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

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AGENDA ITEM No. 4

**DATE:** August 11, 2021  
**TO:** Fresno Local Agency Formation Commission  
**FROM:** David E. Fey, Executive Officer   
**BY:** George Uc, Senior LAFCo Analyst  
**SUBJECT:** **Consider Approval:** Sphere of Influence update for Sierra Resource Conservation District (USOI – 193, continued hearing from June 9, 2021).

**Recommendation:** Update the Sierra Resource Conservation District sphere of influence by taking the following actions:

**Action 1: Sierra RCD Sphere of Influence update, California Environmental Quality Act**

- A. Acting as a Responsible Agency pursuant to CEQA, consider the Notice of Exemption for the Sierra RCD sphere of influence ("SOI") update prepared by the District acting as Lead Agency for the Commission's review and update of the Sierra RCD SOI.
- B. Find that as a Responsible Agency, LAFCo, it can be seen with certainty that the proposed SOI update of the Sierra RCD does not have the potential to result in significant effect on the environment and therefore 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 15061 (b)(3).

**Action 2: Sphere of Influence Written Determinations and Recommendations**

- C. Pursuant to Government Code section 56425, approve the proposed written determinations and recommendations prepared for the Sierra RCD SOI update.
- D. Revise the Sierra RCD SOI to include 235,776 acres consisting of unincorporated and urban land, as depicted in Figure 2 of the Sierra RCD MSR and SOI update report.

~ OR ~

**Alternative Action 2-A: Affirm LAFCo's 2016 Sphere of Influence for Sierra RCD**

Based on public testimony and comments received for the Sierra RCD MSR and SOI update:

- 2-A.1. Deny without prejudice application USOI-193: a request to expand the Sierra RCD SOI to include 235,776 acres consisting of unincorporated and urban land, as depicted in Figure 2 of the Sierra RCD MSR and SOI update report; and
- 2-A.2. Affirm the existing 2016 Sierra RCD sphere of influence.

This alternative action will have the effect of precluding approval of the “Sierra Resource Conservation District Annexation” application AD-19-3 because the proposed annexation area would not be within the Sierra RCD SOI.

### **Executive Summary**

On June 9, 2021, the Commission updated the Municipal Service Review (LAFCo File No. MSR-21-7) prepared pursuant to Government Code section 56430 for the Sierra Resource Conservation District (“Sierra RCD”).

The Commission then voted unanimously to continue the hearing on the Sierra RCD Sphere of Influence (“SOI”) amendment application (LAFCo File No. USOI-193) and related annexation application (LAFCo File No. 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.

On June 21, 2021, a meeting was held of the four special districts’ general managers (“GMs”) and the district manager (“DM”) of the Sierra RCD along with LAFCo staff. The affected agencies have not changed their opposition to the Sierra RCD proposals.

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

### **Discussion**

During the Commission’s June 9<sup>th</sup> public hearing, the Commission considered testimony from the GMs representing Sierra RCD, Alta Irrigation District (“AID”), and Fresno Irrigation District (“FID”). In addition, the Commission received a letter from the Consolidated Irrigation District (“CID”) expressing its opposition to the requested Sierra RCD SOI update and related annexation.

Based on comments shared during the public hearing, the Commission directed staff to provide additional information on the following items:

- **Are there any Disadvantaged Unincorporated Communities that have requested to be included in the Sierra RCD?**

To date, staff has not been presented with evidence that a disadvantaged unincorporated community (“DUC”) has requested to be included in the Sierra RCD or that the expansion of the Sierra RCD is in response to a request by a DUC. DM Haze has stated on many occasions that the SOI expansion is in response to a recommendation from the California Association of Resource Conservation Districts (“CARCD”).

According to the DM Haze, the District has partnerships with community-based organizations such as Punjabi American Growers Group, Asian Business Institute and Resource Center, and African American Farmers of California. The organizations have expressed their interest to the DM to annex to the Sierra RCD to engage in District programs to benefit their membership.

Annexation of the affected territory to the District would enable Sierra RCD to extend technical assistance services and administer USDA grant funding that provides economic relief assistance for small farmers and underserved farmers in the affected territory.<sup>1</sup>

- **Would the SOI expansion also expand the District’s tax base (revenue)?**

No. Sierra RCD does not levee a land-based tax, general tax, or special assessment nor has the District expressed an interest in levying a land-based assessment.

- **Can a Resource Conservation District undertake a Proposition 218?**

The 1996 California law known as Proposition 218 (“The Right to Vote on Taxes Act”) applies to all local governments: counties, cities, charter cities, any special district, and regional government entities. Under this law, new assessments and property-related fees or increases in existing assessments and fees require approval of property owners.

RCDs are not prohibited by law from seeking new assessments or property-related fees, provided that they comply with the Proposition 218 process.

LAFCo staff consulted with the Executive Director of the CARCD to request general information on the 95 RCDs related to property tax revenues. According to CARCD’s Executive Director, there are 35 to 40 RCDs in the State that were approved to receive a fraction of the 1% ad valorem tax on real property prior to the 1978 passage of Proposition 13, People’s Initiative to Limit Property Taxation.

Of those approved RCDs that receive revenue from the ad valorem tax, the revenue amounts differ from each RCD depending on the negotiated shared agreement in each

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<sup>1</sup> Commissioners are encouraged to review staff’s analysis regarding extension of service outside of the District in the June 9, 2021 staff report found at <http://www.fresnolafco.org/documents/staff-reports/June%202021/Scans/Item%206.pdf>.

County. The remaining 50 to 55 RCDs do not receive any land-based taxes or special assessments.

CARCD is not aware of any RCDs in the State that has or would pursue new revenue streams through Proposition 218. Although RCDs have the authority to do so, funding limitations to organize and initiate a tax-payer initiative is a major challenge for RCDs to undertake.

LAFCo staff also consulted with the other 57 LAFCos on this question: *Has a Resource Conservation District in your county attempted to raise a property assessment through a Proposition 218 process?*

Staff received 14 responses (25% of LAFCos responding):

| LAFCo of:              | No  | Yes |
|------------------------|-----|-----|
| Napa County            | X   |     |
| Contra Costa County    | X   |     |
| Kern County            | X   |     |
| Santa Barbara County   | X   |     |
| Nevada County          | X   |     |
| San Mateo County       | X   |     |
| Butte County           | X   |     |
| Marin County           | n/a |     |
| Los Angeles County     | X   |     |
| San Diego County       | X   |     |
| Sonoma County          | X   |     |
| Yolo County            | X   |     |
| Monterey County        | X   |     |
| San Luis Obispo County | X   |     |

The LAFCos reported that their local RCDs have not undertaken a Proposition 218 process to raise land-based taxes. Like Sierra RCD, the other LAFCos reported that their RCDs are primarily funded through state and federal grants.

- **Can Sierra RCD manage and/or regulate water supply?**

Currently, no. The District's operation and services are regulated by Division 9 of the Public Resources Code. When updating a SOI, the Commission may require existing districts to file written statements specifying the functions or classes of service provided by the districts.<sup>2</sup> Based on this, Sierra RCD does not regulate, manage, store, or recharge any local groundwater or surface water supplies.

In contrast, the Sierra RCD promotes and provides technical assistance in the following areas:

- resource conservation,
- soil condition evaluation and improvement,
- invasive species eradication,
- public safety in rangelands and forestlands,

<sup>2</sup> Government Code section 56425(j).

- research and information dissemination on best practices to conserve of water and soil condition,
- assistance to local growers to improve irrigation methods and increase crop production, and
- cooperation with various state and federal resource conservation agencies to secure grant fund to expand technical assistance programs in Fresno County.

Attachment B elaborates on the ag related services that Sierra RCD provides. These services are proposed to be extend to the affected territory.

Again, LAFCo staff consulted with CARCD to identify whether any of the State's 95 RCDs directly manage water supplies.

According to the CARCD Executive Director, there are no RCDs that directly manage or distribute water supplies. There are three RCDs in the State that are connected to water districts. Meaning that the individuals on the water districts' legislative boards also serve on the legislative boards of the RCDs; however, the districts operate independently from each other. The RCDs promote conservation in tandem with the water districts' operation, but the RCDs do not manage or distribute water supplies.

With respect to RCDs and water management, LAFCo staff also consulted with the other LAFCos on this question: *Does a Resource Conservation District in your county manage a water supply?*

Again, staff received 14 responses (25% of LAFCos responding):

| LAFCo of:              | No  | Yes |
|------------------------|-----|-----|
| Napa County            | X   |     |
| Contra Costa County    | X   |     |
| Kern County            | X   |     |
| Santa Barbara County   | X   |     |
| Nevada County          | X   |     |
| San Mateo County       | X   |     |
| Butte County           | X   |     |
| Marin County           | n/a |     |
| Los Angeles County     | X   |     |
| San Diego County       | X   |     |
| Sonoma County          | X   |     |
| Yolo County            | X   |     |
| Monterey County        | X   |     |
| San Luis Obispo County | X   |     |

The responding LAFCos reported that their local RCDs do not manage water supplies.

The concerns expressed by the Irrigation Districts was that a non-irrigation district could gain control over a water resource and compete with an irrigation district for management or regulation of existing and future water resources. Staff finds that this scenario is unlikely, and no evidence this position has been submitted by the Irrigation Districts.

- **Are there any RCDs that participate in the implementation of Sustainable Groundwater Management Act of 2014?**

The Upper San Luis Rey RCD in San Diego County is organized as a limited-purpose agency with municipal service functions tied to two active categories under its principal act: (a) water conservation and (b) wildlife enhancement.<sup>3</sup> In 2017, Upper San Luis Rey RCD partnered with the County of San Diego, Pauma Valley Community Services District, and Yuima Municipal Water District to establish the San Luis Rey Groundwater Sustainability Agency (“SLR-GSA”). The SLR-GSA’s is responsible to develop and implement a plan to achieve long-term groundwater sustainability in the Pauma Valley Subbasin in San Diego County.

In 2019, the County of San Diego withdrew from the SLR-GSA and the remaining agencies entered into a new agreement in 2020 that outlines the governance and operation of the SLRGSA. The 2020 agreement tasked Yuima Municipal Water District as the project lead.

The addendum to the MSR concluded that the Upper San Luis Rey RCD is not authorized under CKH to provide groundwater management services. However, whether the San Luis Rey RCD is independently authorized to provide groundwater management activities by the California Department of Water Resources through the Sustainable Groundwater Management Act was beyond the MSR’s addendum scope.

### **Progress Report on Irrigation Districts’ Concerns**

LAFCo staff met with the management of Sierra RCD, AID, CID, FID, and Kings River Conservation District on June 21, 2021 to further identify the districts’ respective concerns with application USOI-193 and related annexation and to explore options available to address these concerns.

The districts expressed that Sierra RCD’s proposal is vague and difficult to understand the objectives of the SOI expansion. The districts are concerned that the SOI/annexation proposal was recommended by the CARCD rather than from local residents or organizations. From the irrigation districts’ perspective, given that the impetus for the SOI expansion came from the state RCD association rather than locally, the expansion has the potential to impact their management of water supplies where 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.

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<sup>3</sup> Resource Conservation Districts MSR, San Diego County Local Agency Formation Commission, December 2020.

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 Irrigation Districts are concerned that should the Sierra RCD ever successfully pass a property assessment, then any subsequent Proposition 218 process started by another local agency could be opposed by property owners reluctant to approve a subsequent increase in property assessments.

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

### **Sierra RCD's Response to Concerns**

The purpose of the requested SOI expansion and related annexation is to extend natural resources conservation services in the affected territory, see Attachment B. Sierra RCD received funding for its application from the Central Valley Community Foundation in collaboration with the CARCD. DM Haze disputes the characterization that the impetus and funding threatened the district's resource management; from his perspective, annexation to the District would enable Sierra RCD to provide grant-funded resource conservation projects to the affected territory.

DM Haze explained to the Irrigation Districts and KRCD that the Sierra RCD hasn't, does not currently, nor intends to manage ground or surface water supplies. He believes that 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 place the Sierra RCD in the position to manage water supplies.

Previous grants awarded to Sierra RCD have been focused to 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.

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 propose a land assessment initiative through the Proposition 218 process.

### **Staff Analysis**

LAFCo staff observe that the concerns raised by the Irrigation Districts and the KRCD are *intangible arguments* in that—to date—they are not physically measurable and are not supported by evidence of past conflicts or that it creates service redundancies. The arguments reflect the districts' collective uncertainty about the implementation of the State's Sustainable Groundwater Management Act, the RCD's authority to potentially levy land assessments in the future, and to avoid the unnecessary establishment of overlapping local agencies. Presently, the boundaries of the affected agencies and Sierra RCD already overlap to a certain degree.

After the 60-day continuation of USOI-193, LAFCo has not received written evidence that identifies an occasion where the duplication of services occurred or would occur 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 C.

**Attachments**

Attachment A - Draft SOI update report for Sierra RCD

Attachment B - List of services provide by Sierra RCD

Attachment C – Irrigation Districts comment letter for USOI-193

Attachment D - Notice of Exemption for the Sierra RCD SOI update

Attachment E - June 9, 2021 Agenda Item 6 packet