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

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**AGENDA ITEM No. 7**

**DATE:** January 9, 2019

**TO:** Fresno Local Agency Formation Commission

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

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

**SUBJECT:** Adoption of Resolution Initiating Dissolution Proceedings for County Service Area 18, Silver Creek Drainage District, Poso Resource Conservation District, and Firebaugh Resource Conservation District in Accordance with SB 448.

**RECOMMENDATION:** Approve.

**Executive Summary**

Staff recommends that the Commission initiate dissolution proceedings for the four affected special districts. Staff will continue to dialog with Mr. Miniasian about the status of Firebaugh Resources Conservation District and the Silver Creek Drainage District, and with any other interested party, with the goal of clarifying the responsibilities of these special districts and to assist them to restore their activity and productivity.

Staff will return within 90 days for final hearing on these special districts along with a report of staff's outreach efforts and a recommendation for further action.

**Background**

On November 14 2018, staff presented the State Controller's Office (SCO) inaugural list of inactive districts pursuant with SB 448. The next step was for staff to verify each district's inactivity including, but not limited to, the criteria of SB 448, and to return within 90 days with its preliminary findings and recommendations. Based on this report, the Commission shall initiate dissolution of these inactive districts by resolution unless the Commission determines that the District does not meet the criteria set forth in GC sec. 56042. The Commission shall hold one public hearing on the matter of the dissolution of an inactive district no more than 90 days following the adoption of the resolution initiating the dissolution.

The SCO based its determination of a special district's inactivity solely on not receiving a report of all the financial transactions of the local agency during the preceding fiscal year as required by GC sec 53901. The SCO provided Fresno LAFCo with the following list of inactive special districts: (See Attachment A, Summary of Potentially Inactive Special Districts and

attached maps.)

- Poso Resource Conservation District
- Firebaugh Resource Conservation District
- Silver Creek Drainage District
- County Service Area No.18

GC sec. 56042 now defines “inactive district” as a special district that meets all of the following:

- (a) The special district is as defined in Section 56036.
- (b) The special district has had no financial transactions in the previous fiscal year.
- (c) The special district has no assets and liabilities.
- (d) The special district has no outstanding debts, judgments, litigation, contracts, liens, or claims.

### **Notice to Affected Special Districts**

On December 3, 2018 staff issued a letter to the general manager of each affected special district listed as inactive by the SCO. The letter notified the general manager that Fresno LAFCo received notice from the SCO identifying their district as inactive pursuant with SB 448. If the general manager believes that their district does not meet the criteria set forth in GC sec. 56042 and wished to object to the Commission proceedings initiating the dissolution, they were instructed to provide appropriate documentation to LAFCo no later than December 24, 2018.

### **Evidence of Financial Transactions**

The Fresno County Auditor-Controller’s Office has verified that the Poso and Firebaugh RCDs had financial transactions in their respective accounts in the Fresno County Treasury last year. However, these transactions reflect activity on the part of the County Auditor-Controller staff, not the special districts, to account for accrued interest for funds already in the account within the County Treasury. The Commission may exercise its broad authority under GC sec. 56107(a) and consider that these transactions do not meet the criteria of GC 56042 because the financial transactions were on the part of the County Auditor-Controller and not on *the part of the special districts*.

The Fresno County Auditor-Controller’s Office verified that no funds exist for CSA 18 or for the Silver Creek Drainage District.

### **Correspondence/Response from Affected Special Districts**

On December 17, 2018, staff received a letter sent by Attorney Paul R. Miniasian representing Firebaugh Resource Conservation District and Silver Creek Drainage District stating his concerns about the potential dissolution of these special districts. (Letter attached) Mr. Miniasian’s primary concern was that these districts fall under the umbrella of an assessment district or an improvement district and are exempt under GC sec. 56879.

Staff does not concur with Mr. Minisian’s conclusion. Resource Conservation Districts and Drainage Districts fall under the definition of a special district in GC sec 56036(a) in that they

are agencies of the state formed pursuant to general law (Public Resources Code (Sec. 9151 et seq.) and County Drainage District Act of 1903 Water Code (Sec, 5600 et seq.) for local performance of governmental or proprietary functions within limited boundaries and in areas outside district boundaries when authorized by the Commission pursuant to section 56133.

Further, RCDs and DDs are not listed in GC sec. 56036.6 under the definition of “non-districts” that fall outside of LAFCo’s jurisdiction.

Staff contacted Mr. Miniasian to facilitate a better understanding of the process and the means for these districts to more clearly demonstrate their activity.

### **Conclusion and Recommendation**

Staff recommends that the Commission initiate dissolution proceedings for the four affected special districts. Staff will continue to dialog with Mr. Miniasian about the status of Firebaugh Resources Conservation District and the Silver Creek Drainage District, and with any other interested party, with the goal of clarifying the responsibilities of these special districts and to assist them to restore their activity and productivity.

Staff will return within 90 days for final hearing on these special districts along with a report of staff’s outreach efforts and a recommendation for action.