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

AGENDA ITEM No. 8

DATE: May 12, 2021

TO: Fresno Local Agency Formation Commission

FROM: David E. Fey, Executive Officer 

BY: George Uc, Senior LAFCo Analyst

SUBJECT: Consider Adoption: Municipal Service Reviews and Sphere of Influence Updates prepared for Tranquillity Resource Conservation District (LAFCo File No. USOI – 194), Firebaugh Resource Conservation District, James Resource Conservation District, Panoche Resource Conservation District, and Westside Resource Conservation District.

Recommendation: Adopt the Municipal Service Review updates prepared for Tranquillity RCD (LAFCo File No. USOI – 194), Firebaugh RCD, James RCD, Panoche RCD, and Westside RCD and update the spheres of influence for Tranquillity RCD, Firebaugh RCD, James RCD, and Panoche RCD by taking the following actions:

Action 1: Municipal Service Review

- A. Acting as Lead Agency pursuant to California Environmental Quality Act (“CEQA”) Guidelines find that the MSRs prepared for: Tranquillity RCD, Firebaugh RCD, James RCD, Panoche RCD, and Westside RCD are Categorically Exempt from the provisions of CEQA under section 15306, “Information Collection.”

Action 2: RCD SOI Updates

- B. Acting as a Responsible Agency pursuant to CEQA, consider the Notice of Exemption for the Tranquillity RCD SOI update that was prepared by Tranquillity RCD acting as the CEQA Lead Agency.
- C. Acting as a Lead Agency, find that it can be seen with certainty that the proposed District SOI updates for Tranquillity RCD, Firebaugh RCD, James RCD, and Panoche RCD do not have the potential to result in significant effects on the environment and therefore the SOI updates are not subject to CEQA pursuant to CEQA Guidelines section 15061 (b)(3).

Action 3: Written Determinations and Recommendations

- D. Receive the reports and any public testimony regarding the proposed Municipal Service Reviews and proposed sphere of influence updates.
- E. Pursuant to Government Code section 56430, approve the written determinations and recommendations presented in the draft MSR's prepared for Tranquillity RCD, Firebaugh RCD, James RCD, Panoche RCD, and Westside RCD, together with any changes deemed appropriate.
- F. Pursuant to Government Code section 56425, approve the statements, written determinations, and recommendations prepared for the Tranquillity RCD, Firebaugh RCD, James RCD, and Panoche RCD sphere of influence updates, determining individual SOI's for these special districts that coincide their current service areas.
- G. Consider the evidence, determinations, and recommendations in the Westside RCD MSR and direct LAFCo staff to set a public hearing to consider the dissolution of the Westside RCD without an election or protest proceedings pursuant to GC. Sec. 57077.1(c)(1).
- H. Determine a Tranquillity RCD SOI that encompasses the District's 90,018-acre service area and adds 137,553 acres generally east of the Tranquillity RCD (Attachment A).

Proponent

Matthew Hurley, District Manager, Tranquillity Resource Conservation District

Executive Summary

On August 20, 2019, Tranquillity Resource Conservation District ("Tranquillity RCD") filed a sphere of influence ("SOI") update application (File No. USOI-194) along with an annexation application (File No. AD 19-02) with LAFCo. Tranquillity RCD is requesting LAFCo to include approximately 137,553 acres of additional territory into the Tranquillity RCD SOI. The SOI update is necessary to facilitate the subsequent and coterminous annexation of the affected territory into Tranquillity RCD's service area.

Tranquillity RCD is identified in the 2007 consolidated SOI for Fresno County's west side Resource Conservation Districts ("RCDs"). In response to the Tranquillity RCD's applications, five MSR updates have been prepared to study and analyze LAFCo's 2007 consolidated SOI for the RCDs. The attached MSR's have been prepared to meet the requirements of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 ("CKH") for SOI updates.

Based on the MSR's' analysis, staff recommends the Commission to consider the following key items:

- remove the 2007 consolidated SOI for the five RCDs

- update the Tranquillity RCD SOI per LAFCo file USOI-194
- determine individual SOIs for Firebaugh RCD, James RCD, and Panoche RCD
- adopt the MSR update for Westside RCD in support the District's 2015 dissolution request to LAFCo

Further background, analysis, determinations, and recommendations for each RCD is presented in the draft MSRs (Attachment B).

Resource Conservation District Law

RCDs in California are authorized under the provisions of Division 9 of the California Public Resources Code ("PRC"), Resource Conservation District Law.¹ RCDs exist for the following purpose:

"To provide for the organization and operation of resource conservation districts for the purposes of soil and water conservation, the control of runoff, the prevention and control of soil erosion, erosion stabilization, including, but not limited to, these purposes in open areas, agricultural areas, urban development, wildlife areas, recreational developments, watershed management, the protection of water quality, and water reclamation, the development of storage and distribution of water, and the treatment of each acre of land according to its needs."²

Each RCD operates independently with its own governing board and is authorized by the principal act to define its own local goals, objectives, and priorities based on the issues and needs within its service area.

The County of Fresno is the principal county to six local RCDs:

- Firebaugh RCD
- James RCD
- Panoche RCD
- Sierra RCD
- Tranquillity RCD
- Westside RCD

West Fresno County 2007 Consolidate SOI

In 2007, the Commission consolidated the SOIs of the five RCDs in Fresno County's west side: Firebaugh RCD, James RCD, Panoche RCD, Tranquillity RCD, and Westside RCD. The 2007 consolidated SOI encompasses approximately 1,342,718 acres.

The intent of determining a single SOI for the RCDs was to facilitate the eventual consolidation of the five westside RCDs. In 2011, the Commission reaffirmed the consolidated SOI and waived all LAFCo fees associated with a future consolidation proposal application to LAFCo. Since that time, there has been no subsequent effort, political support, nor interest from any of the five agencies to consolidate into one regional RCD.

¹ PRC section 9001 *et seq.*

² PRC section 9001(a)(2).

LAFCo staff reviewed the proposed Tranquillity RCD SOI update in light of the data collected during the preparation of the various MSR, as well as from conversations with the various District Managers. The MSR note that the 2007 consolidated SOI no longer reflects the Districts' current plans. Therefore, it would be appropriate for the Commission to remove the 2007 consolidated SOI based on each RCD's commitment to LAFCo to reinstate services. The following section summarizes each MSR and lists the MSR and SOI recommendations for each RCD regarding areas of improvement.

Municipal Service Review / Sphere of Influence Update Summaries

Tranquillity Resource Conservation District (LAFCo File No. USOI – 194)

The Tranquillity RCD has recently reactivated after years of inactivity. In 2019, a governing board was successfully appointed and a District Manager was hired. Current District services consist largely of general administration in support of its recently adopted Long-Range Work Program and the District plans to increase its service capacity in the future.

On August 20, 2019, the District submitted a SOI update application (File No. USOI-194) and subsequent annexation application (File No. AD-19-02) to LAFCo.

Being that Tranquillity RCD is identified within the 2007 consolidated SOI, LAFCo staff reached out and interviewed District Managers for each of the RCDs to determine whether any of the agencies were interested in consolidating or reorganizing. Overall, the District Managers expressed to LAFCo sufficient interest to reinstate services within their own respective service areas.

Rather than to expand the 2007 consolidated SOI to account for Tranquillity RCD's LAFCo applications, the MSR found that the SOIs for Firebaugh RCD, James RCD, Panoche RCD and Tranquillity RCD should be reverted to coincide with each of the Districts' service areas.

Tranquillity RCD's request for an SOI update and annexation encompasses land that is coterminous with the McMullin Area Groundwater Sustainability Agency ("MAGSA") boundary. The Tranquillity RCD SOI expansion encompasses approximately 137,553 acres of non-RCD districted land generally east of the Tranquillity RCD's 90,018-acre service area. In total, the 2021 Tranquillity RCD SOI update will encompass 227,571 acres.

Inclusion of the affected territory into the Tranquillity RCD SOI and service area would enable local growers to receive planned District services. Tranquillity RCD's General Manager informed LAFCo that the District's initial scope of services may include, but are not limited to:

- enhancement and betterment of conditions which encourage soil, water and other resource management and productivity,
- carbon sequestration farming planning and implementation,

- natural soil building amendment,
- water retaining crop placement,
- pollinator habitat development and monarch butterfly habitat development and enhancement.

Tranquillity RCD does not have a regular source of revenue such as fees for services, property taxes, or special assessments. Most of its future service capacity is anticipated to be funded through the District's ability to secure project-specific state grants and contributions. The District informed LAFCo that it has been working alongside with the California Association of Resource Conservation Districts ("CARCD"), the California Department of Conservation ("DOC"), and MAGSA to build its effectiveness and provide better assistance to its local growers.

For Fiscal Year ("FY") 2019, Tranquillity RCD had approximately \$9,384 in its Fresno County Treasury account. During the same FY, Tranquillity RCD was awarded \$12,000 by CARCD through a grant from the Central Valley Regional Foundation for the requested SOI update and annexation applications to LAFCo. For FY 2020, Tranquillity RCD budget amounted to \$5,000, largely from the remaining grant funds and local contributions.

Most of the land within Tranquillity RCD consists of active farming and agricultural operations with scattered rural residential. The MSR estimates that there are 4,347 residents within the existing District.

With respect to the District's proposed SOI update, annexation of the 137,553 acres has the potential to add approximately 1,260 parcels into the District that are primarily in agricultural operation. LAFCo estimates that the annexation has the potential to add 3,094 residents into the District.

The Tranquillity RCD MSR / SOI update makes the following recommendations specific to the District:

- a. That the District continue its effort to reinstate services, build new partnerships, and establish a growth plan to annex new territory into the District.
- b. That the District begins to annually adopt a formal budget program that identifies the District's revenues and expenditures for the upcoming year.
- c. Annually file a copy of the District's adopted budget for the upcoming fiscal year with the Fresno County Assessor Controller – Treasurer Tax Collector's Office, Special Accounting Division. (Government Code section 53901)
- d. Annually prepare audited financial statements for all District financial transactions in accordance with generally accepted accounting principles for the preceding fiscal year; and, furnish a copy to the State Controller. (Government Code section 53891)

- e. Annually file a copy of the District's audited financial statements within 12 months of the closed fiscal year with the Fresno County Assessor Controller – Treasurer Tax Collector's Office, Financial Reporting & Audits Division. (Government Code section 26909)

Firebaugh Resource Conservation District

The Firebaugh RCD is in the process of reinstating programs after over a decade of inactivity. The District Manager reports that its current services consist of general administration, establishing soil and water conservation technical assistance programs, and developing subsurface drainage reduction measures.

The Firebaugh RCD does not own or operate any public facilities, capital infrastructure, or equipment necessary to provide a direct service to its continuance. The Firebaugh Canal Water District shares its office location with the Firebaugh RCD, and the office provides a workplace for the District Manager, and a facility for the District board of directors to convene.

The Firebaugh RCD does not have a regular source of income such as fees for services, tax, or special assessments. Most of its future service capacity is anticipated to be funded by state or federal grants. At the time the MSR was prepared, the Firebaugh RCD did not have an adopted budget. It's unknown when the last financial audit was performed by a Certified Public Accountant.

The Firebaugh RCD's service area encompasses a total of 87,983 acres. Of the total 87,983 acres, approximately 87,843 acres are situated in Fresno County while 140 acres are situated in Merced County. Most of the land within Firebaugh RCD consists of active farming and agricultural operations. The MSR estimates that there are 1,793 residents within Firebaugh RCD.

The Firebaugh RCD MSR / SOI update makes the following recommendations specific to the District:

- a. That the District reinstate an annual budget program that identifies the District's revenues and expenditures for the upcoming year.
- b. Annually file a copy of the District's adopted budget for the upcoming fiscal year with the Fresno County Assessor Controller – Treasurer Tax Collector's Office, Special Accounting Division. (Government Code section 53901)
- c. Annually prepare audited financial statements for all District financial transactions in accordance with generally accepted accounting principles for the preceding fiscal year; and, furnish a copy to the State Controller. (Government Code section 53891)

- d. Annually file a copy of the District's audited financial statements within 12 months of the closed fiscal year with the Fresno County Assessor Controller – Treasurer Tax Collector's Office, Financial Reporting & Audits Division. (Government Code section 26909)
- e. That the District continues its effort to fill the two vacant director seats with qualified individuals (PRC section 9301).
- f. That the District continue its commitment to reinstate services, build new partnerships, and secure a source of revenue to fund its adopted Work Plan.
- g. Direct the District to report its actions in writing to the Fresno LAFCo no later than May 12, 2022.

James Resource Conservation District

During the preparation of the MSR update, James RCD experienced a change in management. Before the District Manager's departure in 2020, the District began the process to establish a vision for the various programs and workshops that the District could provide. The MSR notes that the previous District Manager had been working alongside with James Irrigation District ("James ID"), the CARCD, and the California Department of Conservation ("DOC") to increase its effectiveness to provide better assistance to its constituents. The District informed LAFCo that they are interested in reinstating its technical assistance program and expanding its educational resources to promote the conservation of water, soils, and air quality within the District.

The new District Manager plans to request policy direction from the James RCD board during the 2021 calendar year.

The District has a modest budget with revenues largely being retained from local contributions. For FY 2020, the James RCD budget amounted to \$200. For the same year, the District's expenditures amounted to \$200. Outside of the small contributions made to the District, James RCD does not have another source of regular income to fund projects. The District's ability to increase its service capacity relies on its ability to secure project-specific grant funding.

The District is solely within County of Fresno a near the City of San Joaquin. The District's service area contains approximately 26,263 acres. Approximately 220 acres of the District overlap with the City of San Joaquin. Most of the land in the District is identified under active agricultural contracts.

James RCD MSR / SOI update makes the following recommendations specific to the District:

- a. Request that the James RCD evaluate its temporary suspension of its work program/s and services, consider existing district goals, provide the District

Manager policy direction whether resource conservation programs are attainable within James RCD.

- b. That James RCD assess whether this temporary webpage on James Irrigation District's website assists the District meet the requirements of Senate Bill 929 (McGuire), the Special Districts Transparency Act of 2020.
- c. Direct the District to report its actions in writing to the Fresno LAFCo no later than May 12, 2022.

Panoche Resource Conservation District

On January 12, 2021, the Panoche RCD board took action to authorize a 2021 service agreement between the Panoche RCD and Panoche Water District ("2021 service agreement") for minimal administrative and operation services to be provided by Panoche Water District ("PWD").

The 2021 service agreement enables PWD's staff to gather information related to RCDs for the Panoche RCD board to determine whether the District should maintain the status quo – inactive, establish a work plan, potentially pursue a government reorganization (consolidation with another RCD), or consider a possible dissolution application to LAFCo.³

The District Manager is working with the current board of directors to investigate whether there is a service need that the Panoche RCD can assist in. LAFCo anticipates that within a calendar year Panoche RCD can make a finding that outlines its long-term priorities and forward that information to LAFCo.

The District is a multiple-county district meaning that its corporate boundaries include territory in Fresno and Merced Counties. The District's service area encompasses a total of 146,860 acres. Of the total 146,860 acres, approximately 126,630 acres are situated in Fresno County while approximately 20,231 acres are situated in Merced County

The Panoche RCD MSR / SOI update makes the following recommendations specific to the District:

- a. That the District continue to adopt and file its annual budgets for the upcoming fiscal years with the Fresno County Assessor Controller – Treasurer Tax Collector's Office, Special Accounting Division. (Government Code section 53901)
- b. That the District prepare for its five-year audited financial statements in accordance with generally accepted accounting principles and prepare to file a copy of those statements within 12 months of the closed of fiscal year **2023** with the Fresno County Assessor Controller – Treasurer Tax Collector's

³ LAFCo electronic mail communication with District Manager, March 8, 2021.

Office, Financial Reporting & Audits Division. (Government Code section 26909)

- c. That the District continue its commitment to reinstate services, build new partnerships, network and retain memberships with organizations that can assist the District track potential grant opportunities for RCDs.
- d. That the District endeavor to investigate whether there is a service need that the District can identify that does not duplicate existing services with either Panoche Water District or Panoche Drainage District, and forward its findings to LAFCo in writing no later than May 12, 2022.

Westside Resource Conservation District

In 2015, the Westside RCD board of directors convened to discuss its financial challenges and acknowledged that without volunteers and adequate financial support it cannot continue to operate as a public agency. The Westside RCD forwarded its resolution and submitted a dissolution pre-application to LAFCo. On multiple occasions between 2015 through 2021, LAFCo staff attempted to contact the previous Westside RCD contract employee to gather additional information regarding the dissolution application to no avail.

The Westside RCD currently does not have a work program, a budget, employees, nor a legislative governing board.

During the MSR update process, LAFCo staff consulted with the Fresno County Auditor-Controller/Treasurer-Tax Collector ("AC/TTC"), Financial Reporting & Audits Division to determine whether the Westside RCD had an account and money with the Fresno County Treasury. The AC/TTC informed LAFCo that Westside RCD had not made any financial transactions dating to 2004. According to the AC/TTC, the District's PeopleSoft account held with Fresno County was deactivated in 2018 due to financial inactivity.

Financial data supplied in its 2015 dissolution application to LAFCo indicate that the Westside RCD had an account balance of approximately \$64,000, of which the Westside RCD noted that \$50,000 is owed to the Westlands Water District. During the preparation of the MSR update, staff could not determine whether Westside RCD had a separate bank account outside of the Fresno County Treasury. Again, LAFCo staff attempted to contact the previous contract employee on this matter without success.

Westside RCD is situated in the western portion of Fresno County. Westside RCD is a multiple county special district with boundaries that encompasses land in Fresno and Kings Counties. Majority of Westside RCD's boundaries are in Fresno County (1,005,150 acres) while approximately 42,770 acres are in Kings County. LAFCo estimates that the District's total service area encompasses 1,047,320 acres.

Based on data collected for the MSR, it is recommended that the Commission to support the Westside RCD's 2015 dissolution request, adopt the MSR determinations, remove Westside RCD from the 2007 consolidated SOI, and schedule a duly noticed hearing to consider the adoption of a resolution to initiate proceedings to dissolve Westside RCD.

Westside RCD MSR recommendations:

- a. That the Commission set a public hearing for dissolution proceedings and approve and order the dissolution without an election or protest proceedings pursuant to GC. Sec. 57077.1(c)(1).

Municipal Service Reviews and Public Review Availability

MSRs are used by the LAFCo to collect information and evaluate service provisions and service providers from a broad perspective. The MSR Program provides the Commission the ability to retain the necessary information and data to ensure that the LAFCo has access to all the necessary information in a timely manner to make sound determinations with respect to services, capacities, or when requested to update an SOI for a local agency.

The draft MSR updates were circulated April 21, 2021 through May 12, 2021. Pursuant to Government Code sec. 56427, mailed notices of the hearing were sent to the affected local agencies and counties. Additionally, a 21-day notice of Commission hearing was published on April 21, 2021, in *The Business Journal*.

As of the date of publishing this staff report, LAFCo has received one comment letter specific to the draft MSR prepared for the Westside RCD (Attachment E).

Summary / Background

Cortese-Knox-Hertzberg Act requires LAFCos to review and update, as necessary, local agencies' SOIs every five years. Prior to, or in conjunction with a local agency's SOI update, LAFCo is required to conduct an MSR. State law requires that the LAFCo adopt written MSR determinations for each of the following seven items:

1. Growth and population projections for the affected area.
2. Location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.
3. Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies.
4. Financial ability of agencies to provide services.
5. Status of, and opportunities for, shared facilities.
6. Accountability for community service needs, including governmental structure and operational efficiencies.
7. Any other matter related to effective or efficient service delivery, as required by commission policy.

As part of the SOI update, the Commission is required to consider the following five 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.
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 subdivision (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

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

Environmental Determination

A MSR collects and analyzes data in support of future LAFCo actions and therefore is exempt from environmental review, pursuant to section 15306, "Information Collection" of the California Environmental Quality Act ("CEQA") Guidelines.

However, the Tranquillity Resource Conservation District ("Tranquillity RCD") MSR update also evaluates the Tranquillity RCD's request to LAFCo to expand the Tranquillity RCD SOI update that is essential to facilitate a successive 137,553-acre annexation. Furthermore, the MSRs for Firebaugh RCD, James RCD, Panoche RCD, and Westside RCD evaluate and update LAFCo's 2007 consolidated SOI for Fresno County's west side RCDs.

In conducting environmental review for the Tranquillity RCD SOI update, the Tranquillity RCD ("District") assumed the role of Lead Agency. The District determined that the proposal is ministerial in nature. The requested Tranquillity RCD SOI update 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 Tranquillity RCD's 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 August 21, 2019, the Tranquillity RCD filed a Notice of Exemption with the Fresno County Clerk (#E201910000302).

potential to result in a significant effect on the environment, therefore the SOI updates are not subject to CEQA pursuant to section 15061 (b)(3) of the CEQA Guidelines. Therefore, the SOI updates are exempt from environmental review.

Pursuant to CEQA Guidelines, if the Commission determines that these documents are adequate, a draft Notice of Exemption has been prepared (Attachment C) to be filed with the County of Fresno Clerk's office in compliance with section 21152 of the Public Resources Code.

Individuals and Agencies Receiving this Report

- Matthew H. Hurley, Executive Director of Tranquillity RCD
- Jeffrey Bryant, General Manager of Firebaugh RCD
- Manny Amorelli, General Manager of James RCD
- Ara Azhderian, General Manager of Panoche RCD
- Sargeant Green, former contract employee of Westside RCD
- Jose Gutierrez, Westlands Water District
- Ken Price, LAFCo Counsel
- Bernard Jimenez, Assistant Director, Fresno County Department of Public Works and Planning
- Greg Gatzka, Executive Officer, Kings County LAFCo
- William "Bill" Nicholson, Executive Officer, Merced County LAFCo

Attachments

Attachment A – RCD SOI Update Maps

Attachment B – Draft MSR updates for Tranquillity RCD, Firebaugh RCD, James RCD, Panoche RCD, and Westside RCD

Attachment C – Notice of Exemption for the SOI updates

Attachment D – SOI Determinations for Tranquillity RCD, Firebaugh RCD, James RCD, and Panoche RCD

Attachment E – Comment Received for Westside RCD MSR

G:\LAFCo Projects\Districts\RCD\2019 CoWide RCD MSR\Items for hearing\01-Staff Report -RCD_USOI_0.doc