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

AGENDA ITEM NO. 7

DATE: **August 11, 2021**

TO: **Fresno Local Agency Formation Commission**

FROM: **David E. Fey, Executive Officer**

BY: **Juan Lara, LAFCo Analyst II**

SUBJECT: **Consider Approval: "Sierra Resource Conservation District Annexation."** A proposed annexation of approximately 235,776 acres to the Sierra Resource Conservation District for territory westward of the current district service area to align with State Route 99. (LAFCo File No. AD-19-3, continued from June 9, 2021)

Applicant: Sierra Resource Conservation District.

Landowners/Parties of Real Interest: (See Attachment C)

RECOMMENDATION: Approve by Taking the Following Actions:

Action 1:

A. Acting as Responsible Agency pursuant to California Environmental Quality Act ("CEQA") Guidelines, find that prior to approving the proposed annexation, the environmental effects of the Proposal as shown in the CEQA documents prepared, adopted, and submitted by the Lead Agency, were reviewed and considered, and determine these documents to be adequate pursuant to CEQA Guidelines section 15096.

Action 2:

B. Find that the proposed annexation is consistent with LAFCo Policies and the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 ("CKH").

C. Find pursuant to CKH and information in the record that:
   a. The territory is inhabited; and
   b. Not all landowners and registered voters have consented to the annexation.

D. Assign the distinctive short form designation "Sierra Resource Conservation District Annexation" and approve the annexation subject to the following conditions of approval:

a. Pursuant to Fresno LAFCo Policy 103-05, the Executive Officer shall record the approved application if all conditions have been satisfied and once, he or she has determined that the facts pertaining to the application during the time of recording are materially similar to those facts considered by the Commission when the application was approved. Facts, as used in the proceeding sentence, is defined to include, but is not limited to, whether or not the proposed project is materially similar to the project described in any application before the Commission.

b. Submittal of corrected legal description and map.

E. Find that on May 19, 2021, notice was given pursuant to state law and disclosed that there is potential for the extension or continuation of any previously authorized charge, fee, assessment, or tax by the local agency in the affected territory, and that the Commission intends to waive protest proceedings pursuant to section 56663(a)(b)(c) unless written opposition is received before the conclusion of the Commission proceedings.

F. Waive further Conducting Authority Proceedings and order the annexation subject to the requirements of CKH.

G. Find that no written opposition to the proposal was received prior to the conclusion of the hearing and approve the proposal subject to the requirements of the CKH, the 30-day reconsideration period, and compliance with all of the above conditions, and waive further conduction Authority Proceedings.

-Or-

H. If written opposition to the proposal was received prior to the conclusion of the hearing, approve the proposal subject to the requirements of the CKH, the 30-day reconsideration period, and compliance with all of the above conditions, and direct staff to set a protest hearing pursuant to the requirements of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code section 57000 et seq.).

Alternative for Commission Action

Alternative Actions: Deny or modify application AD-19-03

If the Commission denies application USOI-193, proposed annexation AD-19-03 will not be consistent with the extant Sierra Resource Conservation District ("Sierra RCD") Sphere of Influence ("SOI"). In this case, staff recommends that the Commission deny without prejudice application AD-19-03.

If the Commission modifies application USOI-193, then approval of proposed annexation AD-19-03 in conformance with modified USOI-193 is recommended.

Executive Summary

On July 2019, Sierra RCD filed a SOI update application (File No. USOI-193) requesting LAFCo to include approximately 235,776 acres into the Sierra RCD SOI that would expand the district westward to align with State Route 99. The SOI update was necessary to support the District's concurrent annexation application (File No. AD-19-03) to annex the affected territory into Sierra RCD's service area.

On June 9, 2021, the Commission approved an update of the Sierra RCD Municipal Service Review (LAFCo File No. MSR-21-7) prepared pursuant to Government Code section 56430 for the.

The Commission then voted unanimously to continue the hearing on the Sierra RCD's Sphere of Influence amendment application USOI-193 and related annexation application AD-19-03 to August 11, 2021. The purpose of the continuation was to allow several special districts in opposition to the applications and the Sierra RCD to continue dialog on a mutually agreeable resolution.

A meeting was subsequently held of the four special districts' general managers and the general manager of the Sierra RCD along with LAFCo staff.

Progress Report on Irrigation District's Concerns

LAFCo staff met with the district managers of Sierra RCD, the Alta, Consolidated, and Fresno Irrigation Districts, and the Kings River Conservation District on June 21, 2021, to further identify the district's respective concerns with application USOI-193 and to explore options available to address these concerns.

The districts expressed that the proposal is vague and difficult to understand the objectives of the SOI expansion. The districts are concerned that the SOI and annexation proposals were recommended by the California Association of Resource Conservation Districts rather than from local persons or organizations within the affected territory. From the irrigation districts' perspective, given that the impetus for the SOI expansion came from the state RCD organization rather than locally, the expansion has the potential to impact their management of water supplies if an expanded Sierra RCD could either compete for limited water supplies managed by the irrigation districts or attempt to advocate, purchase/sale, or increase regulations for water usage. Additionally, the districts assert that there is no need to add another form of government that has or may pose a threat to local water supplies.

The irrigation districts and KRCD expressed their concerns about Sierra RCD's ability to pursue funding through the Proposition 218 process in the future. Assuming that property owners will be reluctant to increase assessments on their properties, the Districts are concerned that should the Sierra RCD ever successfully pass a property assessment, then any subsequent Prop 218 process started by another district would face potential objections by property owners who might object to another agency's Prop 218 proposal.

The Irrigation Districts and KRCD prefer the status quo and plan to keep working relationships with Sierra RCD.

Attachment D provides the agencies' collective opposition to LAFCo File Nos. USOI-193 and AD-19-03.

Sierra RCD's Response to Concerns

The Sierra RCD's stated purpose for the proposed SOI expansion and related annexation is to extend its natural resources conservation services in the affected territory. The District received funding for its application from the Central Valley Community Foundation in collaboration with the California Association of Resource Conservation Districts. Sierra RCD general manager Steve Haze disputes the characterization that the funding impairs the district's local control; from his perspective, annexation to the District would enable to Sierra RCD to extend its grant-funded resource conservation projects into the affected territory.

The Mr. Haze explained to the Districts and KRCD that the Sierra RCD hasn't, does not currently, nor intends to manage ground or surface water supplies. He believes that the Sierra RCD does not have the legislative power to manage or regulate water supplies. The District provides a variety of services based on available grant programs; none of the services have positioned the District manage water supplies. Previous grants awarded to Sierra RCD have been focused on increase efficiency for the local watershed and to provide funding to farmers to improve irrigation practices, i.e. State Water Efficiency and Enhancement Program ("SWEEP"). Sierra RCD has also secured funds to pay for water testing/monitoring devices. However, the District does meter water but facilitated the use of meters that provided data to the Department of Water Resources.

Sierra RCD has a clear and public record securing *grant funding* for its programs. The District has expressed that there is no need nor plan to create an assessment through the Proposition 218 process.

Staff Analysis

After the 60-day continuation of the hearings for USOI-193 and AD-19-3, LAFCo has not received written evidence that identifies an occasion where the duplication of services occurred among Sierra RCD and either AID, CID, FID, or KRCD. However, staff has received a letter of opposition from the Irrigation Districts that is included in this report as Attachment D.

Proposal/Land Use

- The Proposal consists of the annexation of approximately 235,776 acres.
- Information related to the Proposal's affected territory, land use, proposed development, special districts, surrounding areas, and existing/proposed services can be found on **Attachment A.**

- Should the Commission approve the concurrent SOI update, all affected territories will be within the Sierra RCD sphere of influence and are contiguous to the District's service area **(Attachment B).**
- No zone change is proposed as all affected territories are not proposed for development.
- The territory is inhabited.

Revenue and Tax Code Section 99 (b)

On July 22, 2020 LAFCo issued a notice for jurisdictional change under Revenue and Taxation code section 99(b) to the Fresno County Assessor-Recorder and the Fresno County Auditor Controller/Treasure-Tax Collector. Upon receiving the notice these agencies are to commence calculations and negotiations to determine the amount of property tax revenues to be exchanged between the local agencies whose service area or service responsibility will be altered by the change.

The general manager of the Sierra RCD advised staff that because the District did not, nor did it intend to, collect property tax revenue it did not want to proceed with the tax revenue exchange negations under Revenue and Taxation code section 99(b) for the affected territory.

Sierra RCD does not have a regular source of revenue such as fees for services, property taxes, or special assessments. Its future service capacity is anticipated to be funded through the District's ability to secure project-specific state grants and contributions.

Sustainable Groundwater Management Act ("SGMA")

Former Governor Edmund G. Brown Jr. signed California's SGMA into law on September 16, 2014. This three-part legislation requires local agencies to develop groundwater sustainability plans that are compatible with their regional economic and environmental needs. SGMA creates a framework for sustainable local groundwater management for the first time in California's history.

SGMA requires local agencies to form Groundwater Sustainability Agencies ("GSA's") in local groundwater basins by June 2017 and requires the adoption of Groundwater Sustainability Plans ("GSP's") for groundwater basins deemed high priority by year 2020.

Portions of the affected territory are in the Kings River East GSA, North Kings GSA, Central Kings GSA, and South Kings GSA and will be represented by the GSA in which they are located in.

Environmental Determination

The Sierra RCD, acting as "Lead Agency" under CEQA, determined that the proposal is ministerial in nature. The proposed Sierra RCD annexation will not change existing land uses nor change the land use designations depicted by the Fresno County General Plan. Since it can be seen with certainty that the proposal does not have the potential to result in a

significant effect on the environment, it is not subject to CEQA pursuant to CEQA Guidelines section 15268 and Public Resources Code section 21080 (b)(1), Ministerial. On July 24, 2019, the Sierra RCD filed a Notice of Exemption with the Fresno County Clerk (#E20190000260).

As a "Responsible Agency" pursuant to CEQA Guidelines, the Commission is required to independently review and consider the environmental review for the proposed SOI update prior to reaching its decision. Therefore, the LAFCo, finds that it can be seen with certainty that the SOI update does not have the potential to result in a significant effect on the environment, and that the SOI update is not subject to CEQA pursuant to CEQA Guidelines section 15061 (b)(3). Therefore, the proposal is exempt from environmental review.

Pursuant to CEQA Guidelines section 15096(i), if the Commission determines that these documents are adequate, A Notice of Determination will be prepared and filed with the County of Fresno Clerk's office in compliance with section 21152 of the Public Resources Code.

Costs and Other Changes Affecting Residents or Landowners – None reported by the District.

Agencies and Individuals Submitting Comments

- Kevin Tsuda, Environmental Health Specialist III, Fresno Co. Dept. of Public Health
- Chufeng Vang, IT Analyst, Fresno County Elections Department
- Paul Peschel, Kings River Conservation District
- Phillip G. Desatoff, General Manager, Consolidated Irrigation District
- Laurence Kimura, Chief Engineer, Fresno Irrigation District
- Chad Wegley, General Manager, Alta Irrigation District
- Bryant VanderValde, Cadastral Tech III, Fresno County Assessor's Office
- Bill Stretch, General Manager, Fresno Irrigation District

Territory Boundaries - The boundaries of the proposed annexation are definite and certain, and the County Assessor has determined that the map and legal description are **not** adequate to file/record with the Fresno Count Recorders Office. A condition of approval that the District submit a corrected legal description and map will address this matter.

Registered Voter Data - The office of County of Fresno Elections reported that there are **279,582** registered voters in the affected territory.

Compliance with the Requirements of CEQA (Original Proposal)

Lead Agency: Sierra Resource Conservation District
Level of Analysis: Exemption
Finding: Exception (see Environmental Documents at www.fresnolafco.org under the Hearing and Workshops tab in the August 11, 2021 file).

Individuals and Agencies Receiving this Report

- Ken Price, LAFCo Counsel
- Bernard Jimenez, Deputy Director of Fresno Co. Public Works and Planning
- Steve Haze, Sierra RCD, General Manager
- Chad Wegley, District Manager, Alta Irrigation District
- Phil Desatoff, District Manager, Consolidated Irrigation District
- Bill Stretch, District Manager, Fresno Irrigation District
- David Merritt, Interim General Manager, Kings River Conservation District

Attachments

Attachment A - Information related to the Proposal's affected territory
Attachment B - Map of the affected territory
Attachment C - Landowner/APN information
Attachment D - Comment letter for USOI-193 and AD-19-3