

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

AGENDA ITEM No. 8

DATE: October 14, 2015

TO: Fresno Local Agency Formation Commission

FROM: David E. Fey, AICP, Executive Officer 

SUBJECT: **Consider Adoption:** Municipal Service Review and Sphere of Influence Update Prepared for the Orange Cove Irrigation District.

Recommendations:

- A) Acting as Lead Agency pursuant to California Environmental Quality Act (CEQA) Guidelines, find that prior to adopting the written determinations, the Municipal Service Review and Sphere of Influence determination under consideration are Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA) under Section 15306, "Information Collection" and Section 15061(b)(3), "General Rule Exemption."
- B) Find that the Municipal Service Review and Sphere of Influence Update prepared for the District are complete and satisfactory.
- C) Find that the written determinations within the Municipal Service Review and Sphere of Influence Update satisfy State Law.
- D) Pursuant to Government Code Sections 56425 and 56430 make the required determinations for the Municipal Service Review and District Sphere of Influence, adopt the Municipal Service Review prepared for the District, and update the Sphere of Influence for said District by reaffirming the current boundaries.

Executive Summary

On December 12, 2014, LAFCo notified the District of the scheduled MSR Update. On March 25, 2015, LAFCo received the necessary information from the District. Fresno LAFCo and THE District effectively partnered in gathering the necessary data to reflected the District service provisions which are detailed in the MSR update. The District encompasses about 28,000 acres (44 square-miles) in southeastern Fresno County and northwestern Tulare County. The District's SOI is correct at this time and no changes are anticipated. The MSR update provides supporting information for the Commission to consider a SOI update.

Description:

The Orange Cove Irrigation District (District) was formed in 1937, under California Water Code §20500, "The Irrigation District Law." The District encompasses about 28,000 acres (44 square-miles) in southeastern Fresno County and northwestern Tulare County; approximately 14,350 acres in Fresno County and 13,611 acres in Tulare County. The District boundaries are

coterminous and generally extend from Avenue 416 in Tulare County on the south to State Route 180 in Fresno County on the north, and from Alta Canal on the west to the Sierra Nevada foothills on the east (see District map).

The District is responsible for distribution and accounting of surface water under contract with the United States Bureau of Reclamation (USBR). District growth is administered through its contract with the USBR. The District is conditioned by its contract to maintain approximately 28,000 acres of irrigable land within its service area, lands must not be considered to be excess land. Land receiving water from the District must be "Irrigable" as defined by the U.S. Department of the Interior, USBR. The District implements its reorganization policy to ensure service deliveries to its customers are maintained at appropriate levels.

It is recommended that the Commission consider the affirmation of the current Sphere of Influence as described in the MSR. The District provides retail water service and operates a small hydroelectric facility at Friant Dam through its participation in the Friant Power Authority (FPA). The FPA is a joint powers authority that the District is also involved in for electrical power generation at Friant Dam.

Fresno LAFCo Policy 107-03 designates the District as a "level three" special district that provides "non-municipal" services to its constituency. Level three non-municipal special districts means that services that are provided do not in themselves facilitate or induce population growth. Non-municipal special districts typically do not request or experience modifications to their district service area or request updates to the Commission adopted SOI for the agency.

Summary / Background

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires LAFCo to review and update, as necessary, special district Spheres of Influence (SOIs) every five years. Prior to, or in conjunction with an agency's SOI update, LAFCo is required to conduct a *Municipal Service Review (MSR)* for each agency.

On December 12, 2014, LAFCo notified the District of the scheduled MSR Update. The District was asked to complete the MSR Questionnaire, review and comment on its 2007 MSR, and provide LAFCo adopted policies, budget, current financial audits, and supportive information to begin evaluation of the agency's service provisions.

On March 25, 2015, LAFCo received the necessary information from the District. Fresno LAFCo and District effectively partnered in gathering the necessary data to reflect the District service provisions which are detailed in the MSR update.

The District is administered, managed, and operated to meet the needs of its immediate constituency. The District Board of Directors receives continual feedback from landowners within the District on issues concerning water and service levels. The District maintains an active presence on issues related to water, agricultural practices, and local, state and federal water law. The District reports that it is vigilant on California's current drought condition by being engaged and participating in the implementation of the Sustainable Groundwater Management Act.

Throughout the MSR update process the District demonstrated sound characteristics of an agency that provides irrigation water and hydroelectric generation services. In 2013, the District delivered 28,435 acre-feet of water to its customers generating \$2,551,000 in water sales. The

District was able to transfer 3,532 acre-feet of water to other Districts generating \$1,003,100 in other water sales. The District's participation in the Friant Power Project generates annual revenues of approximately \$170,000 through its agreement with the Friant Power Authority. The District manages its water resource to ensure service deliveries are maintained at appropriate levels.

Fresno LAFCo approval is required for all reorganizations affecting the District boundaries. Fresno LAFCo's approval to any District reorganization is one of many steps for land to be formally included in the District service area and to be considered eligible to receive USBR contract water. Fresno LAFCo staff is coordinating with the District to obtain geographic information systems (GIS) data from USBR to adequately diagram the entire District service area. Fresno LAFCo observes that the entire District's service area, both Fresno and Tulare Counties, should be illustrated by the Principal County.

In preparation of the MSR, Fresno LAFCo observed that mapping data held by the District, Fresno LAFCo, the Fresno County Assessor, and Fresno County Elections Department were not consistent with each other. The discrepancy consisted of different scattered parcels shown in or outside of the District's service area on maps managed by each of these agencies. The discrepancy was relatively minor but it reflects a potentially larger issue of interagency communication that if not corrected could have resulted in several problems of interest to the public including inaccurate property assessments, inefficient interagency communication, and potential disenfranchisement of landowner voters. The MSR includes a recommendation to work with the District to acquire a copy of its entire service area as officially depicted by USBR. The District informed LAFCo that the mapping information will be in digital GIS format. Fresno LAFCo will follow up with the District once the mapping information becomes available.

LAFCo staff recommends the Commission to direct staff to convene a meeting with County Elections Department, the County Assessor, and other agencies that manage boundaries to develop mutually-agreeable protocol to ensure prompt communication and validation of boundary information.

The District reports its SOI is correct at this time and no modifications to the District service area is anticipated in the next five to ten years. The MSR raises the possibility of a SOI expansion that could include territories listed in the District's "Annexation List." This course of action could be considered for the next scheduled MSR or upon request from the District. The District informed LAFCo staff that District growth is reasonably conservative due to its water contract with USBR. Annexation into the District is authorized by LAFCo, which also includes USBR evaluation and authorization in order for the land to receive water from the District.

MSRs provide a comprehensive review of the services provided by a city or district and present recommendations with regard to the condition and adequacy of these services and whether or not modifications to a city's or district's SOI are necessary. MSRs can be used as informational tools by LAFCo and local agencies in evaluating the efficiencies of current district operations and may suggest changes in order to better serve the public.

SOI updates may involve an affirmation of the existing SOI boundaries or recommend modifications to the SOI boundaries. LAFCo is not required to initiate changes to an SOI based on determinations and recommendations of the service review, although it does have the power to do so.

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 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.

Environmental Determination

The California Environmental Quality Act ("CEQA") requires that the Commission undertake and review an environmental analysis before granting approval of a project, as defined by CEQA. This MSR is 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. These may be strictly for information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted, or funded." Indeed, MSRs collect data for the purpose of evaluating municipal services provided by the agencies. There are no land use changes or environmental impacts created by such studies.

Furthermore, this MSR qualifies for a general exemption from environmental review based upon CEQA Regulation section 15061(b)(3), which states: "The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on

the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." Additionally, the SOI update qualifies for the same general exemption from environmental review based upon CEQA Regulation section 15061(b)(3).

There is no possibility that this MSR and SOI update may have a significant effect on the environment because there is no land use changes associated with the documents. If the Commission approves and adopts the MSR and SOI update and determines that the project is exempt from CEQA, staff will prepare a notice of exemption as required by CEQA Regulation section 15062.

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