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

AGENDA ITEM No. 8

DATE: July 16, 2014

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 Kings River Conservation 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 Categorical 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.

Description:

The Kings River Conservation District encompasses 1,311,163 acres in Fresno, Kings and Tulare Counties. The District provides flood protection, cooperate with other agencies to achieve a balanced and high quality water supply, provide on-farm support in efficient water conservation practices, and develop power resources for the public good.

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.

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 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.

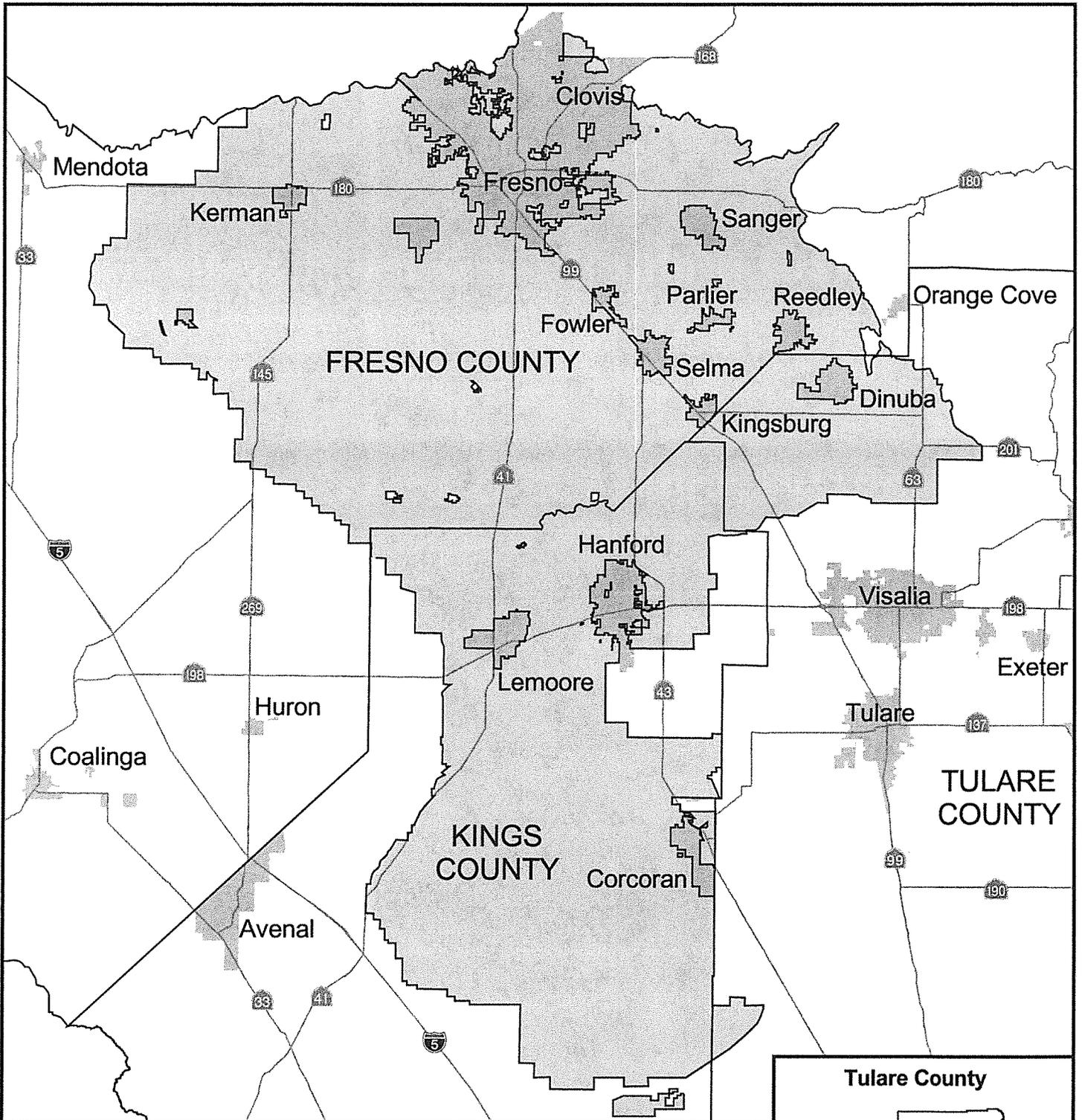
Environmental Determination

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).

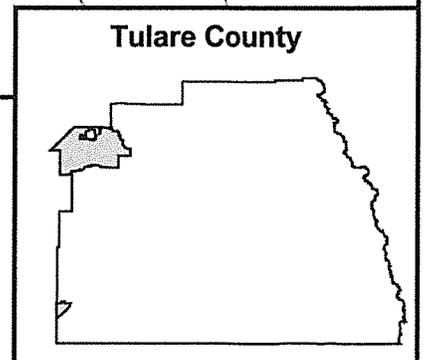
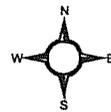
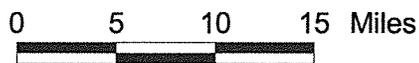
There is no possibility that this MSR and SOI update may have a significant effect on the environment because there is no land use changes associated with the documents. If the Commission approves and adopts the MSR and SOI update and determines that the project is exempt from CEQA, staff will prepare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

Kings River Conservation District



- State Highways
- ▭ District & SOI
- ▭ Cities

Boundaries as of 9/30/12



KINGS RIVER CONSERVATION DISTRICT

MUNICIPAL SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE

**Report to the
Fresno Local Agency Formation Commission**

David E. Fey, AICP
Candie Fleming
Samantha Hendricks
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July 2014

KINGS RIVER CONSERVATION DISTRICT

Water and Electrical Energy

Contact Information

Manager: David Orth
Address: 4886 East Jensen Avenue
Fresno, CA 93725
Phone: 559-237-5567
Email/Website comments@krcd.org / www.krcd.org

Management Information

Governing Body: Board of Directors

Board Members:

Division 1 Norman B. Waldner	Elected 1981-Expires 2014
Division 2 Mike M. Yoshimoto	Elected 1979-Expires 2016
Division 3 Gildo Nonini	Elected 2002-Expires 2014
Division 4 Mark C. McKean, President	Elected 1995-Expires 2016
Division 5 D. Paul Stanfield	Elected 2012-Expires 2014
Division 6 Ceil W. Howe Jr.	Elected 1993-Expires 2016
At-Large Dr. David Cehrs, Vice President	Elected 2008-Expires 2016

Board Meetings: The board meets on the second Tuesday of each month at 1:30 pm at the District office.

Staffing: 51 full time employees

Service Information

Empowered Services: Water and Electrical Energy

Services Provided: Water and Electrical Energy

Area Served: Fresno, Kings and Tulare Counties

Population Served: 161,987

Acres Served: 1,311,163 acres

Infrastructure: Levees and the river channel on the Kings River, a hydroelectric generating plant at the base of Pine Flat Dam and a peaking plant in Malaga

Fiscal Information

Budget: \$13,127,924

Sources of Funding: Reimbursements, power sales, grants, and taxes

Administrative Policies

Strategic Plan: Yes

Policies/Procedures: Yes

By-laws: No

Boundary Updated: 2014

SOI Updated: 2007

Other: Yes

1. MUNICIPAL SERVICE REVIEW

Description of District

Principal Act

The Kings River Conservation District was formed in 1951 by a special act of the Legislature (Assembly Bill No. 340 Chapter 931, the “KRCD Act”) for the acquisition, construction, maintenance and operation of works and property for the purposes of the district. It is responsible for planning for the proper management of water within its service area, including essential flood control and groundwater management services.

The District is an independent special district which has a separate board of directors not governed by other legislative bodies (either a city council or a county board of supervisors). In accordance with Government Code Section 56066, Fresno is the principal county and the Fresno LAFCO is responsible for preparing this report.

Territory, Sphere of Influence, and Changes of Organization

The District contains about 1,311,163 acres (2,049 sq. mi.) in Fresno, Kings and Tulare Counties. The Fresno County portion has 640,931 acres (1,001 sq. mi.) or 48.9% of the total District.

The District boundary and Sphere of Influence in Fresno County are coterminous, from Kings and Tulare Counties on the south to Madera County on the north. In Fresno County it encompasses the agricultural lands surrounding the cities of Clovis, Fresno, Fowler, Kerman, Kingsburg, Parlier, Reedley, San Joaquin, Sanger, and Selma; in Tulare County it encompasses the agricultural lands surrounding the City of Dinuba; in Kings County it encompasses agricultural lands surrounding the Cities of Corcoran, Hanford and Lemoore and continues south to the Kern County line.

Current land uses within the District boundaries consist of the full range of residential uses (single family, multi-family, and rural residential), commercial, public facilities, and both irrigated and non-irrigated agricultural lands. District services do not directly facilitate or affect the rate or location of population development. As the cities annex lands for development they are detached from the District resulting in a continually shrinking boundary.

The District has anticipated the detachments as cities grow. The KRCD Act, Sections 59-21 and 59-42, provide for such detachments. District activities in managing the Kings River floodway benefit the cities along the river as well as rural land. The District’s efforts in groundwater resource management and integrated regional water planning activities benefit cities in this area.

Governance, Budget, and Operation

The District is an independent district that it is governed by a seven -member Board of Directors. The KRCD Act was amended in 2013 to provide for division boundary revisions and to change the election process to conform to Voting Rights law. Beginning in 2014, District elections will be based on seven divisions with each candidate elected

by the voters within his/her division only. Prior to 2014 there were six divisions and one at-large director, and voting for each was at-large (all voters voted on all divisions/candidates). The Board regularly meets monthly. Agendas are posted at the District headquarters and on the District website at www.krcd.org. The District has 51 full-time employees.

The District provided audited financial statements for fiscal year ending June 30, 2013 and a budget for the 2013/14 FY. The budget for FY 13/14 is \$13,127,924. Revenues were expected to be slightly less than expenses due to diminished hydro electricity sales caused by the current drought. The District expects 67% of its budget to be financed by reimbursements from the California Department of Water Resources for the operation and maintenance of the two power plants. Property taxes account for 7% of the revenue; grants are 14% and power sales 6% and other miscellaneous sources account for the remaining 9%.

District Services

The District's mission is to provide flood protection, cooperate with other agencies to achieve a balanced and high quality water supply, provide on-farm support in efficient water conservation practices, and develop power resources for the public good. It performs this mission by maintaining the channels and levees, controlling weeds along levees and clearing downed trees from channels of the Kings River downstream of Pine Flat Dam so that they will safely carry irrigation and flood releases from the dam. Maintenance focuses on approximately 140 levee miles from below Kingsburg to SR 41 near Stratford on the South Fork and McMullin Grade on the North Fork.

The District does not directly control water releases from Pine Flat Dam but participates with the Kings River Water Association (KRWA) to make cooperative decisions on irrigation releases. All KRWA member agencies (or "units," as they are known) are public districts or canal companies with rights to provide Kings River water for beneficial irrigation use on nearly 20,000 San Joaquin Valley farms in portions of Fresno, Kings and Tulare counties. The KRWA is a voluntary organization composed of 28 agencies that coordinates Kings River water basin issues of mutual concern. Flood releases are controlled by the U.S. Army Corps of Engineers.

KRCD strives to protect one of our valley's most precious resources – water of the Kings River service area – through implementation of groundwater projects, on-farm water management, water-quality monitoring and flood control maintenance.

The District monitors groundwater and publishes an annual Groundwater Report detailing water table conditions and improvements.

The District also owns and operates the Jeff L. Taylor Pine Flat hydroelectric plant located on the Kings River at the base of Pine Flat Dam and a natural gas-fired "peaker" plant located in Malaga. All power produced is currently purchased by the California Department of Water Resources (DWR) under the terms of two Power Purchase Agreements. The Pine Flat contract will terminate in 2037. The DWR uses the hydro

power to run its water delivery systems throughout the state. The Malaga plant was built in response to the energy crisis of 2001. The first 10-year power purchase contract terminates in 2015. The DWR also purchases the Malaga power and assigns it to benefit the customers of the local utility, which is Pacific Gas & Electric Company.

2. MSR DETERMINATIONS

This portion of the report addresses the factors specified in the governing statute for Municipal Service Reviews.

1. Growth and Population Projections for the Affected Area

The California Department of Finance noted in its 1/31/13 report, "New Population Projections," that "California's population will cross the 50 million mark in 2049 and grow to nearly 52.7 million by 2060.... The San Joaquin Valley will add 3 million new Californians, growing from 3.1 million to 6.2 million. Valley gains will be led by San Joaquin County and Fresno County (growing by 683,000)."

District activities related to groundwater conditions and improvements are vital to the General Plans of cities and counties in the District.

Cities and counties' General Plans within the District project population growth that will result in corresponding annexations to cities and detachments from the District.

As cities grow demand for groundwater increases. The District's efforts to manage groundwater quality and quantity need to keep up with demand. It is conceivable that detachments caused by city annexations could diminish the District's ad-valorem property tax base to the point where assessment rates would need to be increased for the remaining property within the District. This would require an election in accordance with Prop 218, which may or may not be successful in raising rates. There are no plans to increase assessment rates for the foreseeable future.

Determination: Growth and development in the District is forecast by the California Department of Finance. The District's master plan anticipates this growth, the improvements needed to meet its goals and the necessary capital improvements to provide services.

2. The Location and Characteristics of any Disadvantaged Unincorporated Communities Within or Contiguous to the Sphere of Influence

SB 244 and Fresno LAFCo policies define a "disadvantaged unincorporated community" to mean inhabited territory with 12 or more registered voters with an annual median household income that is less than 80 percent of the statewide annual median household income and that includes at least 15 dwelling units at a density not less than one unit per acre.

Any MSR for a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, shall identify any DUCs within and contiguous to the sphere of influence of that city or special district and describe the present and probable needs and deficiencies for the provision of those public facilities and services within such DUC. The District provides water resource management and electricity for the benefit of all lands and persons in the District. Although there are disadvantaged communities in the District they receive the same services as the rest of the district. The District does not provide municipal or industrial water service, or sewers or fire protection.

The Kings Basin Disadvantaged Communities Pilot Project Study was conducted by the Kings Basin Water Authority (KBWA) to engage residents in small, rural communities regarding drinking water and wastewater issues. There are more than 100 economically disadvantaged and severely disadvantaged communities within the Kings Basin region, which includes portions of Fresno, Kings and Tulare counties. A large number of these currently face critical drinking water and wastewater challenges, but on their own do not possess the necessary technical or financial resources to overcome them. The study included individualized outreach plans to schools, small water systems, and residential areas such as mobile home parks and communities in the study area. Door-to-door outreach and dozens of community meetings were conducted throughout the region. The study resulted in identifying five potential pilot projects throughout the Kings Basin that provide practical solutions for common problems with DAC drinking and wastewater systems. The projects include economies of scales analysis, community survey, improvements to a wastewater system, water supply improvements, and KBWA membership application support. Ultimately, the study allowed those involved to clarify water-related issues impacting their communities, explore potential regional solutions, and consider various other types of collaboration.

The District does not charge fees for maintaining the Kings River levee system. This activity is supported by property tax assessments. The District's flood control efforts benefit all landowners and properties within the District, without regard to economic status.

Determination: The District provides services to all of the communities within its boundaries.

3. Present and Planned Capacity of Public Facilities and Infrastructure Needs or Deficiencies

The District owns and maintains levees and the river channel, operates a hydroelectric generating plant on the Kings River at the base of Pine Flat Dam and operates a natural gas fired electrical peaking plant in Malaga.

The District states that with current maintenance activities the current system of levees and river channels are adequate to accommodate river flows.

The Pine Flat Power Plant went into operation in 1984. It contains three hydroelectric generators, each with a capacity of 55 MW, for a total capacity of 165 MW. It runs only when there are sufficient irrigation releases or sufficient flood releases, or a combination of both. The average annual power production is 420,000,000 kilowatt hours. Total power production in 2013 was 116,647,200 kilowatt hours.

All power produced is purchased by the California Department of Water Resources under a long-term power sales contract which will terminate in 2037. The DWR uses the power to run its water delivery systems throughout the state.

The Malaga Peaking Plant began commercial operation in September, 2005. It is operated by the District under a long-term agreement with the California Department of Water Resources. The plant is powered by two gas turbine generator sets, with a total maximum output of 97 megawatts. The power is produced “on-demand” by California’s Independent System Operator to supply peak-demand electrical energy to the Western Power Grid during periods of high demand.

The Malaga Peaking Plant power purchase contract with the DWR ends in September of 2015. The District intends to enter into a new power purchase contract with an as-yet unidentified customer.

The District states that with current maintenance activities and contracts with the DWR, these plants are adequate and it has no present plans to acquire additional property for plant expansion.

Determination: The District is able to accommodate current service demands with the existing facilities.

4. Financial Ability of Agencies to Provide Services

The District’s expected overall budget for FY 2013-2014 is \$13,127,924. Of this total, \$5,153,117 is the appropriation for the District General Fund. Other amounts are the River Maintenance Fund (\$1,329,971), Pine Flat Enterprise Fund (\$3,778,168) and Peaking Fund (\$2,866,668).

In FY 2013-2014 the District projects Pine Flat Operation and Maintenance reimbursements of \$5,167,382, Pine Flat Power Benefits of \$750,165, peaking project Operation and Maintenance reimbursements of \$3,588,996, grants and interagency agreements of \$1,092,767, taxes, subventions and abatements of \$940,000, Local Levee Evaluation Grant \$675,000, interest of \$30,000 and \$20,250 of miscellaneous revenue.

The Districts Reserve was \$3,019,523 at the end of FY 2012-2013. The District projects to have \$3,353,811 in the reserve account at the end of FY 2013-2014. The District has \$49,915,000 in long term debt that is expected to be paid off by 2029.

The District projects \$13,127,924 total expenses for the FY 2013-2014. Major expenses for the year are employees' salaries and wages (\$4,088,773), engineering services (\$1,213,000), payments to other agencies (\$1,105,010), professional and special services (\$862,011) and insurance (\$780,433).

The District's enabling legislation requires competitive bids for construction exceeding \$50,000 and the District often requires competitive bidding on capital purchases that exceed \$10,000. The District participates in a Fisheries Management Program on the Kings River with the California Department of Fish and Game, and other interested parties. There are no obvious opportunities for rate restructuring in the operations of the District.

Determination – The District appears to be financially able to provide services. It adopts an annual budget, conducts regular audits, and takes advantage of cost avoidance opportunities that are available.

5. Status of, and Opportunities for, Shared Facilities

Due to its size and scale, and the nature of the resource it manages, the District currently benefits from shared or cooperative use of regional facilities. These include the use of the U.S. Army's Corps of Engineers Pine Flat Dam and reservoir, the Kings River, and various other water works in the District.

The District also participates in the Mid-Valley Water Authority (MVWA). The MVWA was originally formed effective December 1, 1982. Its purpose was "to develop, design, finance, acquire, construct, operate and maintain dams, reservoirs, tunnels, conduits, canals, and facilities" as described in Section 2.03 of the MVWA Agreement. Section 5.01 of the Agreement identifies and defines the Project as the "Mid-Valley Canal Project." MVWA actively pursued the Project until approximately 1994 or 1995. In 1995 the Board voted to hold meetings once annually and to limit annual expenses. The MVWA has been substantially inactive since then.

At the annual meeting held December 20, 2013, the Board discussed issues related to possible termination of the MVWA as well as requirements in the Joint Powers Agreement pertaining to member withdrawal. Since that meeting several requests for withdrawal have been received and more are expected.

KRCD is also a member of the Upper Kings Basin Integrated Regional Water Management Authority, a 16-member joint powers agency currently comprised cities, counties and water agencies (irrigation districts and conservation districts). The parties share a common interest in maximizing the beneficial use of Kings River water. They have jointly been pursuing integrated regional water management planning strategies for the Upper Kings Basin. The parties have developed an integrated regional water management plan for the Upper Kings Basin and have undertaken various activities in furtherance of that plan. KRCD acts as the Fiscal Agent for the JPA.

KRCD is a member of the Kings River Watershed Coalition Authority. The Authority was established on January 1, 2009 as a Joint Powers Agency by and between the water districts and mutual water companies within the Kings River service area. Each of the parties to the Agreement administer and/or deliver irrigation water to growers in or adjacent to the service area of the Kings River in the San Joaquin Valley. As a result, they are vitally interested in preserving the viability of irrigated agriculture within their respective service areas and the watershed as a whole. The Coalition was formed in order to combine resources and reduce the cost of compliance with the State Water Resources Control Board Ag Discharge Waiver initially, and the recently adopted Tulare Lake Basin General Order. KRCD acts as the Fiscal Agent for the JPA.

Determination – Many water works are currently shared or cooperatively used by the District. There is no opportunity for additional sharing of facilities.

6. Accountability for Community Service Needs, Including Government Structure and Operational Efficiencies

Under its current enabling act, operation, and management, the District is able to operate in a transparent and publically accountable manner. Transitioning the District to an alternative service provider, such as another district or other form of local government, would be unlikely to result in significant efficiencies to service provision. Additionally such a transition to an alternative government structure would be extremely difficult due to the cost, time, and administrative complexity. The existing structure of the District is sufficient to allow the District to continue service provision in the foreseeable future. Therefore, a reorganization of the current government structure is not likely to significantly improve services. The current government structure is able to provide adequate service within district boundaries.

Given its extensive service area the District exhibits the characteristics of a well-managed agency operating efficiently and serving its residents and customers effectively.

A seven-member Board of Directors elected by registered voters in the District governs the District. The Board meets every month. Notices are posted at the District office and on the District's website. Notices of public meetings are mailed to interested parties.

Determination – The District is accountable to the community service needs, meets regularly, and maintains its transparency. The seven members are elected by the voters of the district and are accountable to the residents in the district.

7. Any Other Matter Related to Effective or Efficient Service Delivery, as Required by Commission Policy

The Cortese-Knox-Hertzberg Local Government Reorganization Act Section 56036.6 (a) states that a conservation district is not a "district" or "special district" if the commission of the principal county determines that the entity is not a "district" or "special district."

However, the Commission cannot make the determination that the Kings River Conservation District is not a District pursuant to Section 56128 (a) (1) because the District distributes water and electricity.

Determination – The District is operating in an orderly and efficient manner. No alternate governmental reorganization is warranted.

3. SPHERE OF INFLUENCE REVIEW AND UPDATE

Government Code Section 56076 defines sphere of Influence as “A plan for the probable physical boundaries and service area of a local agency, as determined by the commission.

Description of Current Sphere of Influence

The District’s boundaries and sphere of influence are coterminous and encompass 1,311,163 acres in Fresno, Tulare and Kings Counties.

No Proposed Sphere Changes

The District reports its sphere and boundary is correct at this time.

Sphere of Influence Determinations

In accordance with CG 56425 (e), (e) 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. Present and planned land uses, including agricultural and open-space lands;

Determination – Land uses within the District are largely agriculture and open space and with significant areas devoted to residential, commercial, industrial and public uses. Planned uses include a similar variety of designations but no changes will result from affirming the Sphere of Influence.

2. Present and probable need for public facilities and services in the area;

Determination – The mixture of land uses within the District requires a broad array of public services and facilities, which is understandable given the scope of the District. The probable need for public facilities and services reflect land use plans of the County and cities within its boundaries.

3. Present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide;

Determination – The capacity of District facilities is sufficient for the services it provides, though the issue of adequacy of groundwater and other water resources in Fresno County is an ongoing public policy question.

4. Existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

Determination – The lands within the District represent an economic community of interest due to its reliance on adequate and dependable water supplies for urban, agricultural and environmental protection needs.

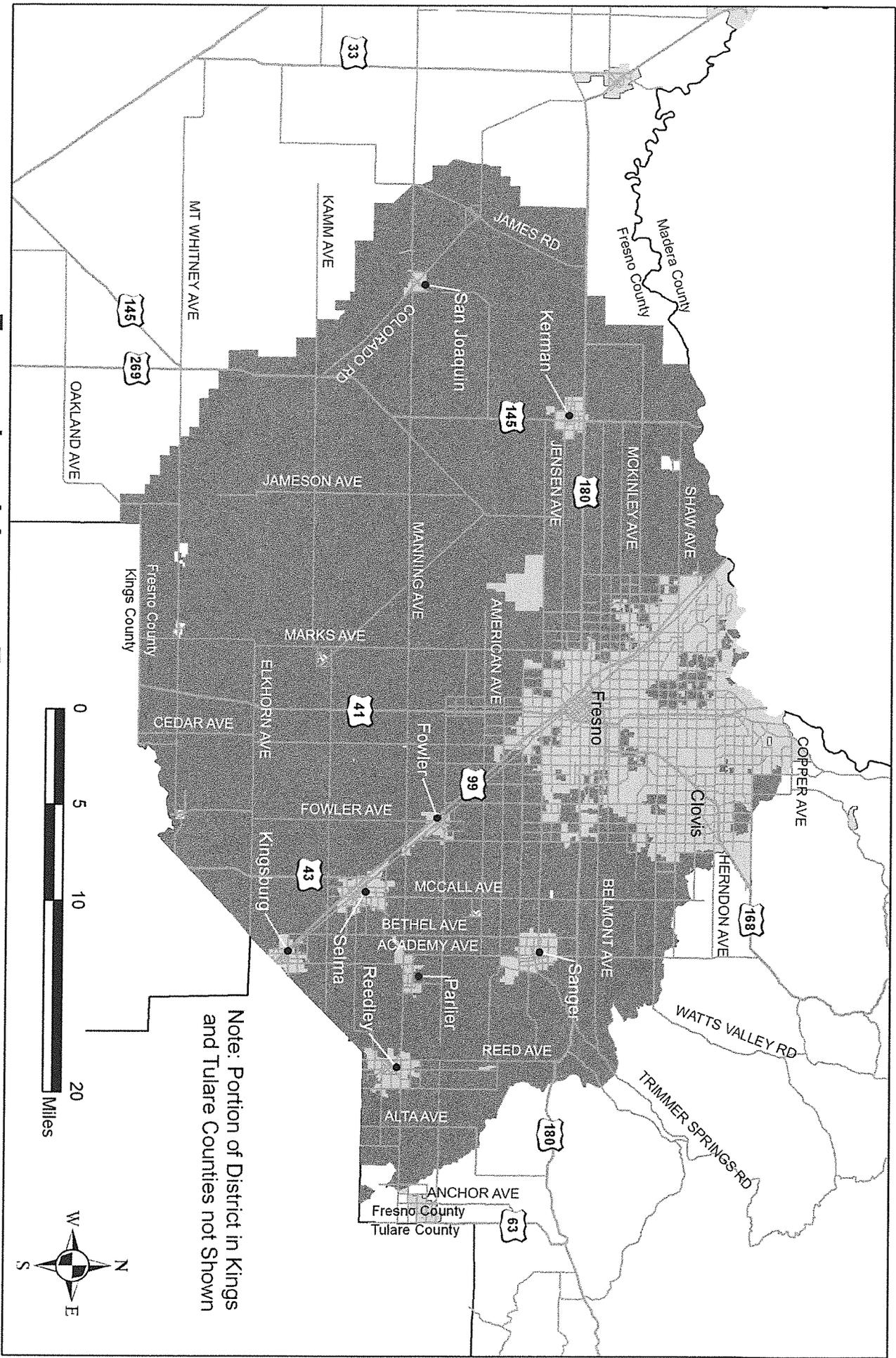
4. ACKNOWLEDGEMENTS & REFERENCES

This draft Municipal Service Review was prepared by Fresno LAFCo staff using information largely provided by the District.

5. RECOMMENDATIONS

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

1. Accept public testimony regarding the proposed Municipal Service Review.
2. Approve the recommended Municipal Service Review determinations, together with any changes deemed appropriate.
3. Approve the recommended Sphere of Influence determinations and affirm the current Sphere of Influence.



Legend

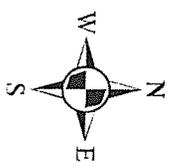
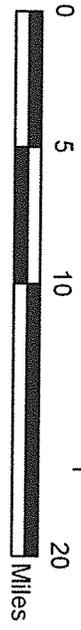
- District Area and SOI
- City Areas

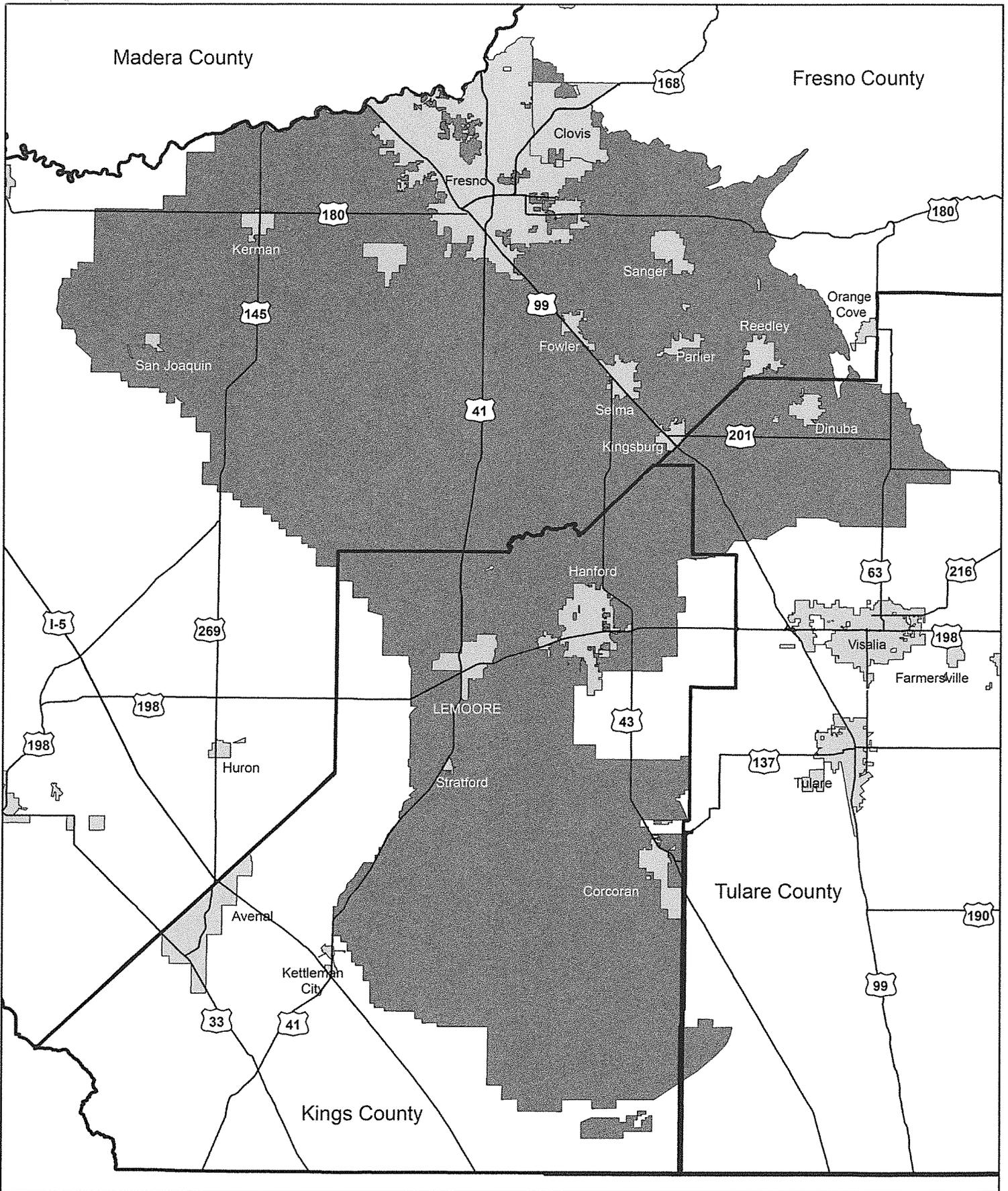
**Fresno Local Agency Formation Commission
Kings River Conservation District**

District Formed: 1951
 SOI Adopted: 3/24/1976
 SOI Updated: 8/22/2007

Map Date : September 2007
 District Area: 1,311,163 Acres
 Sphere Area: 1,311,163 Acres

Note: Portion of District in Kings and Tulare Counties not Shown





Legend

-  District Boundary and SOI
-  County Boundaries
-  City Limits

Fresno Local Agency Formation Commission
 Kings River Conservation District

