

FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)
EXECUTIVE OFFICER'S REPORT

AGENDA ITEM No. 7

DATE: February 13, 2019

TO: Fresno Local Agency Formation Commission

FROM: David E. Fey, Executive Officer 

BY: George Uc, Senior LAFCo Analyst

SUBJECT: **Consider Adoption:** Municipal Service Review and Sphere of Influence Update for the Pinedale Public Utility District.

Recommendation: Adopt the Municipal Service Review Prepared for the Pinedale Public Utility District and Update the Pinedale Public Utility District Sphere of Influence by Taking the Following Actions:

Action 1:

- A. Acting as Lead Agency pursuant to California Environmental Quality Act (CEQA) Guidelines find that the Municipal Service Review (MSR) prepared for the Pinedale Public Utility District is Categorically Exempt from the provisions of CEQA under Section 15306, "Information Collection."

Action 2:

- B. Acting as Lead Agency pursuant to CEQA Guidelines, find that the proposed sphere of influence (SOI) revision is Categorically Exempt from the provisions of CEQA under Section 15061(b)(3), "General Rule," where it can be seen with certainty that an update of the District SOI will not have an effect on the existing environment.

Action 3:

- C. Receive this report and any public testimony regarding the proposed MSR and proposed SOI update.
- D. Find that the MSR prepared for the Pinedale Public Utility District is complete and satisfactory.
- E. Find that approval of the proposed SOI update is based on sufficient evidence consistent with State law, including, but not limited to, Fresno LAFCo Policies and the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH).
- F. Revise the Pinedale Public Utility District SOI to include all territory served by the District,

including properties on private septic systems adjacent to the territory served, as depicted in Figure 3 of the MSR.

- G. Advise the Pinedale Public Utility District to update its January 5, 2007, Sewer System Management Plan (WDID No. 5SSO11428) filed with the State Water Resources Control Board.
- H. Direct the District as follows:
 - a. Within one year present to the Commission a plan to annex all territory within the revised Pinedale Public Utility District sphere of influence, such a plan to include—but not be limited to—a description of the District's public outreach and information program, estimated funding for one or more annexations, and a schedule of anticipated milestone dates for annexation application(s).
 - b. Authorize the Executive Officer to work with the District to support its satisfaction of this recommendation and to provide three and six-month updates of the District's progress.
- I. The District is advised that failure to perform these tasks may result in the Commission taking other action to address the service conditions noted in the MSR.

Executive Summary

The Pinedale Public Utility District (PPUD or District) provides several municipal services, most notably wastewater collection service, to a service area of 476 acres, 342 acres outside of its service area but within the PPUD SOI, and to an additional 327 acres outside of the SOI.

PPUD customers that are not in its service area are not enfranchised to participate in the District's affairs equally as those customers within the District's service area. These customers are not allowed to participate in the operation of the District, not eligible to serve as District board members, and are not allowed to protest possible changes of organization under CKH.

Expansion of the PPUD SOI to encompass all of its customers is recommended. If approved, the PPUD has committed to an annexation plan to include all of these customers into its service area.

This course of action is recommended over a merger of the PPUD with the City of Fresno (City). SOI update and annexation by the District will fully franchise PPUD customers, whereas a merger would not fully franchise customers with the City, as the City has no plans to annex unincorporated territory within the District.

Further background, analysis, and determinations are presented in the draft MSR (Attachment B).

Overview of the Pinedale Public Utility District

California's Public Utility District Act of 1953 (Public Utilities Code Sec. 15501 *et. seq.*) governs the administrative operation of California's Public Utility Districts (PUDs). PUDs are granted powers by statute to do all things necessary to provide its residents and ratepayers with reliable utility services.

The PPUD is authorized by LAFCo to provide sewer conveyance, street lighting, street maintenance, and street sweeping. All other services, facilities, functions or powers enumerated in the District's principal act are determined to be "latent," meaning that though they are authorized by the principal act under which the District is formed, they are not being exercised or provided by the District at the time this service review report was prepared.

Municipal Service Reviews

In order to update the SOI for a local agency pursuant to Government Code (GC) Sec. 56425(g), Fresno LAFCo has prepared this service review consistent with GC Sec. 56430. An MSR is a comprehensive study prepared by LAFCo to inform local agencies and the community about municipal services provided by local agencies.

MSR Availability and Public Review

LAFCo Policy 107-03 requires that a draft MSR be posted on the Commission's website with a minimum 21-day public review period. Based on the complexity of this service review, the PPUD MSR update was circulated during two separate 21-day public review periods to maximize public participation: August 15, 2018 to September 5, 2018 and January 23, 2019 through February 12, 2019.

All comments from the PPUD and the City of Fresno are presented in Appendix B of the MSR.

Pinedale Public Utility District

PPUD was formed in 1950 under the Municipal Utility District Act of 1921 for the specific purpose of providing wastewater collection and treatment within the historic unincorporated community of Pinedale. It is an independent special district governed by a three-member board of directors, and functions independently from the County and the City of Fresno. The PPUD is the successor of various public and private entities that have been active in the Pinedale community for almost a century.

The District is authorized to provide wastewater collection, street lighting, street sweeping, and landscape/median maintenance. Not all services are provided equally within the District's service area.

The District's service area and SOI are not coterminous: the District's service area encompasses 476 acres, while the SOI encompasses an additional 381 acres. Further, an additional 327 acres that are neither within the service area nor the SOI receive wastewater collection service from the District.

Pages 12 through 18 of the MSR note the following points about the District's services:

- Less than 237 acres of the District's service area remains unincorporated. This unincorporated territory is the only area that receives all four District services, as shown on Figure 8 of the MSR.
- Approximately 239 acres of PPUD's service area is located within the corporate limits of the City. Within the 239 acres, PPUD only provides sewer service, all other services are provided by the City of Fresno.

- Approximately 342 acres of PPUD's sewer customers are located outside the District's service area, and inside the City of Fresno.
- PPUD provides out-of-district wastewater collection service to approximately 327 acres of unincorporated territory outside of the 2007 PPUD SOI.

LAFCo's assessment of the District's boundaries reveals a significant jurisdictional overlap between the City and the District's service area resulting in two agencies' local sewer systems frequently interconnected and duplicated. With the exception of the Bluffs Community, the District provides sewer service to all parcels within the PPUD SOI.

District Revenue

The District prepares and adopts an annual budget for all of its funds on or before July 1st of each year. The District's budget projects anticipated revenues and expenditures using line items for the upcoming fiscal year. The District's primary source of revenue is sewer user fees charged to all District customers. The District uses certain facilities and transmission lines owned by the City to provide services to users within the District's service area. Revenue to the District from billing customers consists of three components: Capital, O&M (Operation and Maintenance), and PT (Pre-Treatment).

The District pays the City 70% of the O&M and 100% of the Capital and PT charges billed to customers. The District's wastewater collection service rate is based on the City's fee schedule for residential and/or commercial connections.

The District also collects revenue from annual property taxes charged to all parcels within the District based on its Pre-Proposition 13 level of taxation through the Fresno County Auditor-Controller/Treasurer-Tax Collector.

Proposed Sphere of Influence Revision

The proposed PPUD SOI would revise PPUD's existing 857-acre SOI by including an additional 327 acres in anticipation of annexation to the District. The updated PPUD SOI (Attachment A) would encompass 1,184 acres and include all customers receiving PPUD sewer service.

Based on comments from the PPUD, LAFCo staff expects that the District will submit to LAFCo one or more resolutions of application to initiate the annexation of all territories served by PPUD into its service area.

Summary of Required Determinations

CKH requires LAFCo to review and update, as necessary, special districts' SOIs every five years. Prior to, or in conjunction with an agency's SOI update, LAFCo is required to conduct an MSR for each agency.

State law requires that the Commission adopt written MSR determinations for each of the following seven criteria:

1. Growth and population projections for the affected area.

2. Location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.
3. Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies.
4. Financial ability of agencies to provide services.
5. Status of, and opportunities for, shared facilities.
6. Accountability for community service needs, including governmental structure and operational efficiencies.
7. Any other matter related to effective or efficient service delivery, as required by Commission policy.

As part of the SOI update, the Commission is required to consider the following four criteria's and make appropriate determinations in relationship to each:

1. The present and planned land uses in the area, including agricultural and open-space lands.
2. The present and probable need for public facilities and services in the area.
3. The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.
4. The existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency.

The attached MSR and SOI update present these determinations with District information and the analysis used in support of the Commission's determinations and recommendations.

Environmental Determination

CEQA requires that the Commission undertake and review an environmental analysis before granting approval of a project, as defined by CEQA. MSRs are categorically exempt from the preparation of environmental documentation under a classification related to information gathering (Class 6 - Regulation Section 15306), which states: "Class 6 consists of basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource." MSRs collect data for the purpose of evaluating municipal services provided by the agencies. There are no physical changes to the environmental created by these studies.

There is no evidence that the SOI revision or subsequent annexation(s) may have a significant effect on the environment because the District's infrastructure is in place and serving these properties.

As Lead Agency pursuant to CEQA Guidelines, the proposed SOI revision is Categorical Exempt from the provisions of CEQA under Section 15061(b)(3), "General Rule," where it can be seen with certainty that a revision of the District SOI will not have an effect on the existing environment.