must disqualify herself or himself from voting on an application involving an "entitlement for use" (such as an annexation or sphere amendment) if, within the last twelve months, the Commissioner has received \$250 or more in campaign contributions from the applicant, any financially interested person who actively supports or opposes the application, or an agency (such as an attorney, engineer, or planning consultant) representing the applicant or an interested party. The law (Government Code Section 84308) also requires any applicant or other participant in a LAFCO proceeding to disclose the contribution amount and name of the recipient Commissioner on the official record of the proceeding.

**Contact LAFCO Staff**

LAFCO staff may be contacted at (530) 257-0720 or by email at [lafco@co.lassen.ca.us](mailto:lafco@co.lassen.ca.us). Copies of reports are located on the LAFCO webpage at: [www.lassenlafco.org](http://www.lassenlafco.org)

**LASSEN COUNTY LOCAL AGENCY FORMATION COMMISSION**  
Board of Supervisors Chambers 707 Nevada Street Susanville, CA 96130

**REGULAR MEETING**  
June 8, 2015 - 3:00 p.m.

Meeting was called to order at 3:03 p.m. by Chairperson Eid.

Roll call of members present: Jim Chapman, Jeff Hemphill, Rod De Boer and Chairperson Todd Eid. Absent: Vice Chairperson Brian Wilson.

Staff Present: John Benoit, Executive Officer and Gwenna MacDonald, Clerk.

Motion by Commissioner Hemphill to approve the agenda as submitted; Commissioner De Boer provided a second and the motion carried. Ayes: Chapman, Hemphill, De Boer, and Eid. Absent: Wilson.

At 3:06 p.m. Vice Chairperson Wilson arrived and assumed his seat on the dais.

**Correspondence**

Mr. Benoit discussed a letter from the California Special Districts Association regarding the Drought Water System Consolidation Budget Trailer Bill 825.

**Minutes**

Motion by Vice Chairperson Wilson to approve the minutes of April 13, 2015; Commissioner Chapman provided a second and the motion carried. Ayes: Chapman, Hemphill, Wilson and Eid. Abstain: De Boer.

**Public Comments**

There were no public comments.

It was the consensus of the Commission to table consideration of Item #6 to provide an opportunity for representatives from the City of Susanville to be present for consideration of the public hearing item regarding the Municipal Service Review.

**8 Northwest Lassen FPD and McArthur FPD Consolidation**

Mr. Benoit reported that Lassen LAFCO has received a formal request from the Northwest Lassen Fire Protection District to process an application to merge the Northwest Lassen Fire Protection District which is located in Lassen County with the McArthur Fire Protection District, located in Shasta County. Shasta County is the principal LAFCO for this reorganization and would normally process the application, however as principal LAFCO they have the authority to vest another jurisdiction if the districts involved are located in more than one county. The Shasta LAFCO Commission approved a request on June 4, 2015 authorizing Lassen LAFCO to assume exclusive jurisdiction for the reorganization. Resolution 2015-0005 provides the authority for Lassen LAFCO to accept the designation to exercise exclusive jurisdiction for a Change of Organization concerning the respective Fire Protection Districts.

**Brent Cassidy** stated that the recommendation in the MSR was to reorganize and for five years the district has tried to move forward with it through several executive officers, and have failed to make any progress. The reorganization will formalize what has been occurring already.

The Commission discussed numerous challenges facing Shasta LAFCO due to performance deficiencies involving a former executive officer.

Motion by Commissioner Hemphill to approve Resolution No. 2015-0005; Commissioner Chapman provided a second and the motion carried unanimously. Ayes: Chapman, Hemphill, De Boer, Wilson and Eid.

**7 Public Hearing – Fiscal Year 2015/2016 Final Budget**

Mr. Benoit explained that the draft recommended budget was presented at the April 13, 2015 meeting. He reviewed the final proposed budget including a summary of expenses, with a recommended City and County apportionment of \$50,848.03. The carryover amount of \$5,222.30 will be used to fund the fiscal year 2015/2016 contingency. Mr. Benoit noted that the amount of \$1,500 for transportation and conference attendance may need to be increased slightly if more than one Commissioner attends the annual conference.

At 3:24 p.m. Chairperson Eid opened the public hearing and requested comments. There being no comments, Chairperson Eid closed the public hearing at 3:25 p.m.

Motion by Commissioner Hemphill to adopt Resolution No. 15-0004 approving the final budget for fiscal year 2015/2016; Commissioner De Boer provided a second and the motion carried unanimously. Ayes: Chapman, Hemphill, De Boer, Wilson and Eid.

**9 Payment of Claims: April and May 2015**

Motion by Vice Chairperson Wilson to approve claims for April and May 2015 in the amount of \$9,354.34; Commissioner Hemphill provided a second and the motion carried unanimously. Ayes: Hemphill, Chapman, De Boer, Wilson and Eid.

**10 Calafco Conference – September 2-4, 2015**

The Commission discussed availability to attend the Calafco Conference in September, and it was the consensus that Commissioner Chapman and Commissioner Hemphill would attend.

**11 Lassen LAFCO Voting Delegate – Calafco Conference**

It was the consensus that Commissioner Chapman would act as the voting delegate at the Annual Calafco Conference.

**12 Calafco Executive Board of Directors Nomination**

It was the consensus of the Commission to decline nomination of a representative to serve on the Calafco Executive Board of Directors.

**13 Nomination for Calafco Achievement Award**

It was the consensus of the Commission to nominate Commissioner Chapman for the Lifetime Achievement Award for his many years of public service and involvement with Lassen LAFCO.

**6 Public Hearing: Municipal Services Review – City of Susanville**

Mr. Benoit reported that the Commission conducted a workshop at the April 13, 2015 meeting to review the draft MSR for the City of Susanville. Several comments discussed at the workshop have been incorporated into the final document to include:

Page 25/Section 4.4 A statement of auxiliary funding pertaining to the Lassen High School Resource Officer;

Page 33/Section 5.7 Removal of sentence referring to the 2008 expenditure on improvement projects;

Page 66/Correct sentence to reflect the annual review of natural gas rates by the Susanville Municipal Energy Commission;

The revision of a statement related to water capacity and usage to reflect that the current water supply projections estimate that demand will not outweigh supply for the City of Susanville water system;

The addition of two MSR Determinations recommending the update of the Urban Water Management Plan and a comprehensive update of the General Plan;

A clarification regarding the unmet parkland needs, which shows 16.3 acres of recreation/open space per 1,000 population. The MSR Determination recommends the preparation of a Parks Facilities Master Plan taking into account National Park and Recreation Association standards as determined relevant to the City.

The Commission had a lengthy discussion regarding the City of Susanville General Plan update, reconciling with the Lassen County Area Plan, quantifying the parkland needs of the community, and the importance of flexibility in the MSR in order to provide current services as well as plan for the future needs of the community.

**Jared Hancock**, City Administrator, discussed the progress made to date regarding the City's update of various elements of the General Plan. He suggested incorporating the following language into the MSR Determination regarding Parks: Recommend City review Parks Policies and acreage thresholds to meet the current priorities of the community.

At 3:58 p.m. Chairperson Eid opened the public hearing and requested comments regarding the MSR. There being no comments, the public hearing was closed at 3:59 p.m.

Motion by Vice Chairperson Wilson to adopt Resolution No. 2015-0003 approving the Municipal Services Review of services provided by and within the City of Susanville area incorporating the changes suggested; Commissioner Chapman provided a second and the motion carried unanimously. Ayes: Chapman, Hemphill, De Boer, Wilson and Eid.

#### **14 Executive Officer Report**

Mr. Benoit provided the following updates:

Meyers Healthcare District Annexation: The annexation has been on hold and Mr. Benoit is staying in contact with Shasta LAFCO to remain up to date on any progress;

Fall River Mills FPD/McArthur FPD/Northwest Lassen FPD Sphere of Influence: Mr. Benoit will be meeting with representatives to move forward with the reorganization;

Big Valley Water Users Legislation: The Big Valley water users have been affected by a decree in Modoc Superior Court that was stuck in Committee and are working with Modoc LAFCO on the process of forming water districts.

Honey Lake Valley RCD: MSR and SOI Mr. Benoit reported that it has been impossible to obtain information from the District and they are mired in litigation

CSA #2 Dissolution Mr. Benoit stated that he anticipated a simple dissolution and he is waiting for submittal of the application.

Commissioner Chapman asked for an update regarding the Herlong PUD consolidation.

Mr. Benoit responded that the consolidation of the Herlong PUD and West Patton Village had been scheduled to go before the Board of Supervisors however the West Patton Village Board

has stated they do not want to move forward with the consolidation. He will be following up and report back to the Commission at the next meeting.

## **15 Commissioner Reports**

Motion by Commissioner Chapman, second by Commissioner De Boer to adjourn until August 10, 2015; motion carried unanimously. Ayes: Chapman, Hemphill, De Boer, Wilson and Eid.

The meeting adjourned at 4:16 p.m.

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Todd Eid, Chairperson

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Approved \_\_\_\_\_  
Gwenna MacDonald, Recording Secretary

# **Lassen Local Agency Formation Commission**

**LASSEN LAFCO**

**MEMORANDUM  
August 10, 2015**

**Item #7**

**TO:** Commissioners  
**FROM:** John Benoit, Executive Officer  
**RE:** Herlong Area Sphere of Influence

**Background:**

In 2011 with the passage of AB-2838 the Legislature ordered LAFCo's to prepare and adopt Municipal Service Reviews and Sphere of Influence Updates. The most recent update took place in 2014 for both the Herlong Public Utility District (HPUD) and the West Patton Village CSD (WPVCSD)

The Herlong Area Service Review was adopted on August 11, 2014 (Resolution 2014-0005) and the Sphere of Influence was adopted on October 6, 2014 (Resolution 2014-0006). The conclusions for the Sphere of Influence is as follows:

"The Sphere of Influence for the West Patton Village CSD shall be a zero sphere as defined in Option 2 in the Sphere of Influence and Service Review Report adopted on August 11, 2014. A zero SOI signifies LAFCO's anticipation that the WPVCSD will be dissolved through a consolidation and the District's functions will be passed on to another agency. This option also calls for the expansion of HPUD's SOI to include the entirety of WPVCSD, which would indicate that HPUD is the anticipated successor agency that will continue services to the area's residents.

It has been almost a year since the adopting of the Sphere Update. I have received inquiries about what is happening in Herlong and is LAFCo going to do anything about implementing the Sphere of Influence thereby creating one agency in the Herlong area rather than to agencies. While the HPUD provides water (treatment and distribution) and wastewater (including collection and treatment) services and the WPVCSD provides Water distribution, Wastewater collection, Fire and EMS, Street Lighting and Library services.



# **Lassen Local Agency Formation Commission**

When LAFCo adopts a Sphere of Influence it sends a signal to agencies that it would like something to be implemented. In this case, the consolidation of the WPVCSD and HPUD into one district or a dissolution of the WPVCSD could occur and the HPUD being appointed as the Successor Agency. It is my understanding the negotiations between the two to form one district have either stopped or on hold.

Since I have had an inquiry I will explain how this change of organization may be initiated.

1. A Change of Organization may be initiated by an affected agency. In this case a resolution could be passed by the HPUD, the WPVCSD or the Lassen County Board of Supervisors (G.C.56654). G.C. 56853 states if the majority of the majority of the legislative body of two or more local agencies adopt similar resolutions of application making proposals either for the consolidation of districts or for the reorganization of all or any part of the district into a single local agency, the commission shall approve, or conditionally approve the proposal.
2. A Petition of Application may be initiated by a petition of at least 25 percent of the registered voters residing within the affected territory for a Registered Voter District (GC 56864).
3. LAFCo may initiate a dissolution, formation, consolidation of a district after having completed a Municipal Service Review or a special study (GC 56375). LAFCo may not initiate a detachment or an annexation.

## **Analysis:**

In the case of the HPUD or WPVCSD. While LAFCo has the authority to initiate a dissolution of the WPVCSD, LAFCo will be required pay all the associated costs such as the Plan for Services, mapping, if required, and any associated processing and legal costs. If LAFCo were to initiate dissolution of the WPVCSD, there would be territory that would no longer have fire protection services since LAFCo does not have the authority to annex areas currently outside the PUD boundaries to the PUD. As a result the successor could not be the PUD. Alternatives could be another fire agency.

LAFCo may initiate the formation of a new district or a consolidation of the two districts into a new district, which could also be a PUD or a CSD. A PUD would not be able to provide library services. A CSD could provide all the services. The HPUD in the past favored a consolidated district being a PUD. All the costs would be borne by LAFCo including, processing costs a financial analysis, mapping, BOE fees and plan for services, etc. LAFCo is funded by the City of Susanville and the County. The Commission would

# **Lassen Local Agency Formation Commission**

need to determine how this would be funded. Initiating this process is not within LAFCo's operating budget for this year.

Since this area is within the unincorporated area a change of organization could be initiated by the Board of Supervisors. In this case, the Board of Supervisors would be obligated to pay for the LAFCO filing fee, a plan for services, mapping and a financial plan, BOE fees, etc. Since the Board of Supervisors is the land use authority in the Herlong area this option should be considered.

Other affected agencies could initiate a consolidation such as the HPUD or WPVCSD or both and would be required to pay all the associated costs.

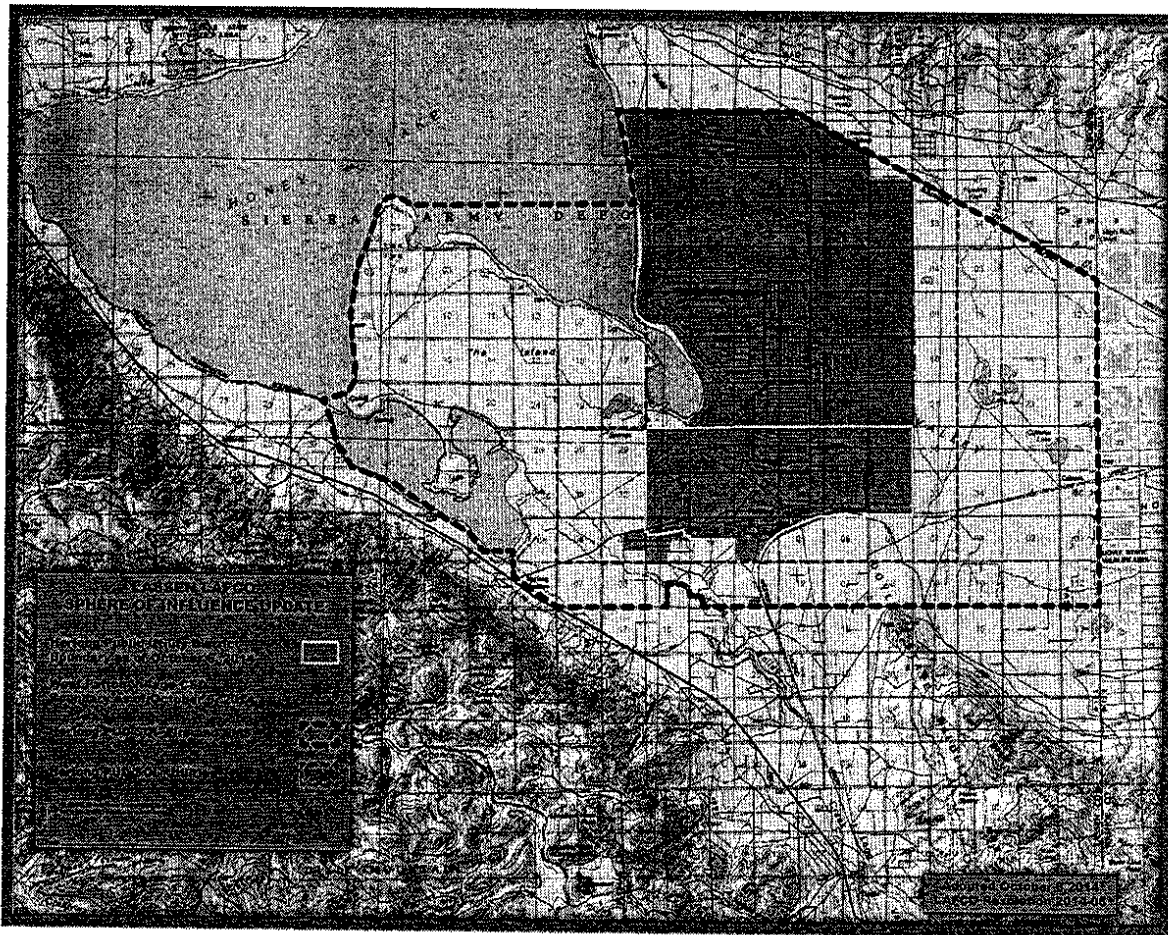
A petition of registered voters could be submitted to LAFCo for this purpose. The petition must follow specific procedures outlined in the LAFCo law. Costs of mapping, financial analysis, plan for services, election or protest proceeding, BOE fees, etc. would have to be paid.

In most cases, an election will be required confirming the formation of a new district depending upon the results of a protest hearing.

## **Recommendation:**

The Commission review the above and provide direction to staff regarding this matter.

# Lassen Local Agency Formation Commission



C/o John Benoit Executive Officer P.O. Box 2694, Granite Bay, CA 95746  
(530) 257-0720 ph. (916) 797-7631 fax. email: lafco@co.lassen.ca.us

## Senate Bill No. 88

### CHAPTER 27

An act to add Sections 116680, 116681, 116682, and 116684 to the Health and Safety Code, to add and repeal Sections 21080.08, 21080.45, and 21080.46 of the Public Resources Code, and to amend Sections 375, 375.5, 377, 1058.5, 1552, 1846, 5103, and 5104 of, to add Sections 377.5, 79708.5, and 79716.5 to, and to add Article 3 (commencing with Section 1840) to Chapter 12 of Part 2 of Division 2 of, the Water Code, relating to water, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor June 24, 2015. Filed with  
Secretary of State June 24, 2015.]

#### legislative counsel's digest

SB 88, Committee on Budget and Fiscal Review. Water.

(1) Existing law, the California Safe Drinking Water Act, provides for the operation of public water systems, and imposes on the State Water Resources Control Board various responsibilities and duties. Existing law requires the state board to conduct research, studies, and demonstration projects relating to the provision of a dependable, safe supply of drinking water, to adopt regulations to implement the California Safe Drinking Water Act, and to enforce provisions of the federal Safe Drinking Water Act. Existing law prohibits a person from operating a public water system unless the person first submits an application to the state board and receives a permit issued by the state board, as specified.

This bill would authorize the state board to order consolidation with a receiving water system where a public water system, or a state small water system within a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water. This bill would authorize the state board to order the extension of service to an area that does not have access to an adequate supply of safe drinking water so long as the extension of service is an interim extension of service in preparation for consolidation. The bill would require the state board, prior to ordering consolidation or extension of service, to conduct an initial public meeting and a public hearing and to make specified findings. The bill would limit the liability of a consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system, as specified.

(2) Existing law, the California Environmental Quality Act (CEQA), requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project

116682. (a) Where a public water system, or a state small water system within a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water, the State Water Resources Control Board may order consolidation with a receiving water system as provided in this section and Section 116684. The consolidation may be physical or operational. The State Water Resources Control Board may also order the extension of service to an area that does not have access to an adequate supply of safe drinking water so long as the extension of service is an interim extension of service in preparation for consolidation. The State Water Resources Control Board may set timelines and performance measures to facilitate completion of consolidation.

(b) Prior to ordering consolidation or extension of service as provided in this section, the State Water Resources Control Board shall do all of the following:

(1) Encourage voluntary consolidation or extension of service.  
(2) Consider other enforcement remedies specified in this article.  
(3) Consult with, and fully consider input from, the relevant local agency formation commission regarding the provision of water service in the affected area, the recommendations for improving service in a municipal service review, and any other relevant information.

(4) Consult with, and fully consider input from, the Public Utilities Commission when the consolidation would involve a water corporation subject to the commission's jurisdiction.

(5) Consult with, and fully consider input from, the local government with land use planning authority over the affected area, particularly regarding any information in the general plan required by Section 65302.10 of the Government Code.

(6) Notify the potentially receiving water system and the potentially subsumed water system, if any, and establish a reasonable deadline of no less than six months, unless a shorter period is justified, for the potentially receiving water system and the potentially subsumed water system, if any, to negotiate consolidation or another means of providing an adequate supply of safe drinking water.

(A) During this period, the State Water Resources Control Board shall provide technical assistance and work with the potentially receiving water system and the potentially subsumed water system to develop a financing package that benefits both the receiving water system and the subsumed water system.

(B) Upon a showing of good cause, the deadline may be extended by the State Water Resources Control Board at the request of the potentially receiving water system, potentially subsumed water system, or the local agency formation commission with jurisdiction over the potentially subsumed water system.

(7) Obtain written consent from any domestic well owner for consolidation or extension of service. Any affected resident within the consolidation or extended service area who does not provide written consent shall be ineligible, until the consent is provided, for any future water-related

(e) Upon ordering consolidation or extension of service, the State Water Resources Control Board shall do all of the following:

(1) As necessary and appropriate, make funds available, upon appropriation by the Legislature, to the receiving water system for the costs of completing the consolidation or extension of service, including, but not limited to, replacing any capacity lost as a result of the consolidation or extension of service, providing additional capacity needed as a result of the consolidation or extension of service, and legal fees. Funding pursuant to this paragraph is available for the general purpose of providing financial assistance for the infrastructure needed for the consolidation or extension of service and does not need to be specific to each individual consolidation project. The State Water Resources Control Board shall provide appropriate financial assistance for the infrastructure needed for the consolidation or extension of service. The State Water Resources Control Board's existing financial assistance guidelines and policies shall be the basis for the financial assistance.

(2) Ensure payment of standard local agency formation commission fees caused by State Water Resources Control Board-ordered consolidation or extension of service.

(3) Adequately compensate the owners of a privately owned subsumed water system for the fair market value of the system as determined by the Public Utilities Commission for water corporations subject to the commission's jurisdiction or the State Water Resources Control Board for all other water systems.

(4) Coordinate with the appropriate local agency formation commission and other relevant local agencies to facilitate the change of organization or reorganization.

(f) For the purposes of this section, the consolidated water system shall not increase charges on existing customers of the receiving water system solely as a consequence of the consolidation or extension of service unless the customers receive a corresponding benefit.

(g) Division 3 (commencing with Section 56000) of Title 5 of the Government Code shall not apply to the consolidation or extension of service required pursuant to this section.

SEC. 4. Section 116684 is added to the Health and Safety Code, to read:

116684. (a) Liability of a consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system shall be limited as described in this section.

(b) (1) The consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system, shall not be held liable for claims by past or existing customers or those who consumed water provided through the subsumed water system concerning the operation and supply of water from the subsumed water system during the interim operation period specified in subdivision (d) for any good faith, reasonable effort using ordinary care to assume possession of, to operate, or to supply water to the subsumed water system.

# Lassen Local Agency Formation Commission

## CLAIMS June and July 2015

Authorize payment of the following claims:

<u>Date of Claim</u>	<u>Description</u>	<u>Amount</u>
July 1, 2015	Staff Svcs & Expenses – June 2015	\$ 3,457.58
June 25, 2015	Fin Budget 15-16 notice #00001024	\$ 30.00
<b>TOTAL:</b>	<b>June 2015 Expenses:</b>	<b>\$ 3,487.58</b>
July 1, 2015	July 2015 Staff Expenses	\$ 3,853.96
July 14, 2015	Dissolution CSA #2 Hearing Notice	\$ 61.25
<b>TOTAL:</b>	<b>July 2015 Expenses</b>	<b>\$ 3,915.21</b>

**DATED:** Aug 10, 2015

**APPROVED:** Aug 10, 2015

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**Todd Eid, Chair or Brian Wilson, Vice-Chair**  
**Lassen Local Agency Formation Commission**

**Attest:**

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**John Benoit**  
**Executive Officer**

2015-2016 Expenditures

Lassen LAFCO

Item	Insurance	Office Expens	copies	Communication	Postage	Memberships	Legal Svcs	Ex. OFF. Svcs	Brown Act	Publications
Account Number										
Total Budgeted	4521	4610	4550	4530	4641	4830	4310	4331	4332	4540
Staff Svcs July 2015 #0065	\$ 1,000.00	\$ 250.00	\$ 750.00	\$ 1,000.00	\$ 300.00	\$ 785.00	\$ 2,500.00	\$ 30,000.00	\$ 3,500.00	\$ 400.00
Staff Svcs July 2015 #0066			\$ (49.86)	\$ (68.02)	\$ (14.70)			\$ (1,825.00)	\$ (500.00)	
Final Budget notice #1024			\$ (7.50)	\$ (63.96)				\$ (3,282.50)		
Dissolution of CSA #2 Notice										
Calafco Dues 2015-2016						\$ (785.00)				\$ (30.00)
Calafco reg Chapman and Hemphill										\$ (61.25)

TOTAL EXPENDED	\$ -	\$ -	\$ (57.36)	\$ (131.98)	\$ (14.70)	\$ (785.00)	\$ -	\$ (5,107.50)	\$ (500.00)	\$ (91.25)
TOTAL REMAINING	\$ 1,000.00	\$ 250.00	\$ 692.64	\$ 868.02	\$ 285.30	\$ -	\$ 2,500.00	\$ 24,892.50	\$ 3,000.00	\$ 308.75



7/30/2015

# INVOICE June 2015

John Benoit

P.O. Box 2694  
Granite Bay, CA 95746  
Tel: (530) 257-0720  
Fax (530) 797-7631

Invoice number: 2015-0065

Invoice date: 1-Aug-15

Vender ID #

Client name: Lassen LAFCO c/o City of Susanville  
Address: 66 North Lassen Street  
City, state, postal code: Susanville, CA 96130-3904

Telephone:  
Fax:  
PO number:

Lafco Staff	Hours		Start / End Date	Amount
John Benoit	39.00	Staff Svcs	June 1-30, 2015	\$3,325.00
				\$

Total activity cost: \$3,325.00

Materials / Other Expenses	Reason / Vendor	Amount
Reproduction Costs	June Packets	\$49.86
Postage	June packets	\$14.70
Phone & Communications	Phone Internet and fax	\$ 68.02
Office Supplies		
Travel Exp.		

Total materials cost: \$132.58

Total billing: \$ 3,457.58

# TIMESHEET for John Benoit

Lassen LAFCO

June 2015

DATE	Activity	Direct Expense	Cost	Hours	Amount
1-Jun-15	Reso for NW Lassen - shasta LAFco posting and misc admin				
2-Jun-15		Copy	\$44.86	3.5	\$ 297.50
3-Jun-15		Post	\$12.74		\$ -
4-Jun-15	Northwest Lassen change of jursdiction				
5-Jun-15	Meeting prep admin and finances and nwlassen FPD			0.5	\$ 42.50
6-Jun-15		copy	\$5.00	4.5	\$ 382.50
7-Jun-15	Meetign apre NW Lassen Resolution and misc admin				
8-Jun-15	LAFCo meeting meet with planning and city			2.5	\$ 212.50
9-Jun-15	Misc planning			6	\$ 600.00
10-Jun-15		Front Phone	\$22.12	8	\$ 600.00
11-Jun-15	Misc After meeting items and admin				
12-Jun-15	Budget Transmittals for FY 15-16 Budget	comm	\$21.69	2.5	\$ 212.50
13-Jun-15		Post	\$1.96	2	\$ 170.00
14-Jun-15					\$ -
15-Jun-15	MSR for RCD misc				\$ -
16-Jun-15				0.5	\$ 42.50
17-Jun-15	Admin Calafco info				\$ -
18-Jun-15	Calafco directory and admin Request CSA #2 notices			1.5	\$ 127.50
19-Jun-15				4	\$ 340.00
20-Jun-15					\$ -
21-Jun-15					\$ -
22-Jun-15					\$ -
23-Jun-15					\$ -
24-Jun-15					\$ -
25-Jun-15					\$ -
26-Jun-15	Misc admin and finances			2.5	\$ 212.50
27-Jun-15					\$ -
28-Jun-15					\$ -
29-Jun-15					\$ -
30-Jun-15	LMFCD comm latent powers	comm	\$24.21		\$ -
1-Jul-15				1	\$ 85.00
					\$ -
					\$ -

SUBTOTAL 1157.58 20 4 2,205.00  
TOTAL 1157.58 20 4 2,205.00

# INVOICE July 2015

John Benoit

P.O. Box 2694  
Granite Bay, CA 95746  
Tel: (530) 257-0720  
Fax (530) 797-7631

Invoice number: 2015-0066

Invoice date: 1-Aug-15

Vender ID #

Client name: Lassen LAFCO c/o City of Susanville  
Address: 66 North Lassen Street  
City, state, postal code: Susanville, CA 96130-3904

Telephone:  
Fax:  
PO number:

Lafco Staff	Hours		Start / End Date	Amount
John Benoit	44.50	Staff Svcs	July 1-31, 2015	\$3,782.50

Total activity cost: \$3,782.50

Materials / Other Expenses	Reason / Vendor	Amount
Reproduction Costs	Misc Printing	\$7.50
Postage		
Phone & Communications	Phone Internet and fax	\$ 63.96
Office Supplies		
Travel Exp.		

Total materials cost: \$71.46

Total billing: \$ 3,853.96

# TIMESHEET for John Benoit

Lassen LAFCo

July 2015

DATE	Activity	Direct Expense	Cost	Hours	Amount
1-Jul-15	Lassen Modoc FC&WCD comm and review legislation			1	\$ 85.00
2-Jul-15					
3-Jul-15					\$ -
4-Jul-15					\$ -
5-Jul-15					\$ -
6-Jul-15	Groundwater options - Admin				\$ -
7-Jul-15		comm	\$21.68	2.5	\$ 212.50
8-Jul-15		Front Ph	\$24.25		\$ -
9-Jul-15					\$ -
10-Jul-15					\$ -
11-Jul-15					\$ -
12-Jul-15					\$ -
13-Jul-15	Misc Comm				\$ -
14-Jul-15				1.5	\$ 127.50
15-Jul-15					\$ -
16-Jul-15					\$ -
17-Jul-15	Misc admin and financials				\$ -
18-Jul-15				2.5	\$ 212.50
19-Jul-15	CSA #2 Staff report				\$ -
20-Jul-15				3.5	\$ 297.50
21-Jul-15	CSA #2 Dissolution Staff Report				\$ -
22-Jul-15	CSA #2 Dissolution Staff Report writing			4.5	\$ 382.50
23-Jul-15	Review new consolidation legislation and comm re RCD w/doc			4	\$ 340.00
24-Jul-15	CSA #2 Resolution and finalize report for Commission			3.5	\$ 297.50
25-Jul-15	SB-88 review - Legislation			6.5	\$ 552.50
26-Jul-15				1.5	\$ 127.50
27-Jul-15					\$ -
28-Jul-15	Misc comm agenda and review of SB 88 and Capistrano decision	comm	\$18.03		\$ -
29-Jul-15	LAFCo Packet misc			2.5	\$ 212.50
30-Jul-15	LAFCo Packets and memos misc.	Print	\$7.50	4.5	\$ 382.50
31-Jul-15				6.5	\$ 552.50
					\$ -
					\$ -

TOTAL	579.46	44.5	579.46
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# INVOICE

Feather Publishing Co. Inc.

P.O. Box B Quincy, CA 95971

Date: July 14, 2015

LAFCO-Lassen

Box 2694

Granite Bay, CA 95746

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Publish: Hearing File #2015-01 Dissolution of CSA #2

**TOTAL DUE: \$ 61.25**

**Feather Publishing Co., Inc. P.O. Box B Quincy, CA 95971**

Feather River Bulletin

Indian Valley Record

Chester Progressive

Portola Reporter

Lassen Co. Times

Westwood PinePress

**Feather Publishing Co., Inc.****PO Box B****Quincy, CA 95971 • (530) 283-0800 • FAX (530) 283-3952**Feather River Bulletin • Lassen County Times • Chester Progressive  
Portola Reporter • Indian Valley Record • Westwood PinePress**STATEMENT**

1

**BILLED ACCOUNT**LAFCO-LASSEN COUNTY  
P.O. BOX 2694  
GRANITE BAY, CA 95746**BILLING DATE**

06/25/15

**TERMS OF PAYMENT**

Standard terms

**BILLED ACCOUNT NO.**

00001024

**AGENCY / CLIENT****NAME OF AGENCY / CLIENT**LAFCO-LASSEN COUNTY  
C/O John Benoit

DATE	REFERENCE #	CHARGE OR CREDITS DESCRIPTION	INS	SAU DIMENSIONS	BILLED UNITS	AMOUNT	TOTAL
03/03/2015	01086270	ADJD 1/27/15 pymt applied in err				49.00	
06/09/2015	01112909	CREDIT				-49.00	
05/12/2015	01104400	#513 Budget					30.00
		LEGAL ADVERTISING				30.00	
<b>CURRENT</b>		<b>AGING</b>				<b>TOTAL NET AMOUNT DUE</b>	
		31-60 DAYS	61-90 DAYS	91- 120 DAYS	OVER 120 DAYS		
0.00		30.00	0.00	0.00	0.00		30.00

PLEASE DETACH HERE AND RETURN THIS PORTION WITH YOUR REMITTANCE

06/25/15

**Feather Publishing Company, Inc.**

Publishers of these hometown weekly newspapers serving Plumas and Lassen Counties:

Feather River Bulletin • Lassen County Times • Chester Progressive • Portola Reporter • Indian Valley Record • Westwood PinePress

**We appreciate  
your business!****BILLED ACCOUNT NO.**

00001024

**BILLED ACCOUNT NAME**

LAFCO-LASSEN COUNTY

**AMOUNT REMITTED****REMIT TO**Feather Publishing Company  
P.O. Box B  
Quincy, CA 95971Phone: (530)283-0800  
Fax: (530)283-3952

Payment in full is due upon receipt of this statement. A service charge on all balances over 30 days will be computed by a periodic rate of 1-1/2% per month, which is an annual percentage rate of 18%, this applies to the previous balance after deducting current payments and credits appearing on your statement. A minimum of \$1.00 will be charged on all balances less than \$33.00.



**LASSEN LAFCO**

**MEMORANDUM**

**August 10, 2015**

**Item #9**

**TO:** Commissioners

**FROM:** John Benoit, Executive Officer

**RE:** Honey Lake Valley RCD

Attached is a section from the recently released 14-15 Lassen County Grand Jury Report regarding the Honey Lake RCD. LAFCo Staff is preparing a Service Review and Sphere of Influence update for the RCD and will be providing alternatives to you, which address concerns regarding the activities of the RCD.



## **HONEY LAKE VALLEY RESOURCE CONSERVATION DISTRICT**

### **Reason for Inquiry**

Public interest

### **Background**

The Honey Lake Valley Resource Conservation District's (HLVRCD) handling of issues involving the irrigation water allocation administered through the watermaster program came to the attention of the 2014-2015 Lassen County Grand Jury (Grand Jury).

### **Inquiry Procedure**

Over the course of this inquiry, the Grand Jury attended and monitored board meetings; reviewed meeting agenda and minutes; reviewed written by laws, policies and procedures and interviewed the Lassen County Local Agency Formation Commission (LAFCO) Director.

### **Discussion**

While regularly attending meetings, Grand Jury members found the watermaster issues dominated most meetings. During the meetings, the public often spoke out of turn at great lengths without focusing on current agenda topics.

An exorbitant amount of the District's time is taken up by the watermaster issues.

While the District may perform water distribution programs, as authorized by the California Public Resources Code, the watermaster program jeopardizes or overshadows the other meaningful missions HLVRCD performs; i.e. Special Weed Action Team; Coordinator for Watershed Management for Susan River, Pine Creek, and Lahontan Basin; the Skedaddle Sage Grouse Conservation and the Natural Resources Conservation Service.

### **Findings**

F1. The watermaster program in its current form is dysfunctional, and jeopardizes other critical programs.

F2. The chairperson has difficulty maintaining order during the public comment portions of the HLVRCD meetings. The public speaks out of turn and for long periods of time, failing to follow the agenda notification of a five-minute limitation for public comment.

### **Recommendations**

R1. Honey Lake Valley Resource Conservation District should discontinue the administration of the watermaster program.

R2. If the Honey Lake Valley Resource Conservation District continues to administer the watermaster program, all irrigation water issues should be referred to the Watermaster Advisory Committee prior to coming to the HLVRCB Board.

R3. During public meetings, and after the public comment portion of the agenda, at the chairperson's discretion, restrict public comments to a time limit, and only allow comments on topics under discussion at that time.

**Response Required: Yes**

Honey Lake Valley Resource Conservation District

**CERTIFIED FOR PUBLICATION**  
**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**  
**FOURTH APPELLATE DISTRICT**  
**DIVISION THREE**

CAPISTRANO TAXPAYERS  
ASSOCIATION, INC.,

Plaintiff and Respondent,

v.

CITY OF SAN JUAN CAPISTRANO,

Defendant and Appellant.

G048969

(Super. Ct. No. 30-2012-00594579)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Gregory Munoz , Judge. Affirmed in part; reversed in part and remanded.

Colantuono & Levin, Colantuono, Highsmith & Whatley, Michael G. Colantuono, Tiana J. Murillo and Jon di Cristina; Rutan & Tucker, Hans Van Ligten and Joel Kuperberg for Defendant and Appellant.

Best, Best & Krieger and Kelly J. Salt for the Association of California Water Agencies, League of California Cities and California State Association of Counties as Amicus Curiae on behalf of Defendant and Appellant.

We conclude the trial court erred in holding that Proposition 218 does not allow public water agencies to pass on to their customers the capital costs of improvements to provide additional increments of water – such as building a recycling plant. Its findings were that future water provided by the improvement is not immediately available to customers. (See Cal. Const., art. XIII D, § 6, subd. (b)(4)) [no fees “may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question”].) But, as applied to water delivery, the phrase “a service” cannot be read to differentiate between recycled water and traditional, potable water. Water *service* is already “immediately available” to all customers, and *continued* water service is assured by such capital improvements as water recycling plants. That satisfies the constitutional and statutory requirements.

However, the trial court did not err in ruling that Proposition 218 requires public water agencies to calculate the actual costs of providing water at various levels of usage. Article XIII D, section 6, subdivision (b)(3) of the California Constitution, as interpreted by our Supreme Court in *Bighorn-Desert View Water Agency v. Verjil* (2006) 39 Cal.4th 205, 226 (*Bighorn*) provides that water rates must reflect the “cost of service attributable” to a given parcel.<sup>3</sup> While tiered, or inclined rates that go up progressively in relation to usage are perfectly consonant with article XIII D, section 6, subdivision (b)(3) and *Bighorn*, the tiers must still correspond to the actual cost of providing service at a given level of usage. The water agency here did not try to calculate the cost of actually

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<sup>3</sup> Until *Bighorn*, there was a question as to whether Proposition 218 applied at all to water rates. In 2000, the appellate court in *Howard Jarvis Taxpayers Assn. v. City of Los Angeles* (2000) 85 Cal.App.4th 79, 83 (*Jarvis v. Los Angeles*), held that a city’s water rates weren’t subject to Proposition 218, reasoning that water rates are mere commodity charges. *Bighorn*, however, formally disapproved *Jarvis v. Los Angeles* and held that water rates *are* subject to article XIII D of the California Constitution. (*Bighorn, supra*, 39 Cal.4th at p. 217, fn. 5.)

providing water at its various tier levels. It merely allocated all its costs among the price tier levels, based not on costs, but on pre-determined usage budgets. Accordingly, the trial court correctly determined the agency had failed to carry the burden imposed on it by another part of Proposition 218 (art. XIII D, § 6, subd. (b)(5)) of showing it had complied with the requirement water fees not exceed the cost of service attributable to a parcel. That part of the judgment must be affirmed.

#### IV. CONCLUSION

All of which leads us to the conclusion City Water's pricing violates the constitutional requirement that fees "not exceed the proportional cost of the service

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22      The relevant text from article XIII C, section 1, subdivision (e)(5) is:  
" (e) As used in this article, "tax" means any levy, charge, or exaction of any kind imposed by a local government, except the following: [¶] . . . [¶] (5) A fine, penalty, or other monetary charge imposed by the judicial branch of government or a local government, as a result of a violation of law."

attributable to the parcel.” This is not to say City Water must calculate a rate for 225 Elm Street and then calculate another for the house across the street at 226. Neither the voters nor the Constitution say anything we can find that would prohibit tiered pricing.

But the tiers must be based on usage, not budgets. City Water’s Article X, section 2 position kept it from explaining to us *why* it cannot anchor rates to usage. Nothing in our record tells us why, for example, they could not figure out the costs of given usage levels that require City Water to tap more expensive supplies, and then bill users in those tiers accordingly. Such computations would seem to satisfy Proposition 218, and City Water has not shown in this record it would be impossible to comply with the Constitutional mandate in this way or some other. As the court pointed out in *Howard Jarvis Taxpayers Ass’n v. City of Fresno* (2005) 127 Cal.App.4th 914, 923, the calculations required by Proposition 218 may be “complex,” but “such a process is now required by the California Constitution.”

Water rate fees to fund the costs of capital-intensive operations to produce more or new water, such as the recycling plant at issue in this case, do not contravene article XIII, section 6, subdivision (b)(4) of the Constitution. While that provision precludes fees for a service not immediately available, both recycled water and traditional potable water are part of the same service – water service. And water service most assuredly is immediately available to City Water’s customers now.

But, because the record is unclear whether low usage customers might be paying for a recycling operation made necessary only because of high usage customers, we must reverse the trial court’s judgment that the rates here are *necessarily* inconsistent with subdivision (b)(4), and remand the matter for further proceedings with a view to ascertaining the portion of the cost of funding the recycling operation attributable to those customers whose additional, incremental usage requires its development.

By the same token, we see nothing in article XIII, section 6, subdivision (b)(3) of the California Constitution that is incompatible with water agencies passing on

the true, marginal cost of water to those consumers whose extra use of water forces water agencies to incur higher costs to supply that extra water. Precedent and common sense both support such an approach. However, we do hold that above-cost-of-service pricing for tiers of water service is not allowed by Proposition 218 and in this case, City Water did not carry its burden of proving its higher tiers reflected its costs of service. In fact it has practically admitted those tiers don't reflect cost of service, as shown by their tidy percentage increments and City Water's refusal to defend the calculations. And so, on the subdivision (b)(3) issue, we affirm the trial court's judgment.

Given the procedural posture the case now finds itself in, the issue of who is the prevailing party is premature. That question should be first dealt with by the trial court only after all proceedings as to City Water's rate structure are final. Accordingly, we do not make an appellate cost order now, but reserve that matter for future adjudication in the trial court. (See *Neufeld v. Balboa Ins. Co.* (2000) 84 Cal.App.4th 759, 766 [deferring question of appellate costs in case being remanded until litigation was final].)