



Local Agency Formation Commission  
2222 M Street  
Merced, CA 95340  
Phone (209) 385-7671 / Fax (209) 726-1710  
www.lafcomerced.org

**SEPTEMBER 17, 2020 (Agenda Date)**

**EXECUTIVE OFFICER'S REPORT  
MUNICIPAL SERVICE REVIEW UPDATE FOR  
INDEPENDENT SPECIAL DISTRICTS  
PROVIDING WATER AND/OR SEWER SERVICE**

**I. INTRODUCTION/PURPOSE**

The *Draft Water and Sewer Service Providers Municipal Service Review Update* scheduled for today's Public Hearing is the first update of the previous "comprehensive" Municipal Service Review (MSR) adopted by the Commission in May 2007. This MSR includes all 14 special districts that provide sewer and/or water service to unincorporated areas of the County. The document also incorporates updates of two MSRs which were prepared following Community Plan Updates adopted by the County of Merced: the Hilmar County Water District (in 2015) and the Planada Community Services District (in 2012). The Commission can access the MSR document at the link to the LAFCO Website presented in the list of Attachments at the end of this Report. The MSR can also be accessed by going to the Merced LAFCO website and selecting "Municipal Service Reviews" on the left panel, and then selecting "Draft MSRs."

The legislative authority for conducting Municipal Service Reviews is provided in Government Code Section 56430 of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. Municipal service reviews require LAFCO approval before an update of an agency's Sphere of Influence boundary and an MSR must be completed for every City and independent special district. While the Government Code does not state a time period for updating an MSR, section 56425 does require the Commission to review and periodically update each sphere of influence every five years, "as necessary" which provides for a longer period of time when there are no significant changes to evaluate.

This service review will be a source of information and issues for future sphere of influence and district boundary change applications and for LAFCO initiated actions involving the urban independent special districts. Additionally, it will satisfy section 56425 requirements for these districts. The one exception is the inactive Celeste Community Services District which is the subject to a separate "special study", in compliance with Government Code section 56378(a), leading to the consolidation of the District with the City of Merced or the District's dissolution.

The purpose and objective of the service reviews is to promote more efficient and higher quality service patterns; identify areas for service improvement, including identification of the level of service provided to disadvantaged communities; and, assess the adequacy of the services that are provided, including the fiscal condition of the agency. The Commission must adopt determinations with respect to seven subject areas, identified and required by section 56430(a), which are summarized in the next section of this Executive Officer's Report.

Attached is the consolidated MSR for the 14 special districts that provide urban sewer and water services within Merced County. This MSR was prepared by LAFCO's traditional MSR consultant, Economic & Planning Systems (EPS), under contract to the Commission, along with their subconsultant Berkson Associates.

## II. WATER AND SEWER PROVIDER MUNICIPAL SERVICE REVIEW SUMMARY

The "Water and Sewer Service Providers Municipal Service Review" (MSR) describes the form of governance, service capacities, and the key reorganization issues facing the 14 independent special districts which provide sewer and or potable water service to unincorporated areas within Merced County. The document addresses the seven mandated elements (determinations) addressing the services provided by the districts. It should be recognized that Merced County provides the other governmental and public services within the unincorporated communities where these districts are located (including fire protection, parks and law enforcement), and these services are not addressed in this independent special district MSR.

The determinations that must be made include the following:

1. Growth and population projections for the affected area;
2. The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence;
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;
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 service delivery, as required by commission policy.

This MSR Update includes an eighth determination pertaining to the current sphere of influence boundary of each district and any need for modification. The formal summary of the eight determinations is presented at the end of each individual special district evaluation in Section III of the MSR document. The MSR Update provides a summary and evaluation of each district divided into the following topic areas:

- Governance & Operations
- Infrastructure, Facilities & Services
- Demand and Capacity

A concise summary of pertinent information for each individual district is also provided in a “Profile” table which lists each district’s contact information, population and area served, services provided, and budget information. A map of the current district boundary and sphere of influence is also included.

Section II provides a “Summary of Findings” that includes highlights of the eight determinations and conclusions in a comprehensive basis to give the reader a perspective on the status of urban service districts within the County as a whole and specific district information related to the specific determination topic. Section II also includes summary tables which provide a comprehensive summary of all 14 districts regarding their water and/or wastewater service levels. Tables 1 and 2, address water and wastewater supply, respectively, including service area, population, number of connections, capacity and budget information. Tables 3 and 4 present the corresponding water and/or sewer rates for the 14 districts.

As a brief summary, the special districts included in the MSR have a wide range of size and capacity, with the smallest district providing 23 water connections (Country Club Water District) and the largest providing over 2,900 sewer and water connections (Winton Sanitary and Water District). In terms of budgets, the North Dos Palos County Water District has an annual operating budget of only \$2,823 in FY 2018/19 while the Winton Sanitary and Water District’s budget was \$2,831,637.

#### Summary of Determinations and Conclusions

With the exception of the rural subdivision served by the Country Club Water District, all the communities served by the sewer and/or water districts in the MSR Update are identified as low income with the average income at or below 80% of the statewide median. They are identified as disadvantaged unincorporated communities (DUCs) by the County’s SB 244 analysis (in the General Plan Land Use Chapter), or as disadvantaged communities (DACs) under the Department of Water Resources definition. Many communities actually qualify under both definitions.

While some districts have struggled to maintain service levels for their existing customers, most districts maintain adequate current capacity. However, none of the districts reported having any substantial excess capacity for new connections. This is contrasted to the previous 2007 MSR where many districts had reported rapid growth.

The use of shared facilities or opportunities for consolidations has been identified for several districts. Three special districts approve new connections and charge connection fees, but they are part of a Joint Powers Authority (JPA) with the City of Dos Palos which operates and maintains the regional sewer and water systems. These agencies include the Midway Community Services District, the North Dos Palos Water District and the South Dos Palos County Water District. All rely on the City of Dos Palos for water supply and wastewater treatment.

The Winton community relies on the City of Atwater for wastewater treatment services, but maintains the sewer collection system up to the point of discharge into the City's sewer main, and is responsible for their own billing and approval of new connections.

Efforts are underway to consolidate the Volta Community Services District with the Santa Nella County Water District by having a new well drilled in Volta connected to Santa Nella through a four-mile pipeline. This will improve the water supply for Volta and add an important supplemental water supply well for Santa Nella which is being coordinated with the State Water Resources Control Board in compliance with SB 88 (2015) allowing State initiation of consolidations of public water systems.

#### Comments Received & Recommended Modifications to the Draft EIR

In response to a circulation of the Draft MSR and notice of public hearing, the City of Dos Palos suggested several edits for the three districts which are members of their Joint Powers Authorities (see email from Darrell Fonseca, City Manager, in Attachment 1). A request to clarify that the portion of the North Dos Palos County Water District south of Carmellia Road is in their City Planning Area, and that there is no intent to annex any land north of Carmellia Road. The City's Phasing Plan for growth prioritizes the Midway and South Dos Palos communities for future annexation before growth to the north to preserve agricultural resources. Mr. Fonseca also requests adding text for both the Midway Community Services District and South Dos Palos County Water District to clarify circumstances involving existing debts owed to the USDA from a 1990 loan to the Wastewater JPA.

In response to these comments the following Modifications are recommended by Staff:

1. On Page 9, under (8) "Sphere of Influence Review" modify the last sentence to read: "Furthermore, the communities of North Dos Palos, South Dos Palos, and Midway are within the City of Dos Palos Planning Area and are anticipated to eventually be annexed into the City." Then add a new final sentence to read: "The City also anticipates annexing the portion of the North Dos Palos Water District located south of Carmellia Road which is in the City's Sphere of Influence and Planning Area."
2. On Page 52, regarding the Midway Community Services District, revise the second paragraph to read: "It is unknown if the District receives any special assessments or other taxes, or if it has any outstanding but the District does have \$90,000 of existing debts from a 1990 USDA loan as the District's share of the Wastewater Joint Powers Authority (JPA) with the City of Dos Palos and the South Dos Palos County Water District. While the City of Dos Palos recently refinanced the City's portion of the 40 year Wastewater JPA bond debt from a 6% rate down to a 3% rate, saving the City 15% in its remaining total debt, the Midway Community Services District declined to accept the City of Dos Palos' offer to pay off their share of the debt as part of the City's refinancing effort. It is also unknown how often the District conducts audit reports; however, the County Audit-Controller has indicated

that the most recent profile received was for the year 2018.<sup>104</sup>”

3. Correct the a typo in the first sentence of the second paragraph on Page 53: “The MCSD does not maintain its own wastewater infrastructure and is instead a participant in a JPA involving the City of Dos Palos and South Dos Palos County Water District for the provision of sewer service.”
4. On Page 53, first paragraph, replace the first full sentence in the first paragraph with the following sentences: “It is unknown if the District has any outstanding debts. The District owes approximately \$100,000 to the USDA for its share of a 1990 loan to the Wastewater Joint Powers Authority (JPA) with the City of Dos Palos and the Midway Community Services District. While the City of Dos Palos recently refinanced the City’s portion of the 40-year Wastewater JPA bond debt from a 6% rate down to a 3% rate, saving the City 15% in its remaining total debt, the Midway Community Services District declined to accept the City of Dos Palos’ offer to pay off their share of the debt as part of the City’s refinancing effort.”

### **III. ENVIRONMENTAL DETERMINATION**

In LAFCO’s role as “Lead Agency” under CEQA, for action on the Municipal Service Review, the Commission should adopt a finding that the Municipal Service Review is Categorical Exempt from CEQA under CEQA Guidelines Section 15306 “Information Collection.”

This exemption recognizes that data and information gathering and studies which do not lead to a serious or major disturbance to an environmental resource can be considered exempt. At the time of a future revision of a sphere of influence or with an individual annexation, further environmental review will be required.

### **IV. RECOMMENDATIONS**

In order to approve this Municipal Service Review, staff recommends the Commission take the following actions:

#### **Environmental Review**

**LAFCO Staff recommends the Commission adopt the following finding:**

1. In accordance with CEQA Section 15306 “Information Collection”, the Commission finds this Municipal Service Review is categorically exempt from CEQA, and that any future LAFCO action involving the independent special districts covered in this service review will involve a separate environmental determination and action.

## **Municipal Service Review Determinations**

**LAFCO Staff recommends the Commission adopt the following determinations and actions:**

1. Determine that the Water and Sewer Service Providers Municipal Service Review Update was completed in compliance with Section 56340 of the Cortese-Knox-Hertzberg Act and the Municipal Service Review Guidelines prepared by the Governor's Office of Planning and Research.
2. Determine that the public hearing for approval of the Municipal Service Review has been adequately noticed and advertised.
3. The Commission makes the seven determinations required in Government Code Section 56340 and the eighth determination presented for each district pertaining to the district's sphere of influence.
4. Determine that the sphere of influence for each independent special district contained in the Municipal Service Review is adequate and acceptable based on current information, and that any future sphere of influence revisions will be initiated by the various districts or through a subsequent separate action by the Commission.
5. The City Manager of the City of Dos Palos, in an email dated September 1, 2020, has provided clarification to the text of three special districts who are part of a regional Joint Powers Authority, and Staff has requested text modifications to reflect current conditions for the North Dos Palos Water District, the Midway Community Services District and the South Dos Palos County Water District on Pages 4 and 5 of the Executive Officer's Report (Section II).

**Based on the above determinations, Staff recommends the Commission approve the Water and Sewer Service Providers Municipal Service Review and associated sphere of influence maps, including the changes identified in the recommended modifications portion of Section II of the Executive Officer's Report.**

## **LOCAL AGENCY FORMATION COMMISSION OF MERCED COUNTY**



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**William Nicholson, Executive Officer**

**ATTACHMENTS:**

1. Email dated September 1, 2020, from Darrell Fonseca, City Manager, City of Dos Palos
2. Draft Resolution No. 2020-1 Adopting the Water and Sewer Service Providers Municipal Service Review

(The Draft Water and Sewer Service Providers Municipal Service Review Update MSR can also be accessed by going to the Merced LAFCO website and selecting "Municipal Service Reviews" on the left panel, and then selecting "Draft MSRs.") or by accessing the following link:

[http://139.151.188.73/pdfs/MunicipalServiceReviews/Drafts/171106\\_Merced\\_Urban\\_Water\\_Districts\\_Public\\_Review\\_Draft\\_edit20200819.pdf](http://139.151.188.73/pdfs/MunicipalServiceReviews/Drafts/171106_Merced_Urban_Water_Districts_Public_Review_Draft_edit20200819.pdf)

cc: Ashleigh Kanat, Economic & Planning Systems, Inc.  
Richard Berkson, Berkson Associates  
LAFCO Counsel

Date: September 1, 2020  
To: Bill Nicholson, LAFCo, and Supervisor Silveira  
From: Darrell Fonseca, City Manager, City of Dos Palos  
Subject: Dos Palos Comments in **Blue** on the **August 17, 2020/Public Review Draft Report County of Merced Water and Sewer Service Providers Municipal Service Review**

**(Page 9) (8) Sphere of Influence Review:**

“Furthermore, the communities of North Dos Palos, South Dos Palos, and Midway are within the City of Dos Palos Planning Area and are anticipated to be eventually annexed to the City.”

Only that portion of North Dos Palos which is South of Carmellia Road is in the City’s SOI/Planning Area. The City of Dos Palos has no intention of annexing North of Carmellia Road. The City’s General Plan speaks both to preserving all Ag land North of Carmellia and has a Phasing Plan which calls for annexing and developing Midway and South Dos Palos before any areas to the North within its SOI/Planning Area. This document’s Page 58 also acknowledges this.

**(Page 51) Midway ...**

4<sup>th</sup> Paragraph Midway CSD is currently in the process of establishing a website.

**(Page 52)**

2<sup>nd</sup> Paragraph “...outstanding debts”

Midway CSD owes approximately \$90,000 to the USDA for its share of a 1990 loan to the Wastewater JPA. In 2010, the City attempted to refinance the bonded debt obligations of the Wastewater JPA but the district voted against refinancing. In 2019, the City offered to pay off Midway’s 40 year Wastewater JPA bond debt to enable the City to refinance the City’s 40 year Wastewater JPA bond debt at a lower cost. Midway declined to participate voicing fear that it would lead to elimination of the MCSD or the WWJPA. The City proceeded in refinancing the City’s 6% \$2.5 million WWJPA bond to a 3% private placement saving the City 15% and eliminatiing one year full year of payments.

**(Page 53)**

2<sup>nd</sup> Paragraph Typo Palo to Palos

**(Page 83)**

1<sup>st</sup> Paragraph “...outstanding debts”

South Dos Palos CWD owes approximately \$100,000 to the USDA for its share of a 1990 loan to the Wastewater JPA. In 2010, the City attempted to refinance the bonded debt obligations of the Wastewater JPA but the district voted against refinancing. In 2019, the City offered to pay off South Dos Palos’s 40 year Wastewater JPA bond debt to enable the City to refinance the City’s 40 year Wastewater JPA bond debt at a lower cost. South Dos Palos declined to participate voicing fear that it would lead to elimination of the SDPCWD or the WWJPA. The City proceeded in refinancing the City’s 6% \$2.5 million WWJPA bond to a 3% private placement saving the City 15% and eliminatiing one year full year of payments. End of Comments.



**RESOLUTION NO. 2020-1**  
**LOCAL AGENCY FORMATION COMMISSION OF MERCED COUNTY**  
**MAKING DETERMINATION AND APPROVING THE**  
**SEWER AND WATER SERVICES PROVIDERS**  
**MUNICIPAL SERVICE REVIEW UPDATE**

**Attachment 2**

WHEREAS, pursuant to the Cortese/Knox/Hertzberg Local Government Reorganization Act of 2000 (California Government Code section 56430) the Commission is required to conduct a Municipal Service Review before, or in conjunction with, but no later than the time it is considering an action to update a Sphere of Influence; and

WHEREAS, Government Code section 56425 et. seq. states the Commission must review and update, as necessary, adopted spheres of influence not less than once every five years; and

WHEREAS, the Commission has conducted a Municipal Service Review in accordance with California Government Code section 56430, updating the previous Sewer and Water Services Providers Municipal Service Review adopted in 2007; and

WHEREAS, the California Government Code section 56430 requires the Commission to prepare written determinations with respect to seven factors outlined in this section; and

WHEREAS, the Municipal Service Review is an informational document and its adoption is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15306, Class 6 (Information Gathering) of the State CEQA Guidelines; and

WHEREAS, in the manner required by law, the Executive Officer has given notice of the public hearing by the Commission on the proposal; and

WHEREAS, the Commission has heard, discussed and considered all evidence regarding this matter, including but not limited to, the Executive Officer's Report with the reference to four modifications to the Municipal Service Review, the environmental consideration, the Draft Municipal Service Review Update, and all testimony, correspondence and exhibits received for the public hearing, all of which are included herein by reference.

NOW, THEREFORE, the Local Agency Formation Commission of Merced County does hereby Find, Determine and Resolve as follows:

SECTION I.           The project before the Commission is a Municipal Service Review update for the Sewer and Water Service Providers involving the independent special districts within Merced County providing sewer and/or water service to urban communities.

SECTION II.          The Commission finds that the preparation and adoption of the Sewer and Water Services Providers Municipal Service Review update is categorically exempt from Environmental Review

under section 15306, Class 6 (Information Collection) of the CEQA Guidelines (Public Resources Code).

SECTION III. Determines the Municipal Service Review update has been prepared in consideration of the factors set forth in Section 56430 of the Cortese/Knox/Hertzberg Local Governmental Reorganization Act of 2000, and locally adopted LAFCO policies, and written determinations have been presented for each independent special district included in the Sewer and Water Services Providers Municipal Service Review update in compliance with the Government Code.

SECTION IV. Determines the Municipal Service Review identified the sphere of influence of each independent special district along with a determination on possible future modifications.

SECTION V. The Commission hereby approves the Sewer and Water Services Providers Municipal Service Review update including the seven determinations in compliance with Government Code section 56340, and and eighth determination regarding the sphere of influence, subject to the four modifications identified in Section II of the Executive Officer's Report dated September 17, 2020.

I, WILLIAM NICHOLSON, Executive Officer of the Local Agency Formation Commission of Merced, California, do hereby certify that the foregoing resolution was duly and regularly adopted by said Commission at a regular meeting thereof held upon the 17<sup>th</sup> day of September, 2020, by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_ day of September, 2020.

WILLIAM NICHOLSON, EXECUTIVE OFFICER,  
LOCAL AGENCY FORMATION COMMISSION  
OF MERCED, CALIFORNIA

By: \_\_\_\_\_  
William Nicholson, LAFCO Executive Officer

APPROVED AS TO FORM:  
LEGAL COUNSEL

LOCAL AGENCY FORMATION COMMISSION  
OF MERCED, CALIFORNIA

By: \_\_\_\_\_  
Malathy Subramanian, LAFCO Counsel