

# **MERCY SPRINGS WATER DISTRICT**

## **MUNICIPAL SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE**

Report to the  
Fresno Local Agency Formation Commission

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May 16, 2016

# MERCY SPRINGS WATER DISTRICT PROFILE

Irrigation Services

## Contact Information

**General Manager:** Dennis Falaschi

**District Office:** 52027 W. Althea Avenue  
Firebaugh, CA 93632

**Phone:** (209) 364-6136

**Fax:** (209) 364-6122

## Management Information

**District Formation:** 1950

**Principal Act:** Water Code section 34000-38500

**Special District Powers:** Prescribed in Water Code section 35400-35413

**LAFCo**

**Authorized Services:<sup>1</sup>** Levy and collect assessments and standby charges; perform agreements, enter contracts, and delivery of water supply

**Governing Body:** Five-member Board of Directors, landowner-voters

**Board Members\*:**

Michael Linneman, President	Appointed 2016-Expired 2019
Dennis Falaschi, VP	Appointed 2013-Expired 2017
Brad Gleason**	Appointed 2016-Expired 2017
Atomic Falaschi	Appointed 2016-Expired 2019
Julie Cascia	Appointed 2016-Expired 2019

**Board Meetings:** Meeting are held on an as-needed basis with a minimum of one annually

**Meeting Location:** 52027 W. Althea Avenue Firebaugh, CA 93622

**Staffing:** None, District contracts administration with Panoche Water District

## Service Information

**Area Served:** 95% of the land in the District is owned by the Panoche Drainage District

**Service Area and SOI:** 3,710 Acres

**Infrastructure:** None

## Fiscal Information

**Budget:** \$25,800

**Sources of Funding:** Land assessments

**Rate Structure:** \$6 per acre, per year

## Administrative Policies

<b>Master plan:</b> Not provided	<b>Policies/procedures:</b> No	<b>By-laws:</b> Yes	
<b>Boundary formed:</b> 1950	<b>SOI last updated:</b> 2007	<b>SOI update:</b>	2016

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<sup>1</sup> Pursuant to Government Code Section 56425(i)

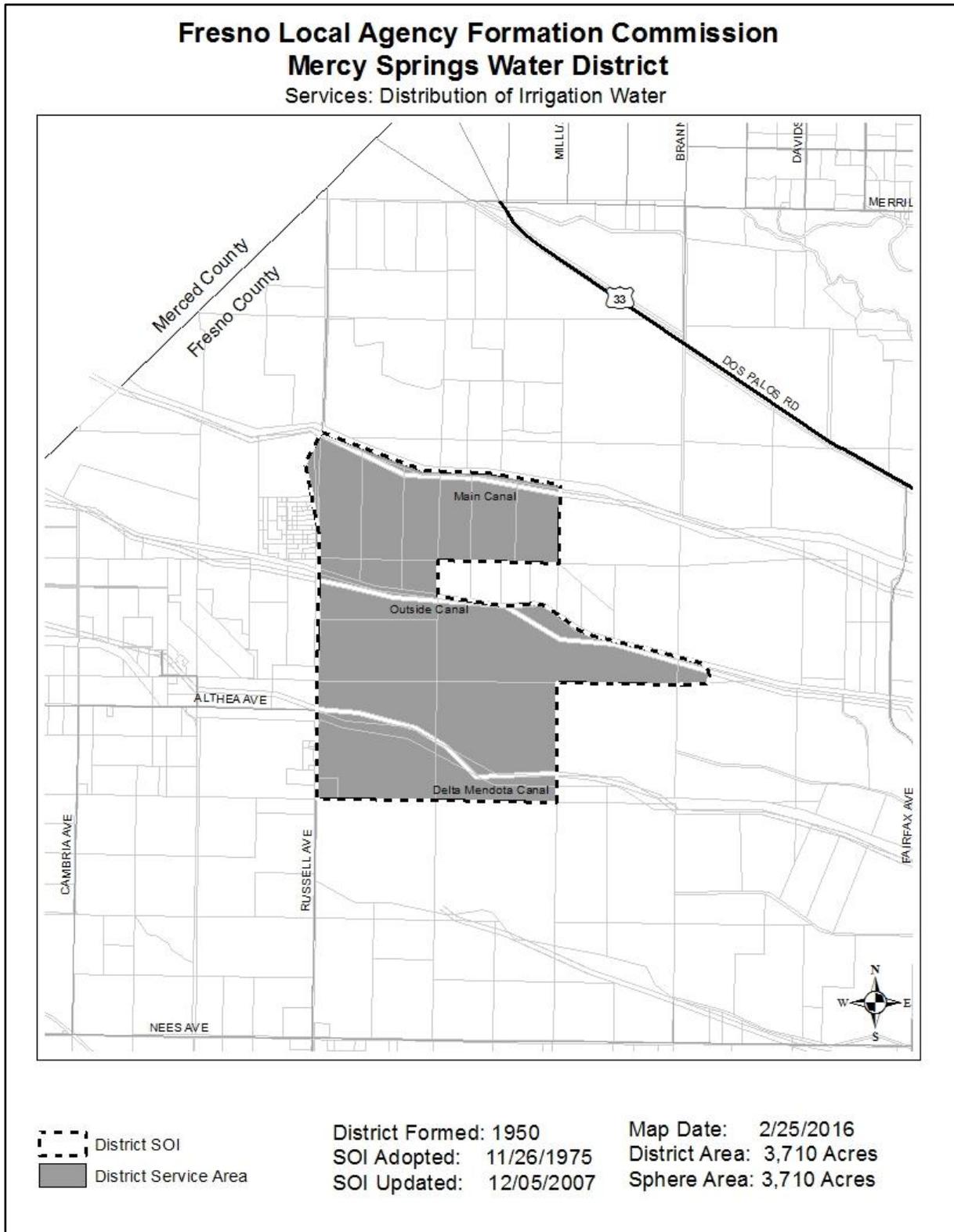
\*District board is awaiting formal reappointment from Fresno County BOS

\*\*Appointed by District Board on March 4, 2016, to fill Vacancy. Awaiting Fresno County BOS appointment

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Figure 1 – Mercy Springs Water District



# CHAPTER 1: MUNICIPAL SERVICE REVIEW

## Principal Act

The Mercy Springs Water District (“District” or “MSWD”) was formed in 1950 to provide agricultural irrigation water to landowners within its service area. The District was formed pursuant to California Water Code sections 34000-38500, which enables this Water Districts to 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.<sup>2</sup>

The District’s service area and sphere of influence (SOI) are coterminous measuring approximately 3,710 acres. Land within the District includes both agricultural and fallow land owned by three landowners. During the preparation of the Municipal Service Review (MSR), the District informed LAFCo that it does not provide direct services to its landowners; however, the District functions as an administrator of water supplies and addresses consumer needs within its boundaries. The District does not own any capital or public facilities. The District contracts its office administration and office facility with Panoche Water District. The District is a Central Valley Project (CVP) contractor with a water service contract with the United States Department of the Interior, Bureau of Reclamation (“USBR”) for up to 2,842 acre-feet of CVP water from the Sacramento-San Joaquin Delta.<sup>3</sup>

The District is an independent special district, which has a five-member board of directors not governed by another legislative body (either a city council or a county board of supervisors). Candidates eligible to serve as the board of directors must be a holder of title to land within the District boundaries or the legal representative of the holder of title to land within the District boundaries.

## Fresno LAFCo MSR Policy Designation

Fresno LAFCo MSR policy designates the District as a “level three” special district that provides “non-municipal” services to its constituency. Non-municipal special districts typically do not request or experience modifications to their district service area or request an update or revision to the Commission’s adopted SOI for the agency. A level three non-municipal local agency designation means, in Fresno LAFCo’s judgment, that services provided by the agency do not facilitate or induce population growth.

In accordance with Government Code (GC) section 56066, Fresno County is the principal county. Fresno LAFCo is responsible for processing the agency’s request to reduce the Commission’s determined SOI for District. Fresno LAFCo has prepared this service review consistent with GC sections 56425(g) and 56430.

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<sup>2</sup> California Water Code Section 35401

<sup>3</sup> USBR Contact Number 14-06-200-3365A-LTR1, Mercy Springs Water District Contract with USBR

## **District boundaries**

The District service area includes 3,710 acres of unincorporated land approximately seven miles northwest of City of Firebaugh. The District's Sphere of Influence (SOI) is coterminous with its service area. The District extends from the Main Lift Canal on the north down to the Delta-Mendota Canal on the south. The District is bounded by Russell Avenue on the west and Fairfax Avenue on the eastern side of the District. The Outside Canal bisects the District's service area from the west to east. The District is located three miles west of State Route (SR) 33 and eight miles east of Interstate 5.

The District's service area is appropriately sized with no plans for expansion within the next 10 to 20 years. Additionally, the District does not foresee a need to request a revision to the District's SOI. The District obtains its irrigation water from the Sacramento-San Joaquin Delta and directly from the Delta-Mendota Canal. The District is entitled to receive up to 2,842 acre-feet (AF) of irrigation water each year under its USBR CVP contract, based on years with 100 percent allocation.

The District shares common boundaries with Firebaugh Canal Water District to the south, Panoche Water District, and Oro Loma Water District to the west, and Central California Irrigation Districts to the east and north. The District is located within the Panoche Drainage District and Panoche Resource Conservation District boundaries. The District informed LAFCo that approximately 95 percent of land within its service area is owned by Panoche Drainage District. The remainder of the land is owned by two separate private landowners.

## **District Growth and Population Projections**

The District is situated completely within the western side of Fresno County. The County of Fresno is the land use authority for land located within the District. The Fresno County General Plan designates land within the District service area for agricultural use. Crop production within the District generally consists of cotton, alfalfa, tomatoes, wheat, barley, melons, pomegranates, pistachios, asparagus and onions. Occasionally, land within the District could experience fallow years.

According to the District's financial statements, the District provides administrative services for the delivery of irrigation water to approximately 1,240 acres of agricultural land.<sup>4</sup> The District informs that there are three landowners in the District that separately own majority of the land in the District. Panoche Drainage District owns approximately 95 percent of the land in the District, and the remaining acres are owned by two separate private landowners. District operations are limited to administrative tasks associated with the distribution of water supplies. The District does not own capital or public facilities or require infrastructure to operate or continue providing its services. The District office is housed in the Panoche Water District's office. The District's office administration is also contracted with Panoche Water District.

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<sup>4</sup> Mercy Springs Water District Notes to Financial Statements for Year Ending on February 28, 2015, page 11

Panoche Water District is a California Water District located immediately west of Mercy Springs Water District.

The District has a fixed CVP water supply contract with USBR. The District does not expect to annex additional territory to its service area due to the fact that it would require additional water supply to be attained from USBR.

By LAFCo policy, District services do not directly facilitate or affect the rate of population growth. As a result, any population growth in the vicinity of the District is expected to occur within the neighboring incorporated cities of Firebaugh or Mendota. This is consistent with the Fresno County policy to direct growth to the cities due to a wider range of municipal services offered by the cities.<sup>5</sup>

## **Disadvantaged Unincorporated Communities**

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH) requires LAFCo to make determinations regarding "disadvantaged unincorporated communities" ("DUCs") when conducting a SOI update or when conducting municipal service reviews for any local agency (city or special district) that provides public facilities or services related to sewer, municipal and industrial water, or structural fire protection.

Government Code sec. 56033.5 defines a DUC as: i) "inhabited territory" (12 or more registered voters), as defined by sec. 56046, or as determined by commission policy, that constitutes ii) all or a portion of a "disadvantaged community" as defined by section 79505.5 of the Water Code. Water Code section 79505.5 defines disadvantaged as a territory with an annual median household income (MHI) that is less than 80 percent of the statewide annual median household income. Further, on January 9, 2013, Fresno LAFCo adopted a policy that refined the DUC definition to include having at least 15 dwelling units at a density not less than one unit per acre.

This section of the report uses County of Fresno's Geographic Information System (GIS) parcel mapping information and U.S. Census data to quantify the economic composition of all the census block groups within the vicinity of the District's boundaries. Geographic Information System (GIS) files were derived from the U.S. Census Bureau's American Community Survey (ACS) compiled for the five-year period 2006-2010 to identify the demographic composition within the District's service area. Although the ACS provides annual and three-year estimates, the five-year reports provide the most precise data and mapping information for analyzing small populations. California's statewide MHI reported for years 2006 through 2010 was \$60,883, the DUC threshold is any geographic unit with a MHI that is less than \$48,706.

An assessment of the census block groups within and outside the District service area and SOI were reviewed to determine the demographic composition of the area to gauge MHI levels. In preparation for this section of the MSR, LAFCo staff worked with complementary GIS data

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<sup>5</sup> County of Fresno, Housing Element, pg.7-58-Westside North Market Area

provided by PolicyLink, a national non-profit corporation based in Oakland, California.<sup>6</sup> Instrumental independent resources were used for this section of the MSR as a cross-reference mechanism to identify DUCs in accordance with CKH and the Commission’s adopted DUC policy. Fresno LAFCo surveyed unincorporated areas utilizing aerial photography and parcel division patterns to determine the possible existence of any DUCs.

The District’s entire boundary lies within one census block group unit: census tract 84.02 block group 2. The MHI levels reported for this census geographic unit between years 2006 to 2010 was \$27,589.<sup>7</sup> Based on these data, the census geographic units that overlay the District meet the criteria for Disadvantaged Communities as defined by California Water Code section 79505.5.

As previously noted, Fresno LAFCo Policy designates the District as a “level three” special district that provides “non-municipal” services to its constituency. A level three non-municipal local agency means that, in Fresno LAFCo's judgment, services provided by the agency do not facilitate or induce population growth. Services provided by the District would not directly benefit a DUC, and no further analysis is provided for this section of the MSR.

## **Infrastructure**

The District does not own office facilities, infrastructure, machinery, equipment, tools, autos-trucks or tractors. The District’s primary function is to administer the distribution of USBR CVP water. The District office facilities and administrative duties are contracted and housed at the Panoche Water District office.

## **District’s Water Supply**

The District is currently entitled to receive up to 2,842 AF of CVP water each year under contract with USBR through the Delta-Mendota Canal, based on year with 100 percent allocation.<sup>8</sup> The amount of CVP water received by the District depends upon several factors, including the water year classification by the California Department of Water Resources.

Originally, the District had a CVP contract for up to 13,300 AF per year; however, in 1999 through 2002, landowners took actions to transfer their water allocations to land out to third parties through formal contract agreement. The transfer of CVP water encumbered the District with covenants foregoing the rights to use USBR water allocation within the District. Subsequently, USBR approved 10,458 AF of the District’s original contracted water to be divided and distributed to Pajaro Valley Water Management Agency, Santa Clara Valley District, Westlands Water District, and to Westlands Water Distribution District Number two.

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<sup>6</sup> Jake Mann, GIS Specialist/Cartographer, email correspondence with LAFCo Staff – Draft DUCs for Fresno County, February 11, 2015.

<sup>7</sup> U.S. Census Bureau's American Community Survey (ACS) compiled for the five-year period 2006-2010.

<sup>8</sup> USBR Contract No. 14-06-200-3365A, Mercy Springs Water District

By 2006, District landowners were still entitled to receive 2,825 AF of the remaining 2,842 AF of USBR's CVP water allocation. At the same time, USBR recognized that District landowners entered into several contract agreements to transfer the right of the remaining 2,825 AF of water allocations to third-parties. Consequently, nearly all of the CVP water allocated to the District is currently transferred out of the District to third-parties.<sup>9</sup> The primary source of water supply used within the District is subsurface agricultural drainage water applied by Panoche Drainage District to irrigate salt tolerant crops as part of the San Joaquin River Improvement Project (SJRIIP).

USBR reports that since 2012 none of District's CVP water is applied within the District service area. Instead, the District sells and/or transfers its CVP water supply to third-party outside of the District's service area. According to USBR, the District has the option to transfers up to 1,300 AF of its CVP water allocation to Angiola Water District located in Corcoran, California, County of Tulare. The District informs that out of District water transfers are subject to change on an annual basis and it depends on several factors such as, annual allocation percentage rating, water supply levels, and District water needs. In the past, the District has requested USBR permission to reschedule its water allocation so that it could be received at a later time during the subsequent year.<sup>10</sup> The District has retained 17 AF of its contract water supply that could be used within the District, however to date this amount has not actually been used in the District.

Panoche Drainage District (PDD) owns majority of land within the District from which the right to receive CVP water allocation had previously been sold out and removed from the land within the Mercy Springs Water District. As noted earlier, landowners within the District sold their rights to water to third-parties outside of the District. PDD uses the land as part of the San Joaquin River Improvement Project (SJRIIP)<sup>11</sup> a regional drainage reuse area where subsurface agricultural drainage water is collected from approximately 94,000 acres of land within the Grassland Drainage Area (GDA). This portion of the District's service area is utilized to irrigate salt-tolerant crops.

Of the total acreage in the District's boundaries approximately five percent is considered irrigable acres. The estimated five percent of irrigable acres are owned and operated by two separate landowners. Both farm operations do not receive District CVP water supplies, and both have on-site improved wells subject to restrictive covenants implemented by the District. As previously mentioned, landowners in the District either fallow their land, irrigated with well water supplies, or purchase and import CVP water from other CVP South of Delta contractors. When permitted by USBR, some of the District's CVP water is pumped into the DMC under USBR's DMC pump-in program, or stored for future deliveries. The District transfers all of its CVP allocation to neighboring CVP contractors participating in the SJRIIP to help offset SJRIIP costs to local landowners.<sup>12</sup>

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<sup>9</sup> USBR Contract No. 14-06-200-3365A, Mercy Springs Water District

<sup>10</sup> USBR, Mercy Springs Water District and Fresno Slough Water District Multi-Year Transfers to Angiola Water District – FONSI-10-021. Web Accessed: [https://www.usbr.gov/mp/nepa/documentShow.cfm?Doc\\_ID=10210](https://www.usbr.gov/mp/nepa/documentShow.cfm?Doc_ID=10210)

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

## Financial Ability of Agency to Provide Services

The District informed LAFCo that it is not a direct service provider and does not own any public facilities or infrastructure. The District is entitled to receive up to 2,842 AF of water each year under contract with USBR, based on years with 100 percent allocation.

The majority of the District's revenue comes from water sales to third-parties and land assessments and charges collected from landowners. The District informs that its land assessment amounts to approximately \$6.00 per acre, and a wheeling charge of \$50 per acre-foot for groundwater pumped through the Mercy Springs Water District Warren Act contract with USBR. All of the District water transfers are administrated by Panoche Water District. The District board adopts an annual budget that forecasts revenues and expenditures for the upcoming fiscal year. The District reviews and establishes its service fees with the adoption of the annual District budget. The District at minimum meets once a year, the two most recent meetings held were on September 19, 2014, and March 4, 2016. Based on information provided by the District, it appears that the District board did not convene during the 2015 calendar year. Every District fiscal year begins March 1<sup>st</sup> and concludes on the last day of February.

In preparation of this MSR, a copy of the District's most recent independent auditor's report and financial statements for year ending February 28, 2015, was provided to Fresno LAFCo. The District provided a copy of its adopted budgets for fiscal years ending 2014-15 and 2015-16 to review and assist LAFCo to determine fiscal status, assess financial practices, and review pertinent management findings. The District's financial account is organized on the enterprise fund basis which is classified as a proprietary type fund. The focus of a proprietary fund in governmental accounting is structured to be managed as a business-like fund.

The financial statement indicates that the District implements financial administration practices similarly observed by a government unit. The District has adopted the provisions of Governmental Accounting Standard Board (GASB) Statement No. 34, "Basic Financial Statements for State and Local Governments." GASB establishes standards for external financial reporting for all state and local government entities, which includes a statement for net assets, statement of revenues, expenses and changes in net assets, and a statement of cash flows. The District's financial account structure conforms to accounting principles generally accepted in the United States of America and consistent with governmental proprietary fund account as an enterprise fund. The auditor's financial statement notes that District's financial reporting complies with policies and procedures of the office of the State Controller, State of California.

The District applies all GASB pronouncements as well as the Financial Accounting Standard Board (FASB) pronouncements, except when (FASB) conflict or contradicts GASB pronouncements.

The District's total assets for the year ending on February 28, 2015, were \$593,936. The District's total liabilities equaled its assets of \$593,936. The District's total net position is equaled its liabilities (\$0).

The District generates \$1,084,293 in charges for services for water sales, its operating grants and contributions generate by District's land assessments totaled \$58,029. The District generated total revenues of \$1,142,322 for fiscal year ending on February 28, 2015. The auditor's financial statements report the District's total operating expenses at \$818,562 for the same fiscal year. The District reports a net income of \$323,760. At the end of the fiscal year the District reported a cash balance of \$555,631 in its business checking and savings. The District maintains its cash balance in one financial institution, with insurance up to \$250,000. As the time this MSR was prepared, a portion exceeding \$250,000 of the District's cash was uninsured.

The District has no capital assets that require maintenance expenditures. The District has no noncurrent (long-term) liabilities as of February 28, 2015.

The District annually collects sufficient land assessment fees from land located within its service area to finance the operation of District expenditures. All land assessments are considered collectible by the District. The District's principal act empowers it to place a lien upon all assessed property once land becomes delinquent. After a five-year period, the District has the ability to sell the property to recover all prior assessments, costs, penalties and interests.

As previously noted, the District annually approves a budget that forecasts expenditures. For fiscal year 2014-15 the District's adopted budget totaled \$49,270 and allocated funds for the following action items:

- San Luis and Delta Mendota Water Authorities Dues, \$12,000
- CVP Water Association Dues, \$1,300
- The State Board of Equalization, \$1,800
- Administration, \$7,200
- Engineering Water Conservation, \$1,500
- Audit, \$6,100
- Insurance, \$2,400
- Legal, \$4,000
- Accounting services, \$3,600
- Office Supplies, \$450
- Public Notice, \$1,000

Actual District revenues totaled \$1,142,322 and expenditures are reported by the Auditor financial statement to total \$818,562 for the same fiscal year. The District allocated expenditures for the following items:

- Purchased Water, \$546,885
- San Joaquin River Improvement Project Expansion Cost, \$216,575
- Administration, \$35,980
- Legal and professional, \$14,360
- Insurance, \$2,011
- Water Rights Fees, \$1,994
- Dues, \$750

- Miscellaneous, \$7.00
- Office Supplies, \$200

## Opportunities for Shared Facilities

The District's office administration is outsourced to Panoche Water District. The Panoche Water District houses the District's office and provides administrative staff support. The District informed LAFCo that its board is comprised of the two private landowners and existing Panoche Drainage District board members or administrative staff of the Panoche Drainage District, that are also employed by Panoche Water District. As previously mentioned, the District is essentially an administrative agency associated with the distribution of USBR CVP water supplies. The District does not own public facilities or infrastructure that would present any opportunities for shared facilities. LAFCo observes that the District already benefits from shared facilities with Panoche Water District and Panoche Drainage District.

The District is bordered by several similar California Water Districts. The District is located immediately east of Oro Loma Water District, north and east of Panoche Water District, and north of Firebaugh Canal Water District. The District does not overlap with other California Water Districts. However, the District does overlap with Panoche Drainage District and the Panoche Resource Conservation District.

## Governmental Structure

Accountability for community service needs, including governmental structure options and operational efficiencies are evaluated as part of the MSR Program to encourage the current and future orderly formation of local government agencies, create logical boundaries, and promote the efficiency delivery of services. This MSR is an informational document that will be used by Fresno LAFCo, other local agencies, and the general public to discuss future government structures for the District.

The California Water Code authorizes the formation of California Water Districts to 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.<sup>13</sup> This District is an independent special district which has a separate board of directors not governed by another legislative bodies (either a city council or a county board of supervisors). The District has adopted by-laws which govern and controls its affairs consistent with the constitution, laws of the State, and California Water District Law.<sup>14</sup> The District is a landowner-voter District that historically has not conducted elections due to limited qualified candidates residing within the District. The District's election process is governed by the Uniform District Election Law.<sup>15</sup> Pursuant to the District's bylaws, the District should hold elections on a Tuesday during the month of June of each even numbered election year. Candidates for the District board must either hold title to land within the District or be the legal

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<sup>13</sup> California Water Code Section 35401.

<sup>14</sup> Mercy Springs Water District Bylaws, July 5, 1960

<sup>15</sup> Election Code Section 10000-10735

representative of a title holder of land within the District consistent with California Water Code.<sup>16</sup>

The District informed LAFCo that there are three landowners that own majority of the land within the District. The District informed LAFCo that due to limited number of eligible candidates residing within the District as a matter of necessity, the District board has historically appointed qualified directors to serve on the board. During the preparation of this MSR, LAFCo observed that all five board terms had expired by the end of 2015. Under section 10507 of the Uniform District Election Law, board members of landowner districts serve four year terms or until his or her successor qualifies to take office.

On February 23, 2016, LAFCo staff contacted the Fresno County Clerk to the Board of Supervisors and requested verification on the District board terms. The Clerk to the Board of Supervisors noted that the District showed five vacant seats, and the District had not filed any declarations of candidacy for eligible board positions for any landowner since 2013. On May 5, 2016, the District informed LAFCo that four board member terms were in the process of being officially reappointed by the County Board of Supervisors. During the preparation of this MSR, one director resigned from the District board.<sup>17</sup> On March 4, 2016, the District called a special meeting to reappoint four directors which terms were held-over since 2015.<sup>18</sup> The elections governing statute of the California Water District's election process allows directors to hold seat for four year terms or until a qualified director is able to take office. During the District's March meeting the District also appointed a new director to fill the vacancy left by a departing director. As of May 6, 2016, the District informs that it is awaiting the official appointment of all five directors by the Fresno County Board of Supervisors.<sup>19</sup> Fresno County staff informed LAFCo that the District was in process towards submitting a complete application to request the County Board of Supervisors to officially reappoint four District directors and fill one vacancy.<sup>20</sup>

Pursuant to the Uniform District Election law, board members are subject to election of four-year staggered terms; in the event that the number of candidates who file election papers is equal to the number of openings on the board, members may be appointed in lieu of an election (pursuant to Elections Code sec. 10515 (a)) by the supervising authority based on recommendation made from the District's board of directors. If no candidates file election papers, the supervising authority of the county may appoint a director pursuant to (Election Code sec. 10515 (c)).

LAFCo notes that the District board is comprised of a combination of landowners and representative of Panoche Drainage District. Both private landowners hold seats on the District board. Historically by practice the Panoche Drainage District selects at maximum three candidates from a combination of staff or board members of PDD to represent land owned by

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<sup>16</sup> Water Code Section 34700

<sup>17</sup> Marcos Hedrick, informed District of his resignation, February 2, 2016

<sup>18</sup> District Letter to Fresno County Clerk to the Board of Supervisors, Re: MSWD Appointment to Fill Vacancy on the Board of Directors, Dated: March 14, 2016

<sup>19</sup> May 6, 2016, Phone Communication with District's Legal Counsel, Gabriel Delgado

<sup>20</sup> May 10, 2015, Confirmed by Fresno County Board of Supervisor, Deputy Clerk, via electric mail

PDD on MSWD. LAFCo notes at least three members of the District board currently also hold administrative roles with neighboring Districts generally in west Fresno County (as shown on Table one - Mercy Springs Water District board members). LAFCo observes that Panoche Drainage District could utilize legal representatives to represent land owned by the PDD within Mercy Springs. A legal representative shall meet all prerequisites identified under Water Code section 34700 and 34030.

The table one below lists the Mercy Spring Water District’s most current board and their respective roles within other Districts.

**Table 1- Mercy Springs Water District Board Members and Roles**

	<i>Relationship of MSWD board member to other special districts</i>					
<b>Mercy Springs Water District</b> <i>(All board members are awaiting official appointment by Fresno County BOS)</i>	<b>Mercy Springs Water District</b>	<b>Pacheco Water District</b>	<b>Panoche Water District</b>	<b>Panoche Drainage District</b>	<b>Panoche Resource Conservation District</b>	<b>Pleasant Valley Water District</b>
<b>Michael Linneman,</b> President	n/a	n/a	Board Member	Board Member	Board Member	n/a
<b>Dennis Falaschi,</b> Vice President	Office Manager	n/a	General Manager/ Board Member	n/a	n/a	n/a
<b>Brad Gleason</b>	n/a	n/a	n/a	n/a	n/a	Board Member/ President
<b>Atomic Falaschi</b>	n/a	Administrative Assistant	Employee	Administrative Assistant	Administrative Assistant	n/a
<b>Julie Cascia</b>	District Secretary	Office Manager	Office Manager	Office Manager	Office Manager	n/a

The District board has the authority to elect a president and a vice-president from its board members with no compensation. The board also has the ability to appoint members to serve as secretary, tax assessor, tax collector and treasurer, and hire contract employees. Officers such as the secretary, tax assessor, tax collector and treasurer do not need to hold board status to be appointed.

The District provided LAFCo and organizational chart which outlines the District’s government structure. The board governs the District, while Panoche Water District manages the day-to-day administration of the District. Panoche Water District provides the District general management support, a water master, an office manager, and administrative support. Panoche Water District

also has the ability to hire a consultant engineer to assist on District related projects. The District also contracts a general counsel representative, and a Certified Public Accountant to periodically conduct audits on the District's finances.

Based on information provided by the District, the District does not hold regular board meetings. Although the bylaws state that regular meetings should be held on the first Wednesday of every month, the District informed LAFCo that board meetings are scheduled on an "as-needed" basis with a minimum of one meeting per year. The District informed LAFCo that administrative and policy issues are generally addressed by Panoche Water District staff.

The two most recent District board meetings were held on September 19, 2014, and March 4, 2016. On September 19, 2014, the District board met to address a proposed joint drainage management project with neighboring agencies. The District informed LAFCo that the project proposal seeks to improve agricultural drainage within the Mercy Springs Water District, Panoche Drainage District, and Firebaugh Canal Water District service areas.

On March 4, 2016, the District convened to reappoint four board members terms which had expired at the end of 2015. During the same meeting, the board also appointed a new director to fill a vacancy after the departure of a former District director. LAFCo notes that the District board did not convene during the entire year of 2015. This contradicts the District's bylaws which indicate that the District shall hold monthly board meetings. In the District's judgment monthly board meetings are unnecessary and no longer applicable based on its current District's landowner composition. LAFCo notes that the lack of District board meetings appears to be influenced to the relatively low number of landowners within the District and the increasingly administrative nature of the District as it has sold almost all of its water entitlement to other contractors participating in USBR's CVP program.

During 2015, the District board did not convene therefore no formal notice was required. Board meeting notices are required to be posted at least 72 hours in advance at the District office located at 52027 West Althea Avenue, Firebaugh, California 93622. Opportunities for public participation and communication with the District board do not seem to occur due to infrequent meeting schedules, or no meetings at all. Communication with the District board members is most likely to occur directly with individual director outside of a meeting setting. Inversely based on the composition of the District's landowners, it appears that communication with the board could also occur through Panoche Water District staff. The District provided LAFCo a copy of the District's special meeting minutes and notice for the March 4, 2016 meeting.

LAFCo recognizes that to an extent, the District appears to depend on Panoche Drainage District to provide at least one legal representative to sit as a director to establish a board quorum.<sup>21</sup> As previously noted, it is the practice of the District to appoint its directors from a limited pool of eligible candidates. LAFCo recognizes that all five director terms expired during the preparation of this MSR precluding a board quorum for the conduct of the District. It is not known when the District intends to renew board member terms.

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<sup>21</sup> California Water Code Section 34030

## Other Matters Related to Effective or Efficient Service Delivery

LAFCo first contacted the District to inform it about the scheduled MSR update on December 12, 2014. LAFCo followed up by sending notice to the District requesting public information necessary to update the District's service review. LAFCo's MSR questionnaire provides local agencies with a four-week timeline to respond to LAFCo's public information request, and/or instructs agencies to request additional from LAFCo time to comply with the information request. On several occasions LAFCo spoke with the District's front office; however, District management was frequently unavailable to speak on behalf of Mercy Springs Water District.

LAFCo obtained the District's Secretary's and Vice President's electronic contact information from the District's front office and was directed to email information for their attention and direction. LAFCo followed up by emailing the District Secretary and Vice-President. However, during the allotted four-week timeline the District did not communicate with LAFCo staff nor requested additional time to comply with the MSR update information request. The District's lack of interaction with LAFCo indicates administrative deficiencies during the first stages of the MSR preparation.

LAFCo is concerned that, at least with respect to the preparation of this report, by not responding in a timely manner to its information requests, that the District is not complying with the California Public Records Act, may not be complying with key provisions of the Water Code, and the District's adopted 1960 by-laws. On multiple occasions LAFCo staff contacted the District to obtain public information, however the District contracted staff disregarded LAFCo's MSR program. In fact, from the day of LAFCo's initial request for information on December 12, 2014, and numerous additional contacts and conversation with District representatives, it took the District 11 months to provide LAFCo with the requested public information.

The District employed a cumbersome and possibly unnecessary internal approval process whereby the District's (contract) staff via Panoche Water District was consistently unavailable to speak on behalf of Mercy Springs Water District. Once LAFCo established contact with the official District Secretary, the Secretary consistently failed to address LAFCo's public information requests. Furthermore, the new District secretary was required to obtain the Vice-President's/ Office Manager's authorization to release public documents requested by LAFCo. Over time, the District's officers did not respond to LAFCo's request for public information in a manner consistent with their statutory responsibilities. This created substantial delays in the release of public information.

On several occasions, LAFCo was informed that District officers were unavailable to talk due to reoccurring board meetings, many of these had coincidentally just started at the time of LAFCo's phone calls. However, as previously indicated in this report, the District board did not convene during the entire year, 2015. The District informed LAFCo that its last board meeting was held on September 19, 2014. The lack of responsiveness by the District contracted staff was repeated on several occasions as described below:

- December 8, 2014, LAFCo called the District to inform the District of the schedule MSR update. District management was unavailable; however, LAFCo staff talked to the

Panoche Water District front office phone operator and obtained District management mail and email information.

- December 12, 2014, LAFCo emailed Ms. S. Reyes, Secretary and Mr. Falaschi, President of MSWD requesting the District's participation with the Commissions MSR Program. The email included a notice letter, MSR Questionnaire, and a request for public information with a four week response window.
- January 30, 2015, LAFCo called the District office to inquire on the information request. A follow up email was sent to District secretary and presidents. The District did not provide a response.
- March 4, 2015, LAFCo spoke with the District secretary over the phone. The District secretary informed LAFCo that she had not received the MSR notice letter or MSR Questionnaire. LAFCo verified her contact information and resent the MSR information to the District.
- May 11, 2015, LAFCo called the District to schedule meeting with District representative, to no avail. No one responded the District's phone during regular business hours.
- June 18, 2015, LAFCo called the District. No District representatives were available to address LAFCo's information request. LAFCo left a voice mail message with the District secretary. The District's office assistant informed LAFCo that management was in a "board meeting."
- June 25, 2015, LAFCo contacted the District to follow up on the information request. District management was unavailable due to a special board meeting. LAFCo staff spoke with Josh, district phone operator to schedule a time to meet with the District president or secretary within a week of June 25, 2015. Josh, District phone operator did not follow through with LAFCo's meeting request, no response was provided.
- July 14, 2015, LAFCo called the District and requested to speak with Mercy Springs Water District Secretary Sandra Reyes. The District's front desk phone receptionist informed LAFCo that the District secretary was entering a board meeting and could not take a phone call. LAFCo was rerouted to speak with the Pacheco Water District secretary whose office is also housed in the Panoche Water District office. Pacheco Water District's secretary stated that she could not speak on behalf of Ms. Reyes.
- On July 16, 2015, the District Manager authorized the District's consultant engineer to work with LAFCo to provide the necessary information associated with LAFCo's MSR program.
- On October 2, 2015, the District consultant engineer successfully collaborated with LAFCo staff to gather the necessary District information requested by LAFCo.

The District's inability to comply with LAFCo's MSR program in a timely manner reflects critically on the District's ability to efficiently maintain District business records and to respond to requests for public documents.

The District is an agency of the state, formed pursuant to California Water District Law (Water Code Section 34000) for the local performance of administration and distribution of irrigation water supplies within its limited boundaries. Water Code §34850 and the District's by-laws designate the District secretary as the "custodian of all records of proceedings had at meeting of the board. All records pertaining to district affairs shall be filed in the office of the District with the secretary and shall be open to inspection at all times by any person interested."

Given the extensive contacts with the District and the District's lack of responsiveness, LAFCo is concerned that, at least with respect to the preparation of this report, the District officers are not complying with responsibilities detailed under the District's principal act and adopted District bylaws. Furthermore, the District secretary's lack of timely compliance with LAFCo's information is contrary to the spirit of California Public Records Act. Nevertheless, the District's reluctance to disclose public information is unusual and not consistent with the District's by-laws, its principal act, and the Public Records Act.

### **Actions taken on District 2007 MSR Determinations**

As previously described in this MSR, USBR recognizes that District landowners entered into several contract agreements to transfer the rights to third-parties outside of the District that are also CVP contractors. Amendments to the District's USBR water contract has, over time, effectively sold nearly all of the District's water entitlements to areas outside the District.<sup>22</sup>

The 2007 MSWD MSR suggested that a reorganization of the government structure should be considered by the LAFCo. Several events have occurred since 2007, for example LAFCo notes that much of the District's water rights have been sold to third-parties that participate in USBR's CVP program. Currently, the District is in place to solely provide water administrative services which is preformed through contract by Panoche Water District. Based on information then, the District expressed that dissolution of the District would be detrimental and would potentially result in the loss of the water rights formally sold by landowners within the District.

Furthermore, LAFCo notes that a potential dissolution of the District could nullify the District's CVP contract with USBR. Through the 2016 MSR update LAFCo has learned that there are only three landowners within the District's service area and that these landowners sale their water supply to third-party participant of USBR's CVP program.

Although the 2007 MSWD MSR determined that a consolidation or merger of the District with Panoche Drainage District should be considered, the Commission ultimately adopted a resolution to reaffirm the District's adopted SOI and took no further action regarding district or

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<sup>22</sup> USBR Contract No. 14-06-200-3365A, Mercy Springs Water District

SOI modification. It is appropriate to reaffirm the District existing boundaries with no modification.

Through the preparation of the 2016 MSWD MSR, LAFCo notes that a more appropriate merger recommendation, if prompted, should actually be between the District and Panoche Water District (PWD). PWD currently staffs the District and it is also a California Water District formed under the same principal act to provide similar services as MSWD.

During the 2016 MSR preparation, the District did not express interest to pursue a merger with any other agency. LAFCo notes that the Commission updated PWD's SOI on April 12, 2015, which also did not consider or weighed discussions regarding possible reorganizations or mergers with the Mercy Springs Water District.

## CHAPTER 2: MSR DETERMINATIONS

This portion of the report addresses the factors specified in the governing statute for Municipal Service Reviews and provides analysis in conformance with Government Code §56425 and Fresno LAFCo policy. Pursuant to Government Code §56430, the Commission prepares the following written determinations.

### **1. GROWTH AND POPULATION PROJECTIONS FOR THE AFFECTED AREA.**

- The District service area includes 3,710 acres of unincorporated land approximately seven miles northwest of City of Firebaugh.
- The District is designated as a non-municipal local agency, which means that the District provides non-municipal services that do not facilitate, support, or induce population growth.
- The County of Fresno is the land use authority for territory within the District's boundaries. The Fresno County General Plan Land Use Elements designates territories as agricultural use within the District's boundaries. No significant changes to population are anticipated.
- The District is entitled to receive up to 2,842 acre-feet of irrigation water each year under its USBR CVP entitlement based on 100 percent allocation.
- District growth is restricted by its water supply allotment CVP contract with USBR.

### **2. THE LOCATION AND CHARACTERISTICS OF ANY DISADVANTAGED UNINCORPORATED COMMUNITIES WITHIN OR CONTIGUOUS TO THE SPHERE OF INFLUENCE.**

- A review of the American Communities Survey five-year estimates indicate that the MHI for the census tracts and block groups within the District boundaries are considered Disadvantaged Communities.
- The District is designated by LAFCo policy as a level three non-municipal local agency, meaning that the District is authorized to provide non-municipal services.
- The District has no public facilities or provides services related to sewer, municipal and industrial water, or structural fire protection that would present opportunity to extend services to a disadvantaged unincorporated community.

### **3. PRESENT AND PLANNED CAPACITY OF PUBLIC FACILITIES AND INFRASTRUCTURE NEEDS OR DEFICIENCIES.**

- The District does not own office facilities, infrastructure, machinery, equipment, tools, autos-trucks or tractors. The District's primary function is to administer the distribution of USBR CVP water.

- The District informs that majority of the territory with the District are owned by three landowners. Two private landowners with farming operations, while Panoche Drainage District owns approximately 95 percent of land within the District service area.
- The two private landowners do not receive District CVP water supplies, both landowners have onsite improved wells subject to restrictive covenants.
- The District office facilities and administrative duties are contracted with Panoche Water District.

**4. FINANCIAL ABILITY OF AGENCY TO PROVIDE SERVICES.**

- The majority of the District's revenue comes from water sales to third-parties, annual land assessments, and charges collected by the District.
- The District board appears to adopt an annual budget that forecasts revenues and expenditures for the upcoming fiscal year. The District reviews and established its service fees with the adoption of the annual District budget. The District at minimum meets once a year, the two most recent meeting were held on September 19, 2014 and March 4, 2016.
- The District's generates \$1,084,293 in charges for services for water sales, its operating grants and contributions generate by District's land assessments totaled \$58,029. The District generated total revenues of \$1,142,322 for fiscal year ending on February 28, 2015.
- The District annually collects sufficient land assessment fees from land located within its service area to finance the operation of District expenditures. All land assessments are considered collectible by the District.

**5. STATUS OF, AND OPPORTUNITIES FOR, SHARED FACILITIES.**

- The District's office administration is outsourced to Panoche Water District. The Panoche Water District houses the District's office and provides administrative staff support. LAFCo observes that the District already benefits from shared facilities.
- The District informed LAFCo that its board is comprised of the two private landowners and existing Panoche Drainage District board members or administrative staff of the Panoche Drainage District, that are also employed by Panoche Water District.
- The District does not own any capital or public facilities that would present the opportunity for shared facilities.

**6. ACCOUNTABILITY FOR COMMUNITY SERVICE NEEDS, INCLUDING GOVERNMENT STRUCTURE AND OPERATIONAL EFFICIENCIES.**

- California Water Code section 34000-38500 authorizes the formation of Water Districts to 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.

- This District is an independent special district which has a separate board of directors not governed by another legislative bodies (either a city council or a county board of supervisors).
- The District has adopted bylaws which govern and controls its affairs consistent with the constitution, laws of the State, and California Water District Law.
- The District informed LAFCo it has not been necessary for the District to conduct an election to fill available board member seats due limited eligible candidates residing within the District's service area. The District historically has appointed its board members.
- During the preparation of this MSR, LAFCo observed that all five board terms had expired at the end of 2015. However, the elections statute that governs the California Water District's election process allows directors to hold seat for four year terms or until a qualified director is able to take office. As of May 6, 2016, the District informs that it is awaiting the official appointment of all five directors by the Fresno County Board of Supervisors
- The District informed LAFCo that board meetings are scheduled on an "as-needed" basis with a minimum of one meeting per year. LAFCo notes that the District board did not convene during the entire year of 2015. The District's bylaws indicate that the District board shall hold monthly meetings, on the first Wednesday of each month at the District office.
- Board meeting notices are required to be posted at least 72 hours in advance at the District office located at 52027 West Althea Avenue, Firebaugh, California 93622. Opportunities for public participation and communication with the board appear to be limited during the annual District meeting.

**7. ANY OTHER MATTER RELATED TO EFFECTIVE OR EFFICIENT SERVICE DELIVERY, AS REQUIRED BY COMMISSION POLICY.**

- The Mercy Springs Water District MSR is noted for the following characteristics:
  - Repeated and substantive delays in obtaining public records from the District;
  - District Secretary was not effectual in providing public documents;
  - District does not comply with its 1960 approved bylaws.
  - District directors need official reappointed by County of Fresno Board of Supervisors.

## CHAPTER 3: SPHERE OF INFLUENCE REVIEW AND UPDATE

In order to carry out the Commission's purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies subject to its jurisdiction, the Commission shall develop and determine the sphere of influence of each city and each special district within the County and enact policies designed to promote the logical and orderly development of areas within the sphere. A sphere of Influence is defined as "a plan for the probable physical boundaries and service area of a local agency, as determined by the commission."

In determining the sphere of influence of each local agency, the commission shall consider and prepare a written statement of its determinations with respect to each of the following:

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;
5. For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, that occurs pursuant to Government Code section 56425 (g) on or after July 1, 2012, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

In determining a sphere of influence, the Commission may assess the feasibility of governmental reorganization of particular agencies and recommend reorganization of those agencies when reorganization is found to be feasible and if reorganization will further the goals of orderly development and efficient and affordable service delivery. The Commission shall make all reasonable efforts to ensure wide public dissemination of the recommendations.

When adopting, amending, or updating a sphere of influence for a special district, the Commission shall establish the nature, location, and extent of any functions or classes of services provided by existing districts. The Commission may require existing districts to file written statements with the commission specifying the functions or classes of services provided by those districts.

Chapter one of this MSR provides the foundation for the SOI determinations. As previously indicated, the District's service area and SOI are coterminous measuring approximately 3,710 acres. County of Fresno is the land use authority for land located within the District's service

area. The Fresno County General Plan designates land within the District service area for agricultural use. The District informs that there are three landowners in the District that individually own majority of the land within the District. Panoche Drainage District owns approximately 95 percent of the land in the District, and the remaining acres are owned by two separate private landowners. The District has a fixed CVP water supply contract with USBR and the District does not expect to annex additional territory to its service area due to the fact that it would require amending the CVP long-term contract to request additional water supply from USBR. The District reports its SOI and service area boundary are correct at this time and no changes are requested by the District.

In accordance with Government Code Section 56066, Fresno is the principal county and Fresno LAFCO is responsible for preparing the following determinations for the Sphere of Influence include in this Municipal Service Review.

When Fresno LAFCO updates a sphere of influence it must adopt specific determinations with respect to the following factors:

**1. PRESENT AND PLANNED LAND USES, INCLUDING AGRICULTURAL AND OPEN-SPACE LANDS.**

- The County of Fresno is the land use authority for territory within the District's boundaries. The Fresno County General Plan Land Use Elements designates territories as agricultural use within the District's boundaries. District services do not directly facilitate or affect the rate of population growth; therefore, land in the District is not anticipated to change from agricultural land use.

**2. PRESENT AND PROBABLE NEED FOR PUBLIC FACILITIES AND SERVICES IN THE AREA.**

- The District does not own office facilities, infrastructure, machinery, equipment, tools, autos-trucks or tractors. The District's primary function is to administer the distribution of USBR CVP water. The District office facilities and administrative duties are contracted and housed at the Panoche Water District office.
- The District has a fixed CVP water supply contract with USBR. The District does not expect to annex additional territory to its service area due to the fact that it would require additional water supply to be attained from USBR. The District's service area is appropriately sized with no plans for expansion within the next 10 to 20 years.

**3. PRESENT CAPACITY OF PUBLIC FACILITIES AND ADEQUACY OF PUBLIC SERVICES THAT THE AGENCY PROVIDES OR IS AUTHORIZED TO PROVIDE.**

- The District contracts its office administration and office location with Panoche Water District. The District's primary service is for the administration and distribution of its

USBR CVP water contract. Present services that the District provides appear to be adequate.

- The District provides services consistent with its principal act and as authorized by the Fresno LAFCo.

**4. EXISTENCE OF ANY SOCIAL OR ECONOMIC COMMUNITIES OF INTEREST IN THE AREA IF THE COMMISSION DETERMINES THAT THEY ARE RELEVANT TO THE AGENCY.**

- There are no relevant social or economic communities of interest relevant to the District's service provisions. Services provided by the District do not facilitate or induce population growth. The District has a fixed water supply for irrigation use through its contract with the USBR. The District informed LAFCo that it cannot support additional water demands due to the limits of its contracted water availability.

**5. THE PRESENT AND PROBABLE NEED FOR THOSE PUBLIC FACILITIES AND SERVICES OF ANY DISADVANTAGED UNINCORPORATED COMMUNITIES WITHIN THE EXISTING SPHERE OF INFLUENCE.**

- The District is designated by LAFCo policy as a non-municipal local agency, meaning that the District is authorized to provide non-municipal services. The District has no public facilities or provides services related to sewer, municipal and industrial water, or structural fire protection that would present opportunity to extend services to a disadvantaged unincorporated community.

## CHAPTER 4: RECOMMENDATIONS

In consideration of information gathered and evaluated during the 2016 Municipal Service Review, it is recommended the Commission:

1. Receive this report and any public testimony regarding the proposed Municipal Service Review and proposed Sphere of Influence Update.
2. Find that the Municipal Service Review is exempt from the California Environmental Quality Act pursuant to section 15306 (Information Collection).
3. Approve the recommended Municipal Service Review determinations, together with any changes deemed appropriate.
4. Recommend to the District that:
  - 4.1. Immediately and continuously hereafter, the District will adhere to state statutes that ensure that its affairs are conducted in an accountable, transparent, and accessible manner.
  - 4.2. It improve its internal communication and public record management to comply with its bylaws and the Public Records Act.
  - 4.3. It adhere its election/reappoint procedures to conform with the Uniform District Election Law. Set internal procedures to file its Certification of Facts, or declaration of candidacies in a timely manner with Fresno County Clerk to the Board.

## CHAPTER 5: ACKNOWLEDGEMENTS

This Municipal Service Review was prepared by Fresno LAFCO staff. The Mercy Springs Water District provided information included in this evaluation of the agency's service provisions.

This document and supportive information is available in the Fresno LAFCo office located at:

Fresno Local Agency Formation Commission  
2607 Fresno Street, Suite B  
Fresno, California 93721

The Municipal Service Review is available on Fresno LAFCo's website under documents open for public review and comment: <http://www.fresnolafco.org/Public%20Review.asp>