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

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AGENDA ITEM NO. 6

**DATE:** June 9, 2021

**TO:** Fresno Local Agency Formation Commission

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

**BY:** George Uc, Senior LAFCo Analyst

**SUBJECT:** **Consider Adoption:** Municipal Service Review and Sphere of Influence Update prepared for Sierra Resource Conservation District (LAFCo File Nos. MSR-21-7 / USOI – 193).

**Recommendation:** Adopt the Municipal Service Review update prepared for Sierra Resource Conservation District and update the Sierra Resource Conservation District sphere of influence by taking the following actions:

**Action 1: Municipal Service Review, California Environmental Quality Act**

- A. Acting as Lead Agency pursuant to California Environmental Quality Act (“CEQA”) Guidelines find that the MSR prepared for the Sierra Resource Conservation District (“Sierra RCD” or “District”) is Categorically Exempt from the provisions of CEQA under section 15306, “Information Collection.”

**Action 2: Approve the Municipal Service Review Written Determinations**

- B. Receive the report and any public testimony regarding the proposed Municipal Service Review (“MSR”) update prepared for the Sierra RCD.
- C. Pursuant to Government Code section 56430, approve the written determinations presented in the draft MSR prepared for the Sierra RCD, together with any changes deemed appropriate.

**Action 3: Sierra RCD Sphere of Influence update, California Environmental Quality Act**

- D. 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.
- E. Find that as a Responsible Agency, LAFCo, it can be seen with certainty that the proposed SOI update for 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 4: Sphere of Influence Written Determinations and Recommendations**

- F. Approve the recommended SOI update determinations, together with any changes deemed appropriate.
- G. Pursuant to Government Code section 56425, approve the proposed written determinations and recommendations prepared for the Sierra RCD SOI update.
- H. 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 (Attachment A).

~ OR ~

#### **Alternative Action 4-A: Affirm LAFCo's 2016 Sphere of Influence for Sierra RCD**

Based on public testimony and comments received during the 21-day public review period for the Sierra RCD MSR and SOI update:

- 4-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
- 4-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.

#### **Proponent**

Steve Haze, District Manager, Sierra Resource Conservation District

#### **Executive Summary**

Sierra Resource Conservation District ("Sierra RCD" or "District") was formed June 10, 1957, by the Fresno County Board of Supervisors as a Soil Conservation District. The District provides programs and technical assistance services that support the conservation of local soil, water, agriculture, wildlife, rangelands, oak and forest lands, and air resources within the District.

On July 24, 2019, the District filed an application with the LAFCo requesting a SOI update (File No. USOI-193) that would expand the current District SOI westward to align with State Route 99 (Attachment A). The requested SOI expansion would add approximately 235,776 acres of

unincorporated and urban land into the updated Sierra RCD SOI. The SOI update is necessary to facilitate the subsequent annexation (File No. AD-19-3) of the affected territory into Sierra RCD's service area.

On September 11, 2019, the Commission considered the requests of the Sierra and Tranquillity RCDs to reduce the annexation fees for their respective proposals. The commission approved the request

While evaluating Sierra RCD's applications, opposition to the proposed SOI expansion and subsequent annexation was presented by the general managers representing Alta Irrigation District ("AID"), Consolidated Irrigation District ("CID"), Fresno Irrigation District ("FID"), and the Kings River Conservation District ("KRCD").

During the course of two years, LAFCo staff has maintained open communication with each district manager, attended virtual and in-person meetings of the Kings River Water Authority where the proposal was discussed, and participated in virtual conferences with the four affected agencies and the Sierra RCD.

The arguments in opposition to the SOI update have included:

1. Expansion of the Sierra RCD will result in unnecessary competition for grant funding.
2. Overlap of Sierra RCD with irrigation districts and the conservation district will lead to a duplication of services
3. Expansion of the Sierra RCD is not necessary for it to perform work outside of its current boundaries.

Though staff respects the positions of the affected districts, no written evidence has been provided to LAFCo that identifies an occasion where the duplication of services has occurred or would occur among Sierra RCD and either AID, CID, FID, or KRCD.

Additional analysis is provided in the "*Analysis of Concerns Raised by the Affected Special Districts*" section of this report.

Based on the data collected during the preparation of the MSR it is recommended that the Commission adopt the MSR update and update the Sierra RCD SOI update by adopting Action Items one, two, three, and four.

The attached MSR has been prepared to meet the requirements of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 ("CKH") for SOI updates. Further background analysis for the Sierra RCD SOI update is presented in the draft MSR and SOI update report to the Commission (Attachment B).

### **Alternative Action**

After closing the public hearing, if the Commission is unable to make the written determinations for the proposed Sierra RCD SOI update (USOI-193), then the Commission

may motion to adopt *Action Item Alternative 4-A.1* to deny application USOI-193, and Alternative 4-A.2 to affirm the current (2016) Sierra RCD SOI.

### **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.<sup>1</sup> 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.<sup>2</sup>

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

### **Municipal Service Review / Sphere of Influence Update Summary**

Sierra RCD's service area and SOI are coterminous and encompass 1,847,537 acres. The District is generally east of State Route 41 and bounded by the Madera-Fresno County line to the north, the Fresno-Mono and Fresno-Inyo County lines on the north and east, and the Fresno-Tulare County line on the south.

The MSR notes that the District is a coordinating agency that promotes the conservation of natural resources. The District's mission is to take available technical, financial, and educational resources, and coordinate them at the local level to promote the conservation of natural soil, water, agriculture, wildlife, rangelands, oak and forest lands, and air resources.

The District's goals and priorities are outlined in its adopted "Long-Range Plan for years 2020 through 2025." The District's Long-Range Plan is reviewed by the District board on an annual basis, and the plan was last amended by action of the District board on January 25, 2021. The District's current projects (technical assistance services) are categorized in four major areas:

- Forestry,
- Carbon Management,
- Agriculture and Rangeland; and,
- Watershed and Wetlands.

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<sup>1</sup> PRC section 9001 *et seq.*

<sup>2</sup> PRC section 9001(a)(2).

Pages 10 through 12 of the MSR provide additional details on the conservation efforts provided by the District. The District's programs and services are voluntary and non-regulatory and focus on the conservation of natural resources.

According to Census data referenced in the MSR, there is an estimated total population of 201,460 people inside the District's boundaries.

For fiscal year ("FY") 2018-2019, the District had an adopted budget of \$315,000. The District's primary source of revenue are government grants and contributions for the purpose of facilitating and implementing conservation programs within the District.

The District does not levy land-based taxes or special assessments. The District does not have a rate schedule and does not charge for technical assistance services.

According to the District Manager, approximately 90 to 95 percent of the District's operation and services are funded through grant revenues. The District has a reliable professional relationship with various granting agencies such as the National Resource Conservation Service ("NRCS"), California Department of Conservation ("DOC"), California Department of Forestry and Fire Protection ("Cal Fire"), California Department of Food and Agriculture ("CDFA"), California Department of Water Resources ("DWR"), and California Association of Resource Conservation Districts ("CARCD"). The District's ability to pursue and secure state and federal grant funds has assisted the District to implement its mission.

The District Manager states that grant revenues to maintain its various programs are at adequate levels; however, loss of existing grants could be detrimental to certain programs. Grant funding is secured by first meeting the requirement(s) of the grant and then making application to the granting agency. All grant applications go through a competitive scoring process.

The District informed LAFCo that it coordinates with various local agencies and organizations to align programs and priorities that can produce the best odds to secure available grant funds.

**Sierra Resource Conservation District (LAFCo File No. USOI – 193)**

The purpose of the District's requested SOI update and subsequent annexation application is to extend service to unincorporated and urban communities that are not currently represented in the conservation of local natural resources.

Annexation of the affected territory would enable Sierra RCD to pursue grant funded opportunities for specific technical assistance programs, education materials, or projects related to resource conservation in the affected territory.

At the time that the MSR was prepared, the District started coordinating efforts to pursue CDFA grants to engage and provide underserved farmers in the affected territory with technical assistance services.

In addition, annexation of the affected territory would enable to District to extend its technical assistance programs to assist local growers to familiarize them with the State Water Efficiency & Enhancement Program ("SWEEP"). The SWEEP program is administered by the CDFA. SWEEP's goal is to reduce greenhouse emissions from agricultural irrigation sources and increase water use efficiencies by assisting agricultural farmers fund irrigation system infrastructure and monitor upgrades.

LAFCo staff expect that Sierra RCD will continue to collaborate with the various agencies and organizations to avoid service redundancies and align programs and priorities that can produce the best grant funds to assist residents and landowners in the affected territory.

### **Analysis of Concerns Raised by the Affected Special Districts**

LAFCos are authorized to determine SOIs for all local agencies subject to CKH. Factors considered in a SOI focus on current and planned land uses, current and future need for public facilities and services, and any relevant communities of interest in the area if the Commission determines that they are relevant to the agency.

On a regional level, SOI updates assist LAFCos to coordinate the orderly development of local agencies through reconciling differences between agencies' plans so that the most efficient levels of services are provided that benefit the area residents and landowners.

On LAFCo's September 11, 2019 hearing, the Commission approved a request to reduce application fees for both Tranquility RCD and Sierra RCD. At this hearing, the former manager of FID and the manager of AID expressed their concerns and opposition to the RCDs' applications to LAFCo. Shortly thereafter, LAFCo staff received written opposition to the proposed District SOI updates from AID, CID, FID, and KRCD, shown in Attachment C.

LAFCo staff, Sierra RCD management, and the affected special districts communicated on various occasions during the preparation of the MSR and SOI update report for Sierra RCD.

Most notably LAFCo staff attended and presented informational items related to the proposal at KRCD's November 12, 2019 board meeting and the Kings River Water Authority's December 17, 2019 board meeting.

On September 9, 2020, the Commission receive an informational presentation by the California Association of Resource Conservation Districts on the various programs and

services that RCDs provide throughout the State. The affected special districts were in attendance and expressed their concerns on the SOI updates to LAFCo.

LAFCo staff attended the following virtual meetings with Sierra RCD and the affected special districts on February 16, 2021; March 3, 2021; and April 9, 2021. The affected special districts have not withdrawn their opposition letters to LAFCo. To date, the agencies have not found a middle ground to resolve their differences.

Staff has grouped the affected special districts' comments into general categories for the Commission's attention:

**I. Each district is currently performing a similar service and expansion of an existing district over the affected special districts would be neither logical nor efficient**

Currently, there is some overlap between the affected special districts and Sierra RCD.

No evidence has been provided to LAFCo that demonstrates that the existing overlap has resulted in repetition of services, impair any district's ability to provide service, or diminished any district's ability to secure grant funding for projects.

Neither is evidence offered that the expansion of the Sierra RCD SOI would not be logical nor efficient. In fact, most parcels in the affected area are currently under two or more service areas of special districts that provide single, frequently proprietary services with no loss of efficiency.

For example, in addition to being in the service area of one or more of the commenting agencies, a given parcel may be in the following jurisdictions with no loss of efficiency:

- Cemetery Districts
- Community Service Districts
- County Service Areas
- Fire Protection District
- Flood Control District
- Hospital District
- Mosquito Abatement Districts
- County Sanitation District
- Groundwater Sustainability Agencies
- Incorporated cities

**II. RCD's need not expand as they may perform services outside of their service areas.**

The RCD principal act authorizes and encourages RCDs to cooperate with other agencies that may overlap with or be adjacent to a RCD.

A comment made by CARCD executive Director Karen Buhr at the Commission's September 9, 2020 RCD workshop was interpreted by some members of the audience to mean that RCDs can work outside of their boundaries and therefore expansion of the Sierra RCD SOI is not necessary for the District to perform the work it wants to do in the proposed SOI expansion area.

There is some support to this argument. The RCD the principal act encourages cooperation with other agencies, even those outside of the subject RCD:

- PRC sec. 9408(a, b, c): The directors may cooperate and enter into contracts or agreements with the state, the United States, any county, any city, any other resource conservation or other public district in this state, any person, or the commission, ....;
- PRC sec. 9417(a): The directors of any district may cooperate with the directors of any other district in respect to matters of common interest or benefit to the districts. An association of resource conservation districts may be organized to facilitate that cooperation, ....; and
- PRC sec. 9411: The directors may disseminate information relating to soil and water conservation and erosion stabilization, and may conduct demonstrational projects within, or adjacent to, the district on public land, with the consent of the agency administering or having jurisdiction thereof, or on private lands, with the consent of the owners thereof, independently or in cooperation with the United States, this state or any political subdivision or public district thereof, or any person.

However, in staff's opinion, PRC secs. 9001-9972 clearly calls for delineation of a RCD's boundaries and authorizes a RCDs to provide services to lands within its service area, including, but not limited to the following:

- PRC secs. 9162(b) and 9163(a) requires identification of boundaries in the formation of a RCD;
- PRC sec. 9412 authorizes a district to provide technical assistance to private landowners or land occupants within the district to support practices that minimize soil and related resource degradation; and,
- PRC sec. 9413(a) authorizes a RCD to develop plans to address the full range of soil and related resource problems that are found to occur in the district.

Though the RCD principal act authorizes districts to work cooperatively with other agencies, it does not appear to be a substitute or alternative for a RCD's focus to be on the conservation issues *within the district*. In fact, the Sierra RCD website lists 36 resource groups and governmental agencies that are partnered with the Sierra RCD "to address resource issues within the district."<sup>3</sup>

A RCD is not expressly prohibited by the principal act from conducting projects outside of its boundaries in cooperation with other agencies (such as another RCD, irrigation district, city, state, or federal agency). However, it appears that cooperative agreements

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<sup>3</sup> Sierra RCD website, [www.sierrarcd.com](http://www.sierrarcd.com).



between a RCD and other agencies outside of the RCD, where work is performed, or a service is provided appear to be the exception rather than a rule.

Though an overlap of *identical* agencies (*i.e.* two agencies formed and regulated by the same principal act) would not be logical and could result in an deleterious competition for grant funding, none of the commenting agencies provided information to demonstrate how they manage or provide technical assistance programs that promote the conservation of natural resources such as soil, carbon, and other resources in the RCD's range of services.

### **III. All of the commenting agencies are willing to continue constructive discussions about the proposed SOI expansion**

LAFCo staff has encouraged the affected special districts and the Sierra RCD to continue their constructive discussions with the goal of reaching agreement on their respective issues and concerns.

Chapter 3 of the Sierra RCD MSR and SOI update provides additional information regarding existing overlaps with the affected special districts and the proposed SOI update.

#### **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 update for Sierra RCD was circulated May 19, 2021 through June 9, 2021. Pursuant to Government Code sec. 56427, mailed notices were sent to the affected local agencies to inform them of the proposed SOI update hearing. Additionally, a 21-day notice of Commission hearing was published on May 19, 2021, in *The Business Journal*.

As of the date of publishing this staff report, LAFCo has received general phone enquiries. Aside from Attachment C, no additional written comments have been provided to LAFCo.

#### **Summary / Background**

CKH 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 Sierra RCD MSR presents these determinations and the analysis used in support of the proposed SOI update 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 Sierra RCD MSR update also evaluates the District's request to LAFCo to expand the Sierra RCD SOI that is essential to facilitate the successive 235,776-acre annexation into the District. The affected territory consists of various land uses consisting of unincorporated agricultural land, rural residential, and urban land uses.

In conducting environmental review for the Sierra RCD SOI update and annexation, Sierra RCD assumed the role of Lead Agency pursuant to the CEQA Guidelines. The District determined that the proposal will not change the existing land uses nor change the land use designations depicted by either the Fresno County General Plan or any of the affected cities' general plans proposed to be included in the Sierra RCD SOI update.

Since it can be seen with certainty that the proposal does not have the potential to result in a significant effect on the environment, it is not subject to CEQA pursuant to CEQA guidelines pursuant to Section 15061 (b)(3) of the CEQA Guidelines. On July 24, 2019, the Sierra RCD filed a Notice of Exemption with the Fresno County Clerk's Office (#E201910000260).

Acting as Responsible Agency pursuant to CEQA Guidelines, LAFCo considered the Notice of Exemption as prepared by the Lead Agency for its own review and update of the Sierra RCD SOI. LAFCo finds that it can be seen with certainty that the proposed SOI update does not have the potential to result in a significant effect on the environment, therefore the SOI update is 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**

- Steve Haze, District Manager, Sierra RCD
- Ken Price, LAFCo Counsel
- Bernard Jimenez, Assistant Director, Fresno County Department of Public Works and Planning
- Chad Wegley, District Manager, Alta Irrigation District
- Phil Desatoff, District Manager, Consolidated Irrigation District
- Bill Stretch, District Manager, Fresno Irrigation District
- David Merritt, Interim General Manager, Kings River Conservation District
- Karen Buhr, Executive Director, California Association of Resource Conservation Districts

#### **Attachments**

**Attachment A** – Sierra RCD SOI Update Map

**Attachment B** – Draft MSR and SOI update for Sierra RCD

**Attachment C** – Comments letters receive for USOI-193

**Attachment D** – Notice of Exemption for the Sierra RCD SOI update

**Attachment E** – SOI Determinations for Sierra RCD