

# **PANOCHÉ RESOURCE CONSERVATION DISTRICT**

## **MUNICIPAL SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE**

**Report to the  
Fresno Local Agency Formation Commission**

**MSR 21-5 / USOI No. 203**

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**Adopted:**

May 12, 2021

<b>Profile: Panoche Resource Conservation District</b>		
<b>Formation:</b>	September 3, 1957	
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<b>Mailing Address</b>	52027 W. Althea Avenue Firebaugh, CA 93622	
<b>Website</b>	None	
<b>Principal Act</b>	California Public Resources Code, section 9151, et seq.	
<b>Board of Directors (5-member)</b>	<b><u>Name</u></b>	<b><u>Term</u></b>
	John Bennett, President	Appointed 2018, expires 12/2022
	Suzanne Redfern West, Vice-President	Appointed 2016, expired 12/2020*
	Ross Koda	Appointed 2018, expires 12/2022
	Michael Linneman	Term 12/2018 to 12/2022
	Michael Stearns	Appointed 2016, expired 12/2020*
<b>Board Meetings</b>	Quarterly on the second Tuesday of the month at 9:00 a.m., as needed	
<b>Staffing</b>	District Manager is shared with Panoche Water District	
<b>Service Area</b>	146,860 acres	
<b>SOI update</b>	Determine a SOI that coincides with the District's service area.	
<b>Budget</b>	\$0 (no budget) <sup>1</sup>	
<b>Revenue Source</b>	None. May pursue State or Federal Grants, Inter-Agency Agreements	
<b>District Rules/Plans</b>	None	
<b>District Policies</b>	No	

\*scheduled re-appointment by County Board of Supervisors.

<sup>1</sup> No planned activities for Fiscal Year 2020-2021.

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Figure 1 - Panoche Resource Conservation District Map

# Panoche Resource Conservation District

Services: soil conservation

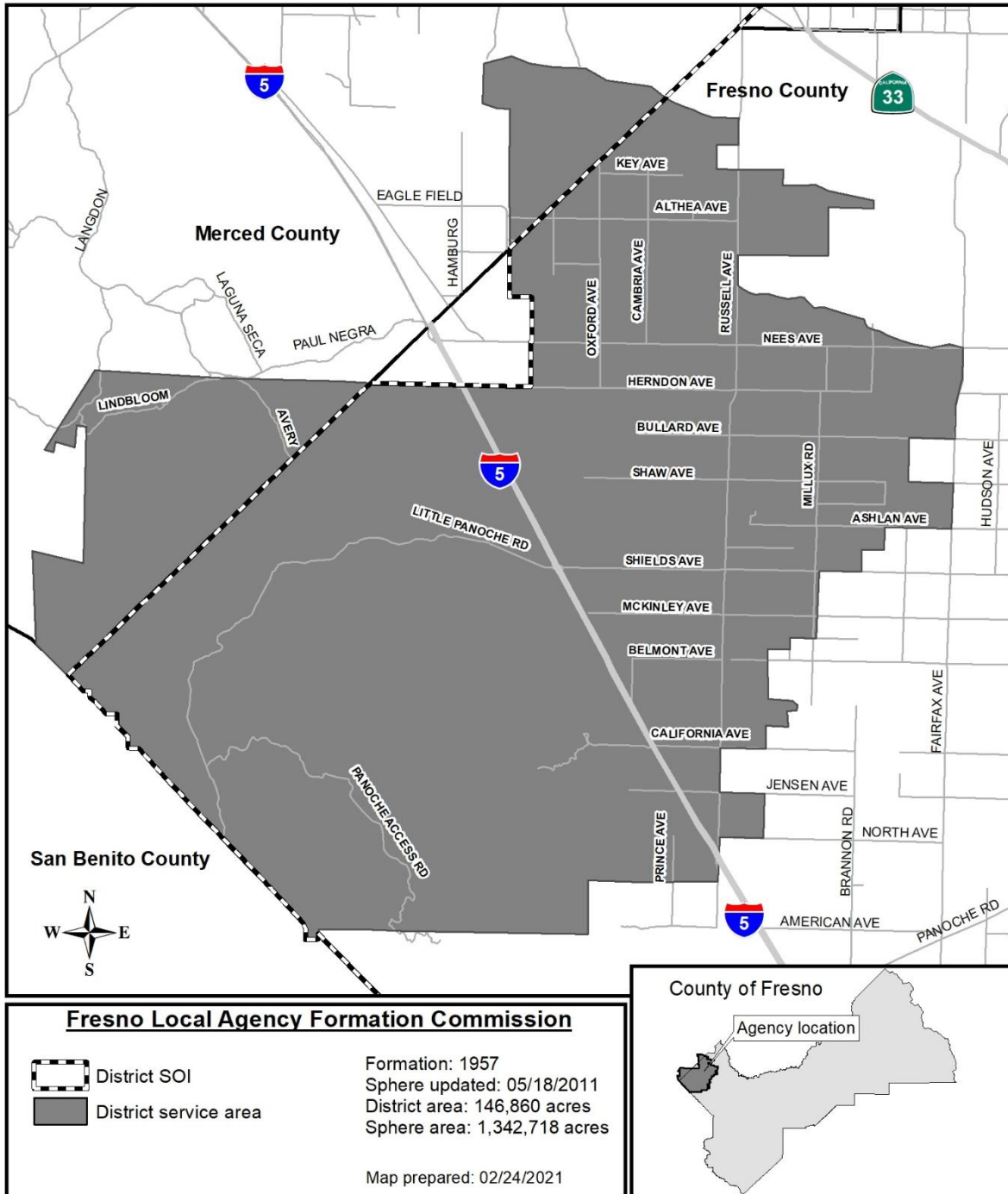


Figure 2 – 2007 consolidated SOI for the westside RCDs

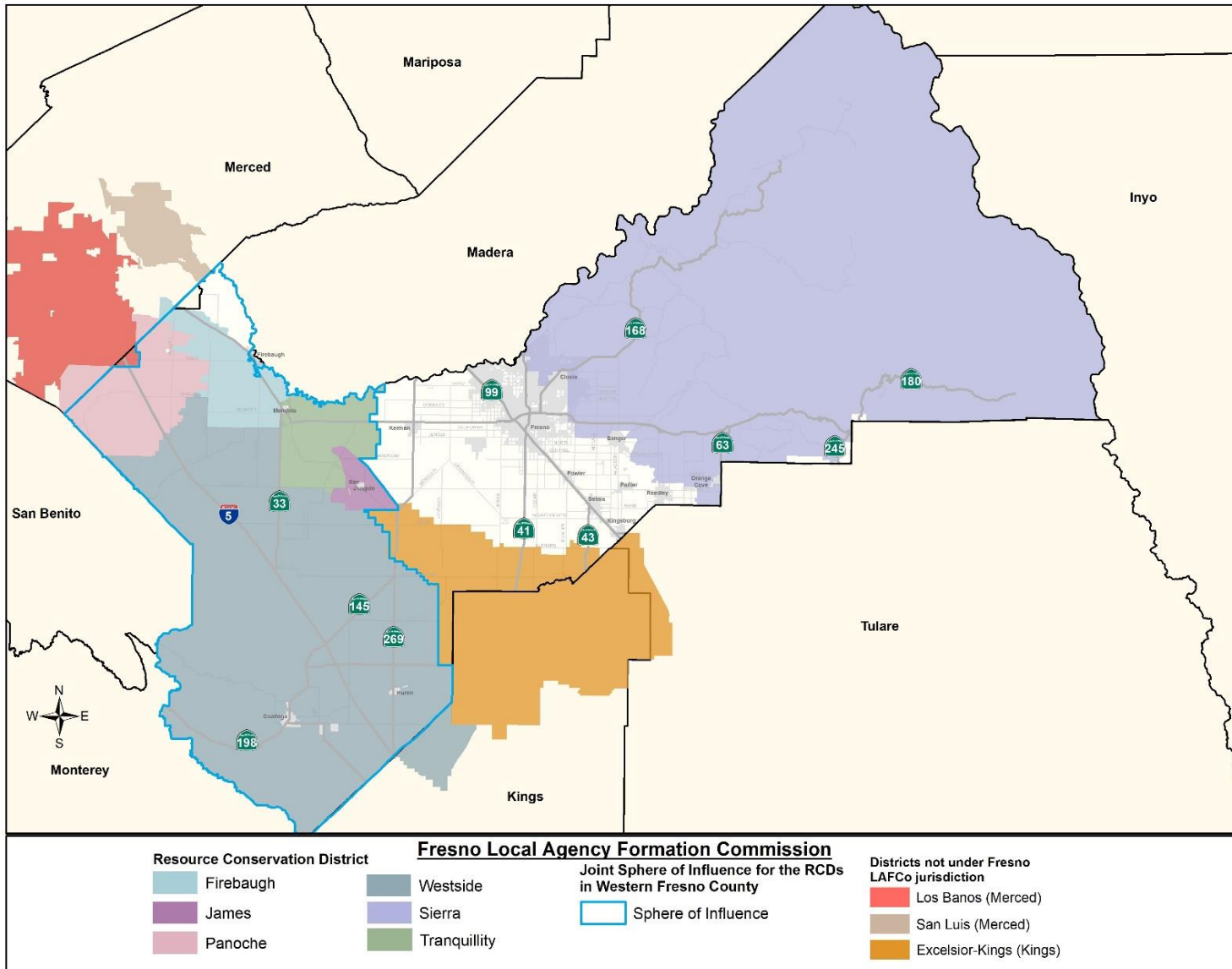
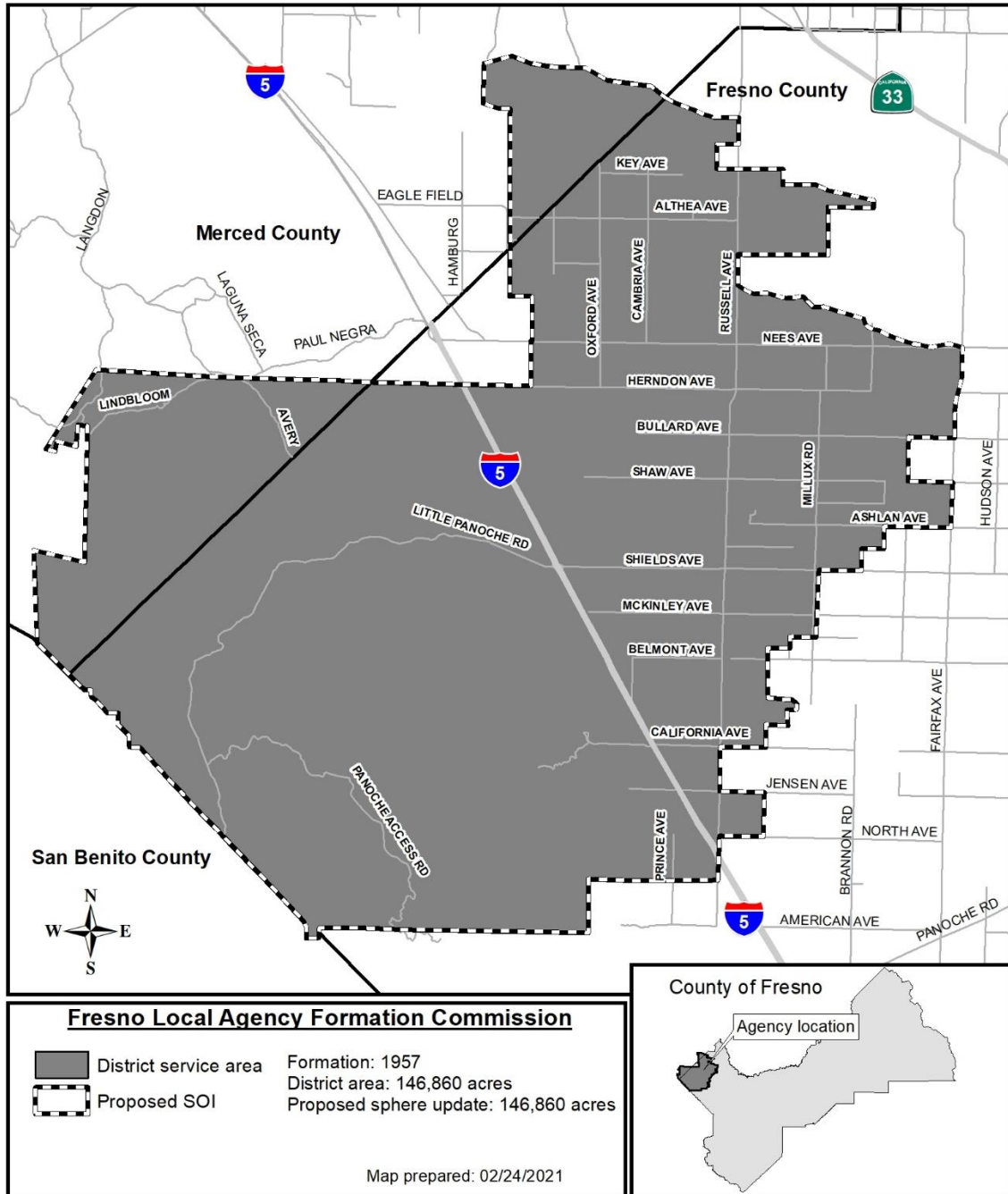


Figure 3 – Proposed SOI update for Panoche RCD

# Panoche Resource Conservation District

Services: soil conservation



# 1. Municipal Service Review

The Panoche Resource Conservation District (“Panoche RCD” or “District”) was formed on September 3, 1957 as a Soil Conservation District to provide services related to soil and water conservation, including rental equipment for soil conservation to landowners within the District.

The District is a multiple-county district meaning that its corporate boundaries include territory in Fresno and Merced Counties. The District functions independently from the County of Fresno, Panoche Water District, Panoche Drainage District, and the County of Merced.

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, see **Figure 1**.

## Principal Act

Resource Conservation Districts are authorized under Division 9 of the California Public Resources Code (“PRC”, also known as the “Principal Act”). The Panoche RCD operates pursuant to PRC section 9001 et seq. which was enacted 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>

There are 95 RCDs in California, serving rural, urban, and suburban communities throughout the State.<sup>3</sup> According to California Association of Resource Conservation Districts (“CARD”), the 95 RCDs in the State are grouped into the following ten regions: Bay-Delta, Central Coast, Central Sierra, High Desert, Modoc Plateau, North Coast, Sacramento Valley, San Joaquin Valley, SoCal Inland, Southern Baja, and non-district regions. RCDs in Fresno County are identified in the San Joaquin Valley Region. The San Joaquin Valley Region consists of 16 RCDs spanning from San Joaquin County down to Kern County.

As of 2020, the County of Fresno is the principal county to six local RCDs:

- Firebaugh Resource Conservation District
- James Resource Conservation District
- Panoche Resource Conservation District
- Sierra Resource Conservation District

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

<sup>3</sup> California Association of RCDs, <https://carcd.org/rcds/>.

- Tranquillity Resource Conservation District
- Westside Resource Conservation District

Most RCDs in the State originated in the 1950's as local Soil Conservation Districts. The State Legislature broadened the purposes of Soil Conservation Districts in the 1970's resulting in a name change to more accurately reflect the role of the RCDs within California. 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 areas. Generally, RCDs promote programs dealing with various types of conservation efforts, bring environmental awareness, and watershed stewardship.

## **Service Area and the 2007 Consolidated RCD Sphere of Influence**

The District's service area is situated six miles west of City of Firebaugh and approximately 10 miles south of Los Banos. The District's boundaries are generally bounded by the Merced-Fresno County line to the north and northwest, the San Benito-Fresno County line to the west, American Avenue to the south, and Fairfax Avenue generally to the east. Interstate five (I-5) bisects the District's service area in a southeast direction.

Neighboring RCDs include Grassland RCD and Los Banos RCD (Merced County) to the north, San Benito RCD (San Benito County) to the west, Westside RCD to the south, and Firebaugh RCD to the east.

The 2007 and 2011 District MSRs considered the District's boundaries at approximately 130, 281 acres.

During the preparation of this MSR update LAFCo staff used records to clarify the District's complete boundaries including the portions in Merced County. LAFCo staff used geographic information systems (ArcGIS) software to update LAFCo's depiction of the District. Using ArcGIS's geography calculator, LAFCo estimates that the District's total service area encompasses 146,860 acres. Majority of the District is in Fresno County (126,630 acres), while approximately 20,231 acres are situated in Merced County. The District's first sphere of influence ("SOI") was adopted by LAFCo in 1976 and was conterminous with the District's service area for many years.

In 2007, the Commission approved a consolidated SOI encompassing approximately 1,342,718 acres for the six RCDs in Fresno County's westside, shown as **Figure 2**.<sup>4</sup> The purpose of determining a single SOI for the RCDs was to facilitate the eventual consolidation of the six westside RCDs. The Commission reaffirmed this intent in 2011 and waived all LAFCo fees associated with a future consolidation proposal application to LAFCo. However, none of the six RCDs followed up on the recommended consolidation.

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<sup>4</sup> Firebaugh, James, Panoche, Poso, Tranquillity, and Westside Resource Conservation Districts.



In 2019, LAFCo ordered the dissolution of Poso Resource Conservation District as an inactive special district pursuant to the proceedings included in Senate Bill 448 (Wieckowski).

Currently, the 2007 consolidated SOI bounds the remaining five RCDs in Fresno County's westside.

As part of this MSR update, the District informed LAFCo that the current District board has taken measures to reinstate District board meetings and name District officers to address its long-term goals for the District. At the present time, the District does not support LAFCo's 2007 consolidated SOI's direction to consolidate with the westside RCDs. Additional analysis regarding the District's progress to reinstate board activities is provided in this report.

## **District Growth and Population Projections**

The District encompasses only unincorporated land in Fresno and Merced Counties. There are no cities in the District's service area.

LAFCo obtained ArcGIS files derived from the U.S. Census Bureau, American Community Survey ("ACS") five-year reports for year 2012 through 2016, to estimate a current population for territory inside the District. According to the ACS data, there is an estimated total population of approximately 1,800 residents in the District. LAFCo notes that the population estimate can be higher number than actual because the census block group boundaries do not exactly match with the boundaries of the District.

A large portion of the parcels in the District are occupied by large and small farming operations consisting of both permanent and annual row crops. Primary crops produced within the District include field row crops such as alfalfa, asparagus, cotton, tomatoes, and melons and permanent crops such as almonds, grapes, pistachios, and pomegranates. Scattered rural residences also exist within the District. The District's western edge consists of hills and the Panoche Mountain Range.

The Counties of Fresno and Merced are the land use authorities for land located within the District's service area. The Fresno County General Plan designates the land within the District for Agricultural uses.<sup>5</sup> The Merced County General Plan likewise designates majority of its portion of the District for Agriculture land uses and Foothill Pasture for the portions of the District west of I-5.<sup>6</sup>

The District's growth is restricted on all sides by other similar RCDs. Most of the land in the District is identified under active agricultural contracts; therefore, no substantial growth in population is anticipated to occur in the District's boundaries.

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<sup>5</sup> Fresno County General Plan Figure 1-5 Current Land Use, Figure LU-1a, Countywide Land Use Diagram, 2000.

<sup>6</sup> 2030 Merced County General Plan, Part II-3, Land Use Element.

## **District services**

The District was formed to provide services to reduce soil erosion and sedimentation, conserve and preserve irrigation water, improve water quality, and provide the necessary technical assistance to manage natural resources, including rental equipment for soil conservation to landowners within the District.

Over the years, changes to state and federal grant applications and programs combined with changes District personnel have impacted the District's ability to secure grant funding. As a result, the District has become inactive. At the time this MSR was prepared, the District did not have a grant writer, pending projects, no plan to reinstate a work program, and no technical assistance programs available for local growers.<sup>7</sup>

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

The District reports that its current services consist of basic general administration. The District has been in contact with various local agencies to complete reporting requirements after its prolonged years of inactivity.

According to the District, the 2021 service agreement enables PWD's staff to gather information related to resource conservation districts for the District board to determine whether to maintain the status quo – inactive, establish a work plan, potentially pursue a government reorganization (consolidation with another RCD), or consider a possible dissolution of the District.<sup>8</sup> The District Manager informed LAFCo that he is working with the current board of directors to investigate whether there is a service need that the District can identify and reinstate to assist local growers. LAFCo anticipates that within a calendar year the District can make a finding that outlines its long-term priorities and forward that information to LAFCo.

## **Disadvantaged Unincorporated Communities**

A disadvantaged unincorporated community ("DUC") is defined by Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 ("CKH") as an inhabited territory (meaning territory within which there reside 12 or more registered voters), or as determined by LAFCo policy, that constitutes all or a portion of a "disadvantaged community" as defined by section 79505.5 of Water Code. The State Water Code defines a "disadvantaged community" as a community with an annual median household income ("MHI") that is less than 80 percent of the statewide annual median household income.

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<sup>7</sup> District Manager comments to the LAFCo draft MSR, March 8, 2021.

<sup>8</sup> LAFCo electronic mail communication with District Manager, March 8, 2021.

On January 9, 2013, Fresno LAFCo exercised its powers under CKH and adopted local policy which refined the DUC definition within Fresno LAFCo's jurisdiction. Fresno LAFCo's DUC Policy characterizes DUCs as at least 15 dwelling units at a density not less than one unit per acre. Additionally, LAFCo's policy includes "Legacy Communities" which is defined as a geographically isolated community that meets the DUC criteria, is at least 50 years old, and is beyond the adopted SOI of any City.

On February 12, 2020, Fresno LAFCo comprehensively updated its DUC database based upon updates demographic datasets to estimate MHI levels within the County of Fresno. The 2020 DUC database relies upon information collected through the Commission's MSR Program, sphere of influence update program, and demographic information obtained from the U.S. Census Bureau Americans Community Surveys, five-year reports for years 2012-2016.

The statewide annual MHI reported for years 2012 through 2016 was \$63,783. Therefore, the calculated threshold for a DUC is any geographic unit with a reported annual MHI that is less than \$51,026. Census block group data was used to provide the economic and population backgrounds for this section of the MSR.

The Commission's 2020 DUC database determined that there are no DUCs that meet LAFCo's DUC density criteria of at least 15 dwelling units at a density not less than one unit per acre in the District. District services are limited to promoting the conservation of local resources.

For the portion of the District in Merced County, LAFCo staff reviewed Merced County's 2030 General Plan Land Use Element, Appendix B – SB 244 DUC Analysis to determine whether any potential DUC locations existing within the District.<sup>9</sup> Merced County did not identify any DUC locations within the portion of the District in Merced County.

## **District Infrastructure**

According to the District, it does not own or operate any public facilities, capital infrastructure, or equipment necessary to provide a direct service to its continuance. The PWD shares its office location for the District board of directors to convene. The District Manager is the same individual that Manages PWD's daily operations.

During LAFCo's review of the District's financial audits, LAFCo learned the Auditor reported that the District owns various fixed assets (land improvements). Additional information is provided in the following section, District Finances.

## **District Finances**

Since reinstating administration activities, the District has not received any revenues. The District does not have a regular source of income such as fees for services, tax, or special assessments. As

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<sup>9</sup> County of Merced General Plan, SB 244 Analysis, [http://www.lafcomerced.org/pdfs/DUC\\_Analysis.pdf](http://www.lafcomerced.org/pdfs/DUC_Analysis.pdf).

noted earlier, a 2021 service agreement provides minimal administrative support by PWD staff at no cost to the District.

On January 2021, the PWD District Manager was appointed by the District board to serve as the District Manager and the secretary of the District board. Prior to his appointment, the PWD District Manager assisted the District to re-convene the board of directors, assisted the board to officially name District officers, set a meeting date and place for future board meetings, and assisted the District board to adopt a zero dollar (\$0) budget with no anticipated activities for Fiscal Year (“FY”) 2020-2021.

LAFCo notes that the District adopted and reported various \$0 balance budgets during its period of inactivity. On January 12, 2021, the District board adopted a new FY period that starts March 1<sup>st</sup> and ends February 28<sup>th</sup> of each year. Based on available budgets and audit reports, the District’s previous FYs followed the traditional period that starts on July 1<sup>st</sup> and ends on June 30<sup>th</sup> of each year.

During the preparation of this MSR, LAFCo staff requested copies of recently reported budgets that had been reported to the Fresno County Assessor Controller – Treasurer Tax Collector’s (“AC/TTC”) Office.<sup>10</sup> The County AC/TTC’s Office informed LAFCo that the District had successfully reported five (5) of its \$0 budgets to the County since LAFCo’s last MSR update. The chart below summarizes the District’s reported budgets:

<b>Fiscal Years</b>	<b>Adopted Budget</b>	<b>Available Cash Reserved in Fresno County Treasury (Mainly interest earn on balance)</b>	<b>LAFCo’s Notes</b>
FY 2020-21	\$ 0	\$1,235	No activities planned for District’s FY.
FY 2019-20			<i>Not found / reported.</i>
FY 2018-19			<i>Not found / reported.</i>
FY 2017-18			<i>Not found / reported.</i>
FY 2016-17	\$0	\$1,450	Anticipated \$50 in revenue
FY 2015-16			<i>Not found / reported.</i>
FY 2014-15			<i>Not found / reported.</i>
FY 2013-14			<i>Not found / reported.</i>
FY 2012-13	\$0	\$1,201	Anticipated \$50 in revenue
FY 2011-12	\$0	\$1,151	Anticipated \$50 in revenue

The District has an interest-bearing cash deposit with the Fresno County Treasurer’s office. Currently, the District has a reserve cash balance of \$1,235 in its Fresno County Treasury account.

Government Code requires special districts to annually prepare and file a copy of its audited financial statements within 12 months of the closed fiscal year with the County Auditor’s Office.<sup>11</sup>

<sup>10</sup> Reporting requirement per Government Code section 53901.

<sup>11</sup> Government Code section 26909.

According to the District, in 1986 the District requested the Fresno County Board of Supervisors (“BOS”) to change the one-year fiscal audits requirement to a five-year cycle pursuant to Fresno County Policy and Government Code section 26909. In 1986, the County BOS unanimously approved the District’s request because the District met several criteria such as the District had never exceeded a \$5,000 annual budget, and the District typically operates with a budget of less than \$2,000. Financial audits are required to be performed by an independent Certified Public Accountant.

The District provided LAFCo copies of their most recently available independent financial statements prepared by an independent Certified Public Accountant for the five-year cycle beginning on July 1, 1993 and ending on June 30, 1998; and, the five-year cycle beginning on July 1, 2008 and ending on June 30, 2013.<sup>12</sup>

The Auditor’s report provides LAFCo an overview representation on the District’s financial practices. The District reports its finances in a General Fund. The General Fund accounts for all financial resources of the District, except those revenues required to be accounted for in a separate account. According to the Audits, the District operates on a modified accrual basis of accounting. Revenues are recorded when they become measurable and available to finance expenditures. Expenditures are recorded at the time the liability is incurred.

During the MSR data collection process, LAFCo staff requested the County AC/TTC’s office to share with LAFCo copies of the District’s most recent audited financial statements filed with the County’s AC/TTC. The County AC/TTC informed LAFCo that the District had successfully filed its audited financial statements for the following five-year cycle:

- In **2013** for the five-year cycle: 2008, 2009, 2010, 2011, 2012, and 2013<sup>13</sup>

The following audited financial statement for the five-year cycles could not be located or verified whether it existed within the District’s records:

- **2018** audit for the five-year cycle: 2014, 2015, 2016, 2017, 2018

Based on available information, it appears that the District’s next financial audit is due in **2023** for the five-year cycle: 2019, 2020, 2021, 2022, and 2023.

During LAFCo’s review of the District’s 1998 and 2013 audit reports, the Auditor noted that the District owns land improvements consisting of various drainage outlets (fixed assets) valued at approximately \$26,254. Fixed assets generally include property, land, buildings, or infrastructure. Fixed assets are valued at historical cost or estimated historical cost if actual cost is not available.

The District is going through the process of evaluating whether to provide services that would benefit local growers. LAFCo notes that the 2021 service agreement provides the District administrative assistance to meet annual financial filing requirements, schedule quarterly district

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<sup>12</sup> For the financial statements: Auditor used FY periods starting on July 1st and ends June 30<sup>th</sup>

<sup>13</sup> Ibid.

board meetings, and for the District Manager to research whether there is a local service need that the District (RCD) can assist with that does not duplicate services with PWD or Panoche Drainage District.

It is recommended that the District network and retain memberships with organizations that can assist the District track potential grant opportunities for RCDs. For example, the California Association of Resource Conservation Districts (“CARD”) serves and promotes cooperation among California’s RCDs, and the association coordinates with various state and federal agencies to secure funding opportunities for RCDs that promote soil and water conservation projects. Networking with other RCDs or organizations may assist the District to position itself to pursue future grant opportunities.

## **Public Facilities, Opportunities for Shared Facilities**

As noted earlier in this MSR, the District’s 1998 and 2013 Audits state that the District owns various drainage outlets that may present a future opportunity for shared facilities with other agencies.

The District benefits from using Panoche Water District’s office to provide a workplace for the District Manager and a conference room for the District’s monthly board meetings. The District’s service area overlaps or is in close proximity with the following types of special districts and agencies:

### **Overlaps**

- Eagle Field Water District
- Fresno Westside Mosquito Abatement District
- Fresno County Fire Protection District
- Mercy Springs Water District
- Oro Loma Water District
- Pacheco Water District (Merced County)
- Panoche Water District
- Panoche Drainage District
- San Luis Water District (Merced County)
- West Fresno County Red Scale Protective District

### **Adjacent**

- Camp 13 Drainage District
- Central California Irrigation District (Merced County)
- Dos Palos Cemetery District (Merced County)
- Firebaugh Resource Conservation District
- Grassland Resource Conservation District (Merced County)
- Los Banos Resource Conservation District (Merced County)
- San Benito Resource Conservation District (San Benito County)
- Silver Creek Drainage District
- Westside Resource Conservation District
- Westlands Water District

**Nearby Groundwater Sustainability Agencies:**

- San Joaquin River Exchange Contractors Groundwater Sustainability Agency
- Central Delta-Mendota Region Multi-Agency Groundwater Sustainability Agency
- Oro Loma Water District Groundwater Sustainability Agency
- Farmers Water District Groundwater Sustainability Agency
- Widren Water District Groundwater Sustainability Agency
- Westlands Water District Groundwater Sustainability Agency

**Government Accountability**

Accountability for community service needs, including governmental structure, and operational efficiencies is evaluated as part of the MSR. This MSR is an informational document that will be used by LAFCo, other local agencies, and the public at large to examine the governmental structure of the District.

The District was formed under the authority granted by California's Resource Conservation District Law (PRC section 9151 *et seq.*) Among many services, the District's principal act empowers RCDs to conduct surveys, investigation, and research items relating to the conservation of resources and disseminate information concerning preventive measures.<sup>14</sup> A list of all the powers and duties granted to RCDs can be found under section 9401 of the PRC.

LAFCo considered the District SOI and MSR updates in 2007 and 2011. The Commission noted each time that the District had a five-member board of directors; however, the District did not have revenues to promote soil or water conservation programs.

On July 2020, LAFCo contacted the PWD to inform the District Manager that LAFCo had scheduled MSR update for the Panoche RCD. LAFCo requested various public documents to determine whether the District has measures in place that promote government accountability. LAFCo staff requested the PWD's District Manager to review the 2011 MSR on behalf of the Panoche RCD and assist LAFCo to gather the District's recent work programs, finances, and accomplishments since the 2011 MSR. Although Panoche RCD is an independent local agency, historically PWD staff has represented and addressed any questions on behalf of Panoche RCD.

Between July 2020 to December 2020, the District Manager and the District's previous legal counsel contacted the District's previous board members and coordinated a District board meeting to address pending business items related to local governance.

During the District's MSR review period, the District Manager and previous legal counsel volunteered their time to research the District's background, its purpose, boundaries, and provided LAFCo with comments to this MSR update.

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<sup>14</sup> PRC section 9402.

During the MSR process, the District informed LAFCo that it could not determine whether the District had any existing rules, regulations, or bylaws. As a result, on January 12, 2021, the District board took action to establish the following items that supports its commitment to reinstate government activities:

- Named District officers and staff.
- Established a meeting schedule, time, and location for future District board meetings.
- Adopted a \$0 budget for FY 2020-2021.
- Entered a service agreement with PWD to provide minimal administration services, no cost.
- Adopted a hardship resolution regarding Senate Bill 929 (McGuire) that requires special districts to have and maintain a website.
- Adopted a resolution to request the Fresno County Board of Supervisors ("BOS") to re-appoint two board members to the District board.

The District's governing body consists of five director seats.<sup>15</sup> A majority of the directors constitutes a board quorum to conduct business. There are three directors with current terms set to expire in 2022, while two directors are waiting for County BOS to re-appoint them to the District board. The expiration of the term of any director does not constitute a vacancy, and the director is authorized hold office until his or her successor has qualified.<sup>16</sup> The District Manager anticipates that the re-appointment of the two directors would occur soon. Current board members have been appointed in lieu of an election by Fresno County BOS, Supervisorial District 1, consistent with requirements of the California Elections Code.

Each Director is required to take the oath of office prior to being appointed to the District's Board and file a Form 700s – Statements of Economic Interests— within 30 days of taking office, annually before April 1 of each year, and within 30 day from leaving office.<sup>17</sup> Form 700s are disclosures of personal economic interest, help to ensure that financial conflict of interest is avoided.

Every two years, board members are required to participate in training that cover general ethics principles and specific laws concerning conflict of interest, prerequisites for holding office, and government transparency. The District Manager informed LAFCo that board members have met their training requirements.

LAFCo notes that its current board members consist of public officials that also hold director seats on Panoche Water District and Panoche Drainage District. Each special district is independent and oversight over each special district's operation and work plans rests upon each board, respectively. Although PWD provides the District staff support, each district operates and is funded independently.

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<sup>15</sup> PRC section 9301.

<sup>16</sup> PRC section 9314.

<sup>17</sup> GC sections 87200 – 87202.



The District's board members serve as volunteers and do not receive compensation for attending district board meetings; however, consistent with the PRC, board members are entitled to be compensated for expenses incurred while performing their duties as board members, such as travel time for training seminars, workshops, or conferences.<sup>18</sup>

Starting January 2021, the District Manager informed LAFCo that board meetings are to be held on a quarterly basis on the second Tuesday of the month at 9:00 a.m. at the Panoche Water District's office located at 52027 W. Althea Avenue, Firebaugh, CA 93622. Generally, the board members convene as the District board and adjourn prior to calling the Panoche Water District's board meetings to order.

Board meetings are noticed consistent with the Brown Act requirements, which include posting agendas and notices of hearings in public places. Public notices and agendas listing items to be considered by the board are displayed outside of the District's office at least 72 hours before each meeting. District board meetings are open to the public.

The District president presides at all meetings of the board, announces the Board's decisions on all subjects, decides all questions of orders, subjects, and signs all board ordinances, resolutions, and contracts approved by the District board. District board meetings are conducted by the president consistent with Robert's Rules of Order. The president also performs any other duties imposed by the board, after first receiving approval by at least three members of the board. In the absence of the president, the vice-president assumes all duties of the president.

The District has one appointed District Manager that is responsible for the daily operations of the District. The District Manager reports directly to the District board and schedules board meetings. The District Manager also serves as the board's executive secretary. As the executive secretary, the District Manager is the custodian of all records of the proceedings taken by the board of directors. Communicating with the District can be achieved by contacting the District Manager either in person, by phone, or email.

The District informed LAFCo that it does not have a website, as required by Senate Bill 929 (McGuire), Special Districts Transparency Act of 2020. On January 12, 2021, the District adopted a resolution determining that it is exempt from establishing and maintaining a website as a result of having insufficient staff resources which result in a hardship under GC sec. 53087.8(b)(3). In order to remain in exempt status, SB 929 requires local agencies to annually adopt resolution determining that a hardship continues to exist.

### **Any other matters related to effective or efficient service delivery**

None.

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<sup>18</sup> PRC section 9303.

## **2. Municipal Service Review Determinations**

The LAFCo has prepared this MSR in accordance with Government Code section 56430. State law requires LAFCo's to identify and evaluate public services provided by the District. The following provides LAFCo's written statements of its determinations with respect to each of the following seven topics:

- 1. Growth and population projections for the affected area.**
  - There are no cities in the District's service area. The District encompasses only unincorporated land in Fresno and Merced Counties.
  - Majority of the District is in Fresno County. The District's service area encompasses a total of 146,860 acres; and, it includes an estimated total population of approximately 1,800 residents in the District.
  - The Counties of Fresno and Merced are the land use authorities for land located within the District's service area.
  - The Fresno County General Plan designates the land within the District for Agricultural uses. Likewise, the Merced County General Plan designates majority of its portion of the District for Agriculture land uses and Foothill Pasture for the portions of the District west of I-5.
  - The District's growth is restricted on all sides by other similar RCDs. Most of the land in the District is identified under active agricultural contracts; therefore, no substantial growth in population is anticipated to occur in the District's boundaries.
- 2. The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence**
  - The District service area and proposed District SOI update encompasses census block groups that meet the Water Code definition of Disadvantaged Communities based on reported MHI levels.
  - The Commission's 2020 DUC database determined that there are no DUCs that meet LAFCo's DUC density criteria of at least 15 dwelling units at a density not less than one unit per acre in the District. District services are limited to promoting the conservation of local resources.
  - For the portion of the District in Merced County, LAFCo staff reviewed Merced County's 2030 General Plan Land Use Element, Appendix B – SB 244 DUC Analysis to determine whether any potential DUC locations existing within the District. Merced County did not identify any DUC locations within the portion of the District in Merced County.

**3. Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence.**

- The PWD shares its office location for the District board of directors to convene. Currently, the District Manager is the same individual that Manages PWD's daily operations.
- During LAFCo's review of the District's financial audited statements, LAFCo learned the Auditor reported that the District owns various fixed assets (land improvements).
- According to the District, it does not own or operate any public facilities, capital infrastructure, or equipment necessary to provide a direct service to its continuance.

**4. Financial ability of agencies to provide services.**

- The District has not received any revenues for many years. The District does not have a regular source of income such as fees for services, tax, or special assessments. A 2021 service agreement between Panoche RCD and PWD provides minimal administrative support by PWD staff at no cost to the District.
- LAFCo notes that the 2021 service agreement provides the District administrative assistance to meet annual financial filing requirements, schedule quarterly district board meetings, and for the District Manager to research whether there is a local service need that the District (RCD) can assist with that does not duplicate services with PWD or Panoche Drainage District.
- On January 2021, the PWD District board adopted a (\$0) budget with no anticipated activities for Fiscal Year ("FY") 2020-2021. The District's fiscal year starts March 1<sup>st</sup> and ends February 28<sup>th</sup> of each year.
- The District has an interest-bearing cash deposit with the Fresno County Treasurer's office. Currently, the District has a reserve cash balance of \$1,235 in its Fresno County Treasury account.
- In 1986, the County BOS unanimously approved the District's request to change the one-year fiscal audits requirement to a five-year cycle pursuant to Fresno County Policy and Government Code section 26909. Based on available information, it appears that the District's next financial audit is due in **2023**.

**5. Status of, and opportunities for, shared facilities.**

- The District's 1998 and 2013 Audits state that the District owns various drainage outlets that may present a future opportunity for shared facilities with other agencies.

- There were no other opportunities identified for additional shared facilities that would benefit the District.
- 6. Accountability for community service needs, including governmental structure and operational efficiencies.**
- The District was formed under the authority granted by California's Resource Conservation District Law (PRC section 9151 *et seq.*)
  - LAFCo considered the District SOI and MSR updates in 2007 and 2011. The Commission noted each time that the District had a five-member board of directors; however, the District was not active in promoting soil or water conservation.
  - The District reports that its current services consist of basic general administration. The District has been in contact various local and state agencies to complete reporting requirements after its prolonged years of inactivity.
  - The District's governing body consists of five director seats. A majority of the directors constitutes a board quorum to conduct business. There are three directors with current terms set to expire in 2022, while two directors are waiting for County BOS to re-appoint them to the District board. The District's board of directors serve as volunteers and do not receive a compensation for attending district board meetings.
  - Every two years, board members are required to participate in training that cover general ethics principles and specific laws concerning conflict of interest, prerequisites for holding office, and government transparency. The District Manager informed LAFCo that its board members have met their training requirements.
  - The District's current board members consist of public officials that also hold director seats on Panoche Water District and Panoche Drainage District. Each special district is independent and oversight over each special district's operation and work plans rests upon each board, respectively. Although PWD provides the District staff support, each district operates independently.
  - The District has one appointed District Manager that is responsible for the daily operations of the District. The District Manager reports directly to the District board and schedules board meetings.
  - Starting January 2021, the District board are to be held on a quarterly basis on the second Tuesday of the month at 9:00 a.m. at the Panoche Water District's office located at 52027 W. Althea Avenue, Firebaugh, CA 93622. Generally, the board member convenes as the District board and adjourn prior to Panoche Water District's board meetings.

- The District Manager informed LAFCo that he is working with the current board of directors to investigate whether there is a service need that the District can identify and reinstate to assist local growers.
  - The District informed LAFCo that it does not have an established website, as required by Senate Bill 929 (McGuire), the Special Districts Transparency Act of 2020. On November 19, 2019, the District adopted a resolution determining that it is exempt from establishing and maintaining a website as a result of having insufficient staff resources which result in a hardship under GC sec. 53087.8(b)(3).
7. **Any other matter related to effective or efficient service delivery, as required by commission policy.**
- LAFCo has reviewed its local policies and there are no other pertinent matters.

### 3. Sphere of Influence Determinations

LAFCo staff reviewed the District SOI update in light of the data collected during the MSR process, as well as from conversations with the District in order to provide the Commission a sound SOI update recommendation for its consideration.

Based on information collected during the MSR process, LAFCo staff expect that the District Manager will work with the current board of directors to investigate whether there is a service need that the District could address among local growers. Furthermore, the District's 2021 service agreement with PWD provides staff support for the District to fulfill annual filing requirements. Based on supporting evidence in this report, LAFCo staff recommends the Commission to remove the District from the 2007 consolidated RCD SOI and issue the District its own SOI that is coterminous with the District's service area as depicted in **Figure 3** of the MSR.

LAFCo recommends that the District continue its effort to successfully reinstate services, build new partnerships, and endeavor to secure a reliable source of District revenue. In summary, the service review found that the District Manager is working with the board to research whether there is a local service need that the District (RCD) can assist with that does not duplicate services with PWD or Panoche Drainage District.

In determining the SOI of each local agency, the commission shall consider and prepare a written statement of its determinations with respect to each of the following items pursuant to Government Code Section 56425 (e):

1. **The present and planned land uses in the area, including agriculture and open space.**
  - The District's service area encompasses only unincorporated land in Fresno and Merced Counties. The Fresno County General Plan designates majority of the land within the

District for agricultural use. Likewise, the Merced County General Plan designates the land within the District for agricultural use; and, Foothill Pasture for the portions of the District west of I-5.

- Most of the land in the District is identified under active agricultural contracts. There are no proposed changes to the present or planned land uses in the affected area.
- 2. The present and probable need for public facilities and services in the area.**
- According to the District, the District does not own or operate any public facilities, capital infrastructure, or equipment necessary to provide a direct service to its continuance. The District's 1998 and 2013 Audits state that the District owns various drainage outlets that may present a future opportunity for shared facilities with other agencies.
  - On January 12, 2021, the District board took action to authorize a 2021 service agreement between the District and Panoche Water District for minimal administrative and operation services to be provided by Panoche Water District.
  - District Manager is working with the board to research whether there is a local service need that the District (RCD) can assist with that does not duplicate services with PWD or Panoche Drainage District.
- 3. The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.**
- The District operates in accordance with Public Resources Code Division 9, Resource Conservation District Law.
  - The District was formed in 1957 pursuant to Public Resources Code Division 9, Resource Conservation District Law to provide services related to soil and water conservation within the District. The District has not provided conservation services or programs in over a decade.
  - The District board plan to assess whether the District can maintain the status quo – inactive, establish a work plan, potentially pursue a government reorganization (consolidation with another RCD), or consider a possible dissolution of the District
  - Without a reliable stream of revenue, the District will need to network and retain memberships with organizations that can assist the District track potential grant opportunities for RCDs.
- 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.**
- There are no relevant social or economic communities of interest in the District's service area.

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 District does not provide public facilities or services related to sewers, municipal and industrial water, or structural fire protection.

## 4. Recommendations

In consideration of information gathered and evaluated in this 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 CEQA Guidelines section 15306 (Information Collection).
3. Approve the recommended Municipal Service Review determinations, together with any changes deemed appropriate.
4. Approve the recommended sphere of influence update determinations, together with any changes deemed appropriate.
5. Find that as a Lead Agency, Fresno LAFCo, it can be seen with certainty that the proposal does not have the potential to result in a significant effect on the environment, and that the proposal is not subject to CEQA pursuant to CEQA guidelines Section 15061 (b)(3).
6. Remove the Panoche Resource Conservation District from the 2007 consolidated SOI and adopt a SOI for the District that is coterminous with the District's 146,860-acre service area, as depicted in **Figure 3** of the MSR.
7. Recommendations to the Panoche Resource Conservation 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 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.

## 5. Acknowledgements

This MSR and SOI update was prepared by Fresno LAFCo. Supporting documentation was made available through the effective partnership with the Panoche Resource Conservation District. LAFCo extends its appreciation to Panoche Resource Conservation District’s District Manager for assisting in the development of this Municipal Service Review.

Available Documentation – documents used for the preparation of this report consist of public records and are available at the Fresno Local Agency Formation Commission 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:

<http://www.fresnolaftco.org/MSR.asp>