

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

AGENDA ITEM No. 6

DATE: February 10, 2016

TO: Fresno Local Agency Formation Commission

FROM: David E. Fey, AICP, Executive Officer 

PREPARED BY: George Uc, LAFCo Analyst II

SUBJECT: Consider Adoption: Municipal Service Review and Sphere of Influence Update for the Firebaugh Canal Water District

Recommendation: Adopt the draft Municipal Service Review prepared for the Firebaugh Canal Water District and update the District's sphere of influence by taking the following actions:

- A) Acting as Lead Agency pursuant to California Environmental Quality Act (CEQA) Guidelines find that the MSR is Categorically Exempt from the provisions of the CEQA under Section 15306, "Information Collection."
- 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

The District's sphere of influence (SOI) and service area encompasses 23,547 acres and is located west of the City of Firebaugh and north of the City of Mendota. The District is a single-county agency in Fresno County (Exhibit A). The District provides irrigation water to 45 landowners. The District's approved SOI and service area are coterminous. The District informed staff that the agency does not foresee the need to revise its current SOI boundary. This draft MSR update recommends affirmation of the District's current SOI.

In early 2014, LAFCo staff met with the Firebaugh Canal Water District ("District") general manager to brief him on the Municipal Service Review (MSR) process and initiate the service review with agency participation. LAFCo staff communicated to the District that agency participation was an important component of the Commission's MSR program. However, over the course of the MSR development, District personnel were consistently unavailable to confirm

information included in the MSR. LAFCo staff contacted the District to request such public information as audited financial statements, adopted by-laws, recent District meeting agendas, and District policies and regulations. In one example, it took the District 56 calendar days to provide a copy of its recent financial statements. Additional information regarding District participation in the MSR process is included in Chapter one of the MSR.

LAFCo staff has prepared the District's 2016 MSR update to comply with Government Code Sec. 56430 and Fresno LAFCo Policy 107- Municipal Service Review Policy.¹ The MSR determines that the District needs to adopt by-laws in compliance with Water Code section 35300, and convey these to the Board of Supervisors for approval. The MSR also determines that the District's internal communication should be amended to comply with California Water District statute and its public record management needs to comply with the Public Records Act.

Fresno LAFCo Policy 107 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 the services provided by the agency do not in themselves facilitate or induce population growth.

In accordance with Government Code section 56066, Fresno County is the principal county. Fresno LAFCo is responsible for updating the SOI for the District consistent with section 56425(g). In order to update the agency's SOI, Fresno LAFCo has prepared this service review in accordance with section 56430.

Summary / Background

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires LAFCo to review and update, as necessary, special districts' 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's or district's SOI is 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.

¹ Fresno LAFCo Policy 107- Municipal Service Review Policy adopted on November 5, 2014

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.

The attached MSR presents these determinations with District information and the analysis used in support of the determinations and recommendations.

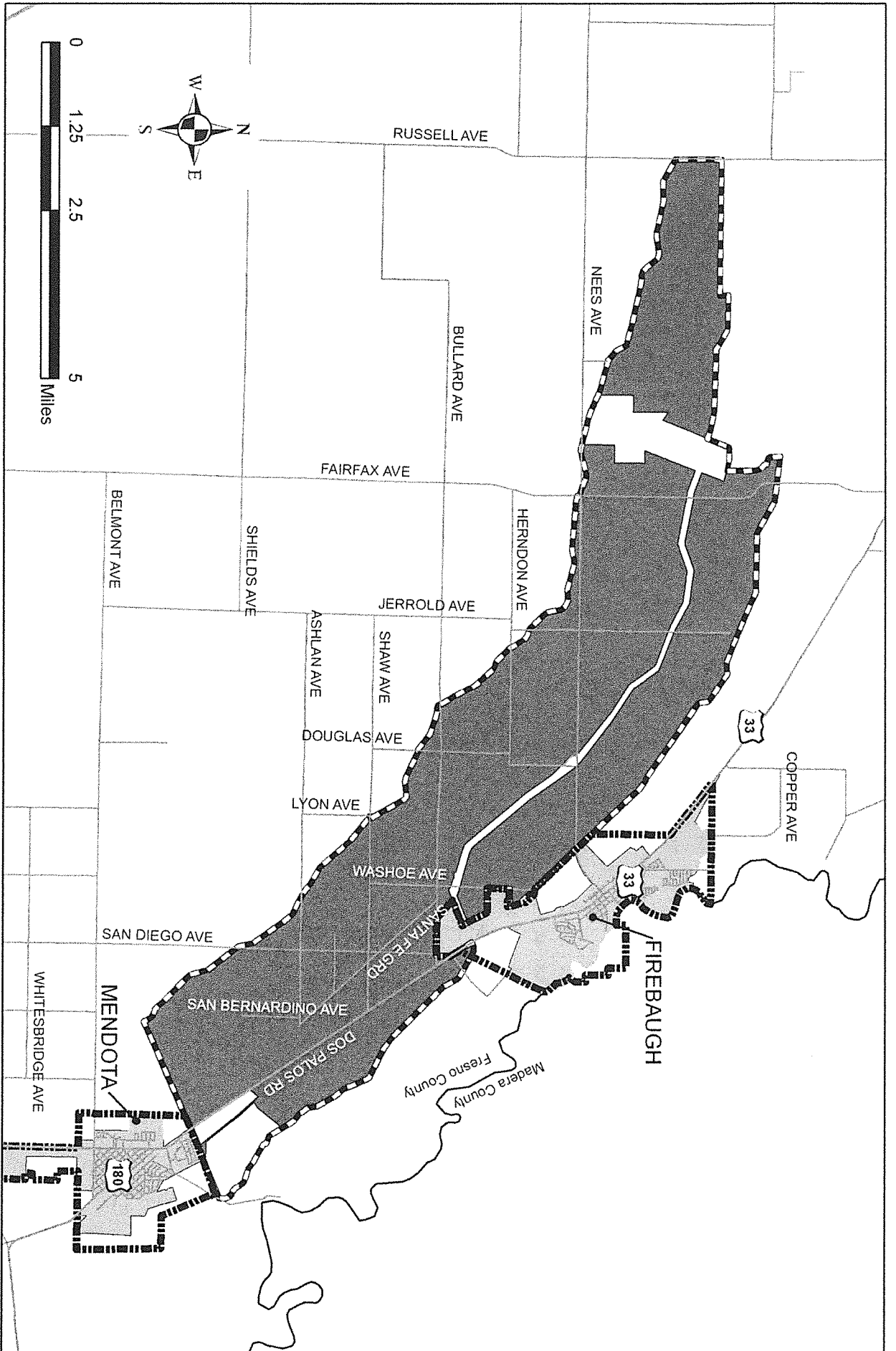
Environmental Determination

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 are no land use changes or other changes to the environment.

Exhibit A



Fresno Local Agency Formation Commission Firebaugh Canal Water District

District Formed: 1988
 SOI Adopted: 5/23/1990
 SOI Updated: 12/5/2007

Map Date: December 2007
 District Area: 22,229 Acres
 Sphere Area: 23,547 Acres

FIREBAUGH CANAL WATER DISTRICT

MUNICIPAL SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE

Report to the
Fresno Local Agency Formation Commission

David E. Fey, AICP
Candie Fleming
George W. Uc
2607 Fresno Street, Suite B
Fresno, CA 93721

December 23, 2015

FIREBAUGH CANAL WATER DISTRICT PROFILE

Irrigation Services

Contact Information

General Manager: Jeff Bryant
Address: PO Box 97 (2412 Dos Palos Road Hwy 33)
Mendota, CA 93640
Phone: (559) 655-4761
Fax: (559) 655-3658

Management Information

District Formation: 1988
Principal Act: Water Code section 34000-38500
Special District Powers: Prescribed in Water Code section 35400-35413
Authorized Services: Irrigation water services
Governing Body: Five member Board of Directors, landowner-voter
Board Members: Dan McCurdy Appointed 2011, Expires 2015
Mike Stearns, President Appointed 2011, Expires 2015
Kevin Hurd Appointed 2011, Expires 2015
Sheri McBee Appointed in Lieu of Election 2013, Expires 2017
Stephen H. Smith Appointed in Lieu of Election 2013, Expires 2017
Board Meetings: Third Tuesday of each month at 9:00 a.m.
Meeting Location: District office at 2412 Dos Palos Road Hwy 33, Mendota, CA 93640
Staffing: 17 Full-Time Employees

Service Information

Properties Served: 45 Landowners
Acres Served: 22,229 acres
Sphere of Influence: 23,547 acres
Infrastructure: Four pump stations, canals, turnouts, machinery equipment, utility plant, and District office

Fiscal Information

Budget: \$3,408,550 (operating revenue)
Sources of Funding: Irrigation water sales, grant funding, and property assessments
Rate Structure: \$18 first acre-foot, \$20 second acre-foot, \$25 third acre-foot, \$30 fourth acre-foot

Administrative Policies

Master plan: Not provided
Service Area updated: 1988

Policies/procedures: No
SOI last updated: 2007

By-laws: Not provided
SOI update: 2016

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1. MUNICIPAL SERVICE REVIEW

Principal Act

The District is authorized by its principal act (Water Code § 34000-38500) to operate and keep in repair the necessary works for the production, storage, transmission, and distribution of water for irrigation, domestic, and industrial purposes.

The Firebaugh Canal Water District ("District" or "FCWD") was created to take over the responsibilities and assets of the former Firebaugh Canal Water Company which operated a system of irrigation canals in the Firebaugh vicinity since 1914. In 1988, the water company requested LAFCo convert it to a California Water District to assume the responsibility to provide irrigation water to landowners within the District boundaries and also participate in the planning efforts to improve drainage problems in the Fresno County's Westside. The District, as a local governmental agency, was positioned to manage the turnover of federal canal ways by the Bureau of Reclamation.

District boundaries

The District service area includes approximately 22,229 acres of unincorporated land west of City of Firebaugh and north of City of Mendota. The District extends from the Main Lift Canal north of the City of Mendota and west of Russell Avenue, the Third Lift Canal on the southwest side of the District and the Outside Canal on the eastern side of the District. The Delta-Mendota Canal bisects the District service area north to southeast. The Delta-Mendota Canal connects with the Main Canal, Main Lift Canal, Outside Canal, the San Joaquin River, at the Fresno Slough north of the City of Mendota, and approximately one mile east of the District's service area.

The FCWD Sphere of Influence (SOI) encompasses approximately 23,547 acres. The District is generally situated south of Main Street, east of Russell Avenue, north of Belmont Avenue, and west of State Route 33/Dos Palos Road. The District provides irrigation water to 45 landowners. LAFCo notes that when it approves annexations to the City of Firebaugh it also approves a concurrent detachment of the territory from the District, reducing its service area on the southwest portion of the City of Firebaugh.¹

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.

¹ Formation of District, LAFCo file FD-87-2, Firebaugh Canal Water District.

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.

District Growth and Population Projections

The 2007 FCWD MSR noted that the District did not expect any growth requiring additional territory. The District has a fixed water supply through its contract with the San Joaquin River Water Authority (SJRW), Exchange Contractors agreement. In 2007, the District informed LAFCo that it cannot support additional water demands due to the limits of its contracted water availability. Fresno LAFCo observes that District growth is restricted by its water supply allotment contract with SJRW.

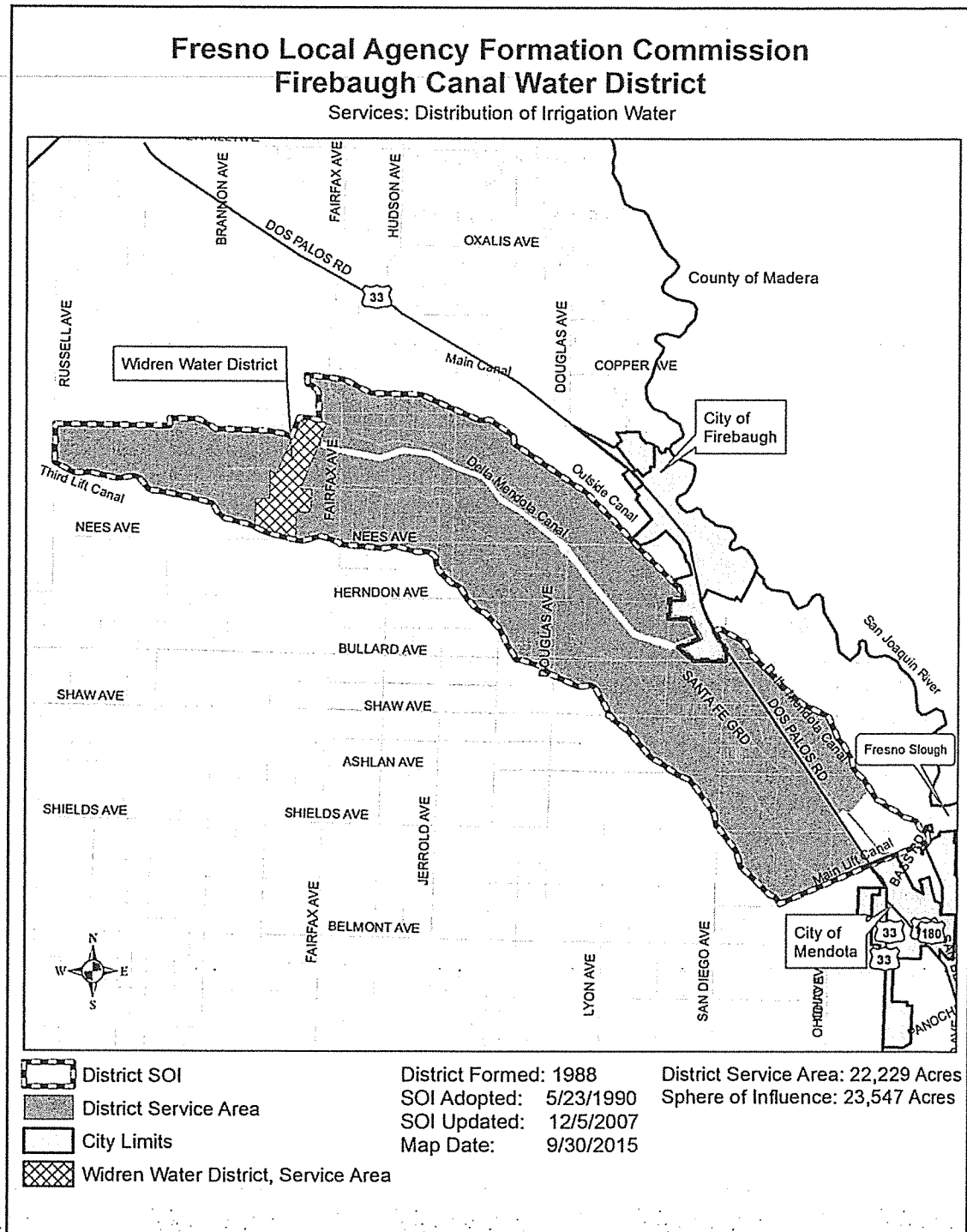
Irrigation water supplies are limited to the District's water contract with United States Bureau of Reclamation (Reclamation). Demand for irrigation water within the District has not increased in recent years and the District does not anticipate growth to occur.

The District does not expect any significant growth in terms of service needs. It has a fixed water supply, cannot support additional water demands, and does not have plans to expand its District boundaries. It should be noted that the District shares common boundaries with Westlands, Broadview, Panoche, and Mercy Springs Water Districts, and at its northern end is bisected by Widren Water District.

The District is situated completely within the County of Fresno. The County of Fresno is the land use authority for land located within the District boundaries. The Fresno County General Plan designates land within the District service area for agricultural uses. Current land uses within the District boundaries consist primarily of farming operations with incidental rural residential. Crops grown within the District consist of cotton, alfalfa, tomatoes, wheat, barley, melons, pomegranates, pistachios, asparagus and onions. Consistent with the Fresno County General Plan, the majority of the lands within the District service area are occupied by large and small farming operations consisting of both permanent and annual row crops. By LAFCo policy, District services do not directly facilitate or affect the rate or location of population growth. As a result population growth 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 incorporated cities.²

² County of Fresno, Housing Element, pg.7-58-Westside North Market Area.

Figure 1 – Firebaugh Canal Water District Boundaries



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 provided by PolicyLink, a national non-profit corporation based in Oakland, California.³ Instrumental independent resources were used for this section of the MSR as a cross-reference mechanism to identify DUCs in accordance with CKH Act 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 overlays across five census block group boundaries. Table 1 list all the census tract, block groups located within the District boundaries and corresponding MHI levels reported for years 2006 to 2010.⁴ The District overlays within census geographic units that meet the criteria for Disadvantaged Communities as defined by California Water Code section 79505.5.

As 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

³ Jake Mann, GIS Specialist/Cartographer, email correspondence with LAFCo Staff – Draft DUCs for Fresno County, February 11, 2015.

⁴ U.S. Census Bureau's American Community Survey (ACS) compiled for the five-year period 2006-2010.

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.

Table 1 – Reported MHI Levels Between Years 2006 to 2010

Census Tract, block group	Median Household Income
83.01, block group 3	\$42,250
83.02, block group 1	\$23,703
84.01, block group 5	\$33,581
84.02, block group 2	\$27,589
84.04, block group 3	\$24,549

Infrastructure

The District acquired a five-acre utility plant after January 1, 1989 (APN: 012-160-11T). The District owns its office facilities, utility plant area, machinery and equipment, tools, autos- trucks and tractors which assist with the District's day-to-day operations.⁵ The District owns approximately 40 miles of canals, 36 miles of laterals, and four pumps stations. Since 2000, the District has spent more than \$6 million to line and pipe approximately 15 miles of its canals and laterals. The District's operating season is approximately 340 days, supplying water for irrigation needs. The District's water distribution is virtually 100 percent for agricultural irrigation usage.

The District pumps approximately 4,000 acre-feet (AF) per year from shallow groundwater wells. These wells are operated primarily to reduce the production of subsurface drainage within the watershed.⁶

In 1942, the predecessor Firebaugh Canal Water Company exchanged its water rights for Central Valley Project water through the Delta Mendota Canal (DMC) and the Mendota Pool. Currently, the District obtains its water supply through its SJRWA Contract for Exchange of Waters with the United States Bureau of Reclamation. The District is a member of the Exchange Contractors Water Authority whose mission is to effectively protect the Exchange Contract and maximize local water supply, flexibility, and redundancy in order to maintain local control over the members' water supply. The amount of water that is received by the District depends upon whether the year is classified by the California Department of Water Resources as either a "critical calendar year" or "non-critical calendar year." District annual water supply under contract on non-critical calendar years is 85,000 AF, while on critical calendar year is reduced to 58,000 AF. The District's water supply is obtained via the Delta-Mendota Canal.

⁵ FCWD Financial Statements for year ending December 31, 2014, page 11.

⁶ US Department of the Interior, E.A. for the Firebaugh Canal Water District 2nd Lift Canal Lining Project, USBR, September 2012.

The District typically delivers all of the water allocation that it receives and does not anticipate change in water demand in the future. The District's water contract establishes its portion of water allocations. Water supply deliveries are transferred to customers through District-owned canals. The District maintains its infrastructures, canals, machinery, equipment, and turnouts on an ongoing basis. The District estimates a general life span of 15-25 year for the majority of its infrastructure and equipment. The District reports that its canals are in good condition.

Financial Ability of Agency to Provide Services

The majority of the District's revenue comes from water sales. District water deliveries area based upon the acreage that each landowner has within the District's service area. In preparation of this MSR, a copy of the District's most recent independent auditor's report and financial statements for year ending December 31, 2014, was provided to Fresno LAFCo. Table 2 provides the financial summary as presented in the financial statement for year ending on December 31, 2014.

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 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 2014 total current assets were \$8.8 million and its total assets were approximately \$26.3 million. The District's liabilities were \$194,741, while the District showed a deposit account balance of \$51,690. The District's total net position is approximately \$26 million. The District's total liabilities, deposits, and net position equal to \$26.3 million.

As previously indicated, the District is a member to the San Joaquin River Exchange Contractors Water Authority under a Joint Powers Agreement. The District contributes approximately 10.12 percent of its District annual budget for the Authority's membership; the District paid approximately \$146,027 for year ending on December 31, 2014.

Table 2- FCWD Statement of Net Position Enterprise Fund for Year Ending December 31, 2014 (Comparative Information for Year Ending December 31, 2013)

	2014	2013
<i>Assets</i>		
Total Current Assets	\$8,884,143	11,905,668
Note Receivable, net of current portion	-	182,715
Water conservation loans receivable, net of current portion	\$1,788,033	\$1,722,948
Capital assets, net of accumulated depreciation	\$15,636,821	\$15,987,551
Total assets	\$26,308,997	\$29,798,902
<i>Liabilities</i>		
Total Current Liabilities	\$194,741	\$51,356
Deposits	\$51,690	\$886,670
<i>Net position</i>		
Net investment in capital assets	\$15,636,821	\$15,987,551
Unrestricted	\$10,425,745	\$12,873,325
Total net position	\$26,062,566	\$28,860,876
Total liabilities, deposits, and net position	\$26,308,997	\$29,798,902

According to the District's financial statement, as of December 31, 2014, the District had a \$2,639,534 balance within its Water Conservation Loans Receivable program. During the year, the District granted loans to landowners within the District for the purchase of water conservation equipment estimated at \$1,093,676. Twenty five percent of the total equipment cost, approximately \$273,419 was paid by the District, while seventy five percent or approximately \$820,257 was charged to District land owners as loans receivable payable over a five to ten year period on December 1st each year.⁷

Table 3 represents the District statement of revenues, expenses, and changes in net position on enterprise fund.

⁷ FCWD Financial Statements for year ending December 31, 2014, page 9.

**Table 3 – FCWD Statement of Revenue, Expenses and Changes in Net Position
Enterprise Fund for Year Ending December 31, 2014**

	2014	2013
<i>Operating revenues</i>		
Tier water usage	\$871,217	\$781,807
Outside water sales	-	\$4,996,631
Irrigation	\$1,108,895	\$2,695,058
Total operating revenues	\$1,925,895	\$8,473,496
<i>Operating expenses</i>		
Maintenance and operations	\$3,836,485	\$3,925,017
General and administrative	\$1,287,535	\$1,324,656
Total operation expenses	\$5,124,020	\$5,249,673
Operating income (loss)	(\$3,198,125)	\$3,223,823
<i>Non-operating revenue and (expenses)</i>		
Non-operating revenue and (expenses)	\$182,227	\$206,231
Income before capital contributions	(\$3,015,848)	\$3,430,054
Capital Contributions	\$217,538	\$2,620,898
Increase (Decrease) in net position	\$(2,798,310)	\$6,050,952
Net position – beginning of the year	\$28,860,876	\$22,809,924
Net position – end of year	\$26,062,566	28,860,876

For year ending on 2014, the District reported its total operating revenue at \$1.9 million, total operating expenses at \$5.1 million with an operating deficit of \$3.1 million. The District reported a \$2.7 million in loss of income for the year ending on December 2014. The District reported \$182,227 in non-operating revenue and (expenses). The District shows \$217,538 in capital contributions. As noted previously, the District's net position was \$28.8 million at the beginning of the year January 1, 2014. At the end of the year the District's net position was \$26 million.

The District annually collects land assessments from land located within its service area. All land assessments are considered collectible by the District. The District's principal act empowers the District 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. The District's financial statement indicates the District's cash and cash equivalents balances and interest rates as of December 31, 2014. These are summarized in Table 4.

Table 4 – FCWD Cash and Cash Equivalents Balances

	Balance	Interest rate
Petty cash	\$100	
Checking	\$73,324	
Money market	\$1,935,920	0.400%
District savings	\$5,190,712	0.0%
Local agency investment fund	\$14,801	0.0%
Total	\$7,214,857	

The District implements its cash investment policy guidelines established by the board of directors to invest in: safety, liquidity, and yield. Government code authorizes the District to invest in savings accounts, money market and checking accounts, state local agency investment fund, certificates of deposits, treasury bills and notes and government agency securities.

The District recently secured a federal and state grant. The federal grant was awarded under the Secure Water Act, Subtitle F of Title IX of the Omnibus Public Land Management Act of 2009, executed by the Department of the Interior, Bureau of Reclamation. The state grant is under the Water Security, Clean Drinking Water, Coastal and Beach Protection Act, executed with the State of California Department of Water Resources and the San Luis and Delta-Mendota Water Authority. As of December 31, 2014, the District's grant receivables are \$495,375 and capital contributions of \$217,538.

The District approves a budget annually; however, the District did not provide LAFCo a copy of its adopted 2015-16 budget. A review of the State Controllers information indicates that the District had a total operating revenue of \$3,408,550 for FY 2011-12.

Opportunities for Shared Facilities

The District employs 17 staff members that include: a district manager, office administrative, maintenance personnel, water manager personnel, and water technicians.⁸ The District office houses two additional Districts' administrative operations- Silver Creek Drainage District and Firebaugh Resource Conservation District. LAFCo observes that the District already benefits from shared facilities with those agencies.

The Widren Water District (WWD) is located within the FCWD's SOI as a separate, independent California Water District; however, this area is not served by the District. WWD's service area and SOI are coterminous measuring approximately 835 acres in size. The WWD is located west

⁸ California State Controller's Office, Government Compensation in California, Firebaugh Canal Water District.

<http://publicpay.ca.gov/Reports/SpecialDistricts/SpecialDistrict.aspx?fiscalyear=2013&entityid=2364> accesses August 27, 2015.

of Fairfax Avenue and north of Nees Avenue in west Fresno County. The WWD once provided irrigation water to one 835-acre landowner but in 2003 the source of water was permanently reassigned to the Westlands Water District.⁹ The WWD no longer distributes water for irrigation purposes. The FCWD could ultimately become the service provider of lands formally served by the WWD. Consolidation of the WWD with FCWD would present opportunities for enhance services in this region but may be limited by the District's water contract with the United States Bureau of Reclamation. The District's water contract specifies the acreage amount within its boundaries which water can be delivered.

The District's SOI and service area is located immediately east of the Westland Water District, Broad View Water District, and Panoche Water District and south of Mercy Springs Water District and Central California Irrigation District. The District service area overlaps with Camp 13 Drainage District and Silver Creek Drainage District. The Panoche Drainage District is located immediately west of the District's service area. The District is located within the Firebaugh Resource Conservation District service area.

No other opportunities for shared facilities were identified. No other similar California Water Districts overlaps with the District's Service area or SOI.

Governmental Structure

As mentioned above, 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.¹⁰ 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 is a landowner-voter District which conducts its own elections typically on odd years. Candidates for the District board must either hold title to land within the District or be the legal representative of a title holder of land within the District.

A body of five elected officials serves as the Board of Directors governing the District's operations. District 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 are appointed in lieu of an election (pursuant to Elections Code sec. 10515 (a)) by the Fresno County Board of Supervisors based on recommendation made from the District's board of directors. If no candidates file election papers, the Fresno County Board of Supervisors may appoint directors pursuant to (Election Code sec. 10515 (c)).

The District board has the ability to elect a president from its members and appoint the District's manager and secretary.

⁹ Fresno LAFCo, Widren Water District 2007 MSR, August 2007.

¹⁰ California Water Code Section 35401.

Based on available documentation, District board meeting notices appear to be posted at least 72 hours in advance at the District office located at 2412 Dos Palos Road/Hwy 33 Mendota, CA 93640. Regular District meetings are held on the third Tuesday of each month at 9:00 a.m. at the District's office. Opportunities for public participation and communication with the Board of Directors are permitted during each District meeting, each meeting agenda allocates time for public comments. The District provided LAFCo copies of its August 18, 2015 and September 15, 2015, District meeting agendas during the preparation of this MSR update.

Other Matters Related to Effective or Efficient Service Delivery

LAFCo is concerned that, at least with respect to the preparation of this report, the District is not complying with the California Public Records Act and may not be complying with key provisions of the Water Code with respect to maintaining District bylaws. On multiple occasions LAFCo staff contacted the District secretary to obtain public financial information. In fact, from the day of LAFCo's initial request for information, and numerous additional contacts, it took the District 56 calendar days to provide a copy of its recent financial statements. To date, the District has not provided LAFCo with a copy of its most recent annual budget as requested. Financial information was gleaned from the District's 2014 financial statement instead.

The District employed a cumbersome and possibly unnecessary internal approval process whereby the District Secretary required the General Manager's authorization to release public documents requested by LAFCo staff. This resulted in substantial delay in the release of public documents from the District. For example, on September 21, 2015, LAFCo staff requested public documents related to the preparation of the MSR including copies of the District's by-laws, the adopted annual budget, auditor's financial statements, and copies of the District's board meeting agendas. The District acknowledged LAFCo's September 21st information request but did not follow up with these documents, even after repeated requests for this information including September 29, 2015, October 8, 2015, October 15, 2015, and October 30, 2015.

On October 30, 2015, LAFCo staff spoke with the District manager regarding the requested information. The District manager informed LAFCo that the District by-laws, adopted budget, auditor's financial statements, and copies of the District's board meeting agendas would be delivered/sent to LAFCo by November 6, 2015. The District has not provided LAFCo with the complete requested of public information.

Fresno LAFCo contacted the District on November 16, 2016 to follow up with the public records request. At this time, District informed LAFCo that it could not find its by-laws and could not verify that the by-laws existed. District staff provided LAFCo with board meeting agenda copies for the month of September and August 2015 and a copy of its financial statement for year ending on December 31, 2014. However, the District did not provide a copy of its current adopted budget for fiscal year 2015-16.

These omissions point to fundamental operational issues. A Water District without approved by-laws is not operating consistent with its principal act. The District's principal act prescribes the following process:

"A district shall adopt for the government and control of its affairs a code of by-laws consistent with the Constitution and laws of the State and the provisions of this division;"(WC §35300)

"Within 60 days after they have qualified for office, the board of directors elected at the formation election shall prepare the by-laws for the written approval of the board of supervisors of the principal county;" (WC §35301) and

"When the by-laws of a district are approved by the board of supervisors of the principal county, the board of directors shall adopt them by resolution entered in its minutes, unless prior to adoption by resolution by-laws are adopted and filed with the secretary by the written assent of the holders of title to a majority in area of the land."(WC §35302)

The need to authorize release of public documents is unusual and not consistent with the District's principal act. Water Code § 34850 designates 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."

During the preparation of this MSR, LAFCo staff learned that the Clerk to the Fresno County Board of Supervisors had also requested a copy of the by-laws from the District. As noted earlier, WC §35301 stipulates that the Board of Supervisors must approve the District by-laws prior to their approval by the District board.

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 approximately 22,229 acres of unincorporated land west of City of Firebaugh and north of City of Mendota.
- 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.
- Annexations to the Cities of Mendota and Firebaugh result in detachment of the subject territory from the District.
- The District has a fixed water supply through its contract with the San Joaquin River Water Authority (SJRWA), Exchange Contractors agreement.
- District growth is restricted by its water supply allotment contract with SJRWA.

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 owns its office facilities, a five-acre utility plant area, machinery and equipment, tools, autos- trucks and tractors which assist with the District's day-to-day operations.
- The District owns approximately 40 miles of canals, 36 miles of laterals, and four pumps stations. Since 2000, the District has spent more than \$6 million to line and pipe approximately 15 miles of its canals and laterals.
- The District maintains its infrastructures, canals, machinery, equipment, and turnouts on an ongoing basis. The District estimates a general life span of 15-25 year for the majority of its infrastructure and equipment. The District reports that its canals are in good condition.
- The District's operating season is approximately 340 days, supplying water for irrigation needs.
- The District obtains its water supply through its SJRWA Contract for Exchange of Waters with the United States Bureau of Reclamation. The District's water supply is obtained via the Delta-Mendota Canal.
- The District pumps approximately 4,000 acre-feet per year from shallow groundwater wells, which are operated primarily to reduce the production of subsurface drainage within the watershed.
- District annual water supply under contract on non-critical calendar years is 85,000 AF, while on critical calendar year is reduced to 58,000 AF.

4. FINANCIAL ABILITY OF AGENCY TO PROVIDE SERVICES.

- The majority of the District's revenue comes from water sales. District water deliveries area based upon the acreage that each landowner has within the District's service area.
- The District's 2014 total current assets were \$8.8 million and its total assets were approximately \$26.3 million. The District's liabilities were \$194,741, while the District showed a deposit account balance of \$51,690. The District's total net position is approximately \$26 million. The District's total liabilities, deposits, and net position equal to \$26.3 million.
- The District approves a budget annually; however, the District did not provide LAFCo a copy of its adopted 2015-16 budget. A review of the State Controllers information indicates that the District had a total operating revenue of \$3,408,550 for FY 2011-12.

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

- The District office houses two additional Districts' administrative operations- Silver Creek Drainage District and Firebaugh Resource Conservation District. LAFCo observes that the District already benefits from shared facilities with those agencies.
- At the present time the District appears to be limited in additional opportunities 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.
- A body of five elected officials serves as the Board of Directors governing the District's operations.
- District board meeting notices are posted at least 72 hours in advance at the District office located at 2412 Dos Palos Road/Hwy 33 Mendota, CA 93640.
- Regular District meetings are held on the third Tuesday of each month at 9:00 a.m. at the District's office.
- Opportunities for public participation and communication with the Board of Directors are permitted during each District meeting, each meeting agenda allocates time for public comments.
- The District does not maintain a website.

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

- The Firebaugh Canal Water District MSR is noted for the following characteristics:
 - Repeated and substantive delays in obtaining public records from the District;
 - Not all of the requested public records were provided, including the most recent annual budget;
 - District Secretary was not effectual in providing public documents;
 - District did not produce approved by-laws.

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 boundaries and sphere of influence are generally coterminous; the SOI encompasses 23,547 acres and the service area encompasses approximately 22,229 acres. The District reports its sphere and boundary is correct at this time and no changes are requested.

County of Fresno is the land use authority for land located within the District's service area. The Fresno County General Plan designates the land within the District for Agricultural uses. 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.
- Current land uses are agricultural.
- No significant changes to population within the District are anticipated.

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

- Current District facilities and services appear adequate.
- Given the minimum amount of growth anticipated the District appears capable of addressing its probable service needs.

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

- Present capacity of District facilities and services appear adequate.
- 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. The District has a fixed water supply through its contract with the San Joaquin River Water Authority (SJRSA), Exchange Contractors agreement. The District informed LAFCo that it cannot support additional water demands due to the

limits of its contracted water availability. Fresno LAFCo observes that District growth is restricted by its water supply allotment contract with SJRWA. District services provision are restricted to irrigation water supplies under contract with United States Bureau of Reclamation.

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.

4. RECOMMENDATIONS

In consideration of information gathered and evaluated during the 2015 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. It adopt by-laws laws, in compliance with WC section 35300, and convey these to the Clerk to the Board of Supervisors for approval, and
 - 4.2. It improve its internal communications and public record management to comply with the Public Records Act.

5. ACKNOWLEDGEMENTS

This Municipal Service Review was prepared by Fresno LAFCO staff. The Firebaugh Canal 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>