

MODOC LAFCO

SOUTH FORK IRRIGATION DISTRICT

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

Adopted: April 15, 2014

Resolution 2014-0002 Service Review

Resolution 2014-0003 Sphere of influence Update

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1 INTRODUCTION

1.1 Local Agency Formation Commission (LAFCO) History

This report is prepared pursuant to legislation enacted in 2000 that requires LAFCO to conduct a comprehensive review of municipal service delivery and update the spheres of influence (SOIs) of all agencies under LAFCO's jurisdiction. This chapter provides an overview of LAFCO's history, powers and responsibilities. It discusses the origins and legal requirements for preparation of the municipal services review (MSR). Finally, the chapter reviews the process for MSR review, MSR approval and SOI updates.

After World War II, California experienced dramatic growth in population and economic development. With this boom came a demand for housing, jobs and public services. To accommodate this demand, many new local government agencies were formed, often with little forethought as to the ultimate governance structures in a given region, and existing agencies often competed for expansion areas. The lack of coordination and adequate planning led to a multitude of overlapping inefficient jurisdictional and service boundaries, and to the premature conversion of California's agricultural and open-space lands.

Recognizing this problem, in 1959, Governor Edmund G. Brown, Sr. appointed the Commission on Metropolitan Area Problems. The Commission's charge was to study and make recommendations on the "misuse of land resources" and the growing complexity of local governmental jurisdictions. The Commission's recommendations on local governmental reorganization were introduced in the Legislature in 1963, resulting in the creation of a Local Agency Formation Commission, or "LAFCO," operating in every county.

LAFCO was formed as a countywide agency to discourage urban sprawl and to encourage the orderly formation and development of local government agencies. LAFCO is responsible for coordinating logical and timely changes in local governmental boundaries, including annexations and detachments of territory, incorporations of cities, formations of special districts, and consolidations, mergers and dissolutions of districts, as well as reviewing ways to reorganize, simplify, and streamline governmental structure.

The Commission's efforts are focused on ensuring that services are provided efficiently and economically while agricultural and open-space lands are protected. To better inform itself and the community as it seeks to exercise its charge LAFCO conducts service reviews to evaluate the provision of municipal services within the County.

LAFCO regulates, through approval, denial, conditions and modification, boundary changes proposed by public agencies or individuals. It also regulates the extension of public services by cities and special districts outside their boundaries. LAFCO is empowered to initiate updates to the SOIs and proposals involving the dissolution or consolidation of special districts, mergers, establishment of subsidiary districts, and any reorganization including such actions. Otherwise, LAFCO actions must originate as petitions or resolutions from affected voters, landowners, cities or special districts.

1.2 Modoc LAFCO

Modoc LAFCO consists of five regular members:

- two members from the Modoc County Board of Supervisors
- two city council members
- one public member who is appointed by the other members of the Commission

There is an alternate in each category. All Commissioners are appointed to four-year terms. The Commissioners for Modoc LAFCO are as follows:

Commissioners

David Allan, County Member
Jim Irvin, City Member, Vice-Chair
Marie Neer, Public Member
John Dederick, City Member, Chair
Kathie Alves, County Member

Alternate Members

T.J. Jerry Shea, Public Member Alt.

Geri Byrne, County Member Alt.
Chair Cheryl Nelson, City Member Alt.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires LAFCO review and update SOIs no less than every five years and to review municipal services before updating SOIs. Modoc LAFCO policies state that “Modoc LAFCO must review and update each agency’s Sphere of Influence at least once every five years, as necessary”. The requirement for service reviews arises from the identified need for a more coordinated and efficient public service structure to support California’s anticipated growth. The service review provides LAFCO with a tool to study existing and future public accommodating growth, preventing urban sprawl, and ensuring that critical services are provided efficiently.

1.3 Municipal Services Review Requirements

Effective January 1, 2008, Government Code §56430 requires LAFCO to conduct a review of municipal services provided in the county by region, sub-region or other designated geographic area, as appropriate, for the service or services to be reviewed, and prepare a written statement of determination with respect to each of the following topics:

1. Growth and population projections for the affected area
2. The location and characteristics of any disadvantaged unincorporated communities (DUC) 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

1.4 Municipal Services Review Process

For local agencies, the MSR process involves the following steps:

- Outreach: LAFCO outreach and explanation of the project
- Data Discovery: provide documents and respond to LAFCO questions
- Map Review: review and comment on LAFCO draft map of the agency's boundary and sphere of influence
- Profile Review: internal review and comment on LAFCO draft profile of the agency
- Public Review Draft MSR: review and comment on LAFCO draft MSR
- LAFCO Hearing: attend and provide public comments on MSR

MSRs are exempt from California Environmental Quality Act (CEQA) pursuant to §15262 (feasibility or planning studies) or §15306 (information collection) of the CEQA Guidelines. LAFCO's actions to adopt MSR determinations are not considered "projects" subject to CEQA. The MSR process does not require LAFCO to initiate changes of organization based on service review findings, only that LAFCO identify potential government structure options.

However, LAFCO, other local agencies, and the public may subsequently use the determinations to analyze prospective changes of organization or reorganization or to establish or amend SOIs. Within its legal authorization, LAFCO may act with respect to a recommended change of organization or reorganization on its own initiative (e.g., certain types of consolidations), or in response to a proposal (i.e., initiated by resolution or petition by landowners or registered voters).

Once LAFCO has adopted the MSR determinations, it must update the SOIs for each jurisdiction. The LAFCO Commission determines and adopts the spheres of influence for each agency. A CEQA determination is made by LAFCO on a case-by-case basis for each sphere of influence action and each change of organization, once the proposed project characteristics are sufficiently identified to assess environmental impacts.

1.5 Sphere Of Influence Updates

The Commission is charged with developing and updating the Sphere of Influence (SOI) for each city and special district within the county.¹

An SOI is a LAFCO-approved plan that designates an agency's probable future boundary and service area. Spheres are planning tools used to provide guidance for individual boundary change proposals and are intended to encourage efficient provision

¹ The initial statutory mandate, in 1971, imposed no deadline for completing sphere designations. When most LAFCOs failed to act, 1984 legislation required all LAFCOs to establish spheres of influence by 1985.

of organized community services and prevent duplication of service delivery. Territory cannot be annexed by LAFCO to a city or district unless it is within that agency's sphere.

The purposes of the SOI include the following: to ensure the efficient provision of services, to discourage urban sprawl and premature conversion of agricultural and open space lands, and to prevent overlapping jurisdictions and duplication of services. LAFCO cannot regulate land use, dictate internal operations or administration of any local agency, or set rates. LAFCO is empowered to enact policies that indirectly affect land use decisions. On a regional level, LAFCO promotes logical and orderly development of communities as it considers and decides individual proposals. LAFCO has a role in reconciling differences between agency plans so that the most efficient urban service arrangements are created for the benefit of current and future area residents and property owners.

The Cortese-Knox-Hertzberg (CKH) Act requires to develop and determine the SOI of each local governmental agency within the county and to review and update the SOI every five years. LAFCOs are empowered to adopt, update and amend the SOI. They may do so with or without an application and any interested person may submit an application proposing an SOI amendment.

While SOIs are required to be updated every five years, as necessary, this does not necessarily define the planning horizon of the SOI. The term or horizon of the SOI is determined by each LAFCO. In the case of Modoc LAFCO, the Commission's policies state that an agency's near term SOI shall generally include land that is anticipated to be annexed within the next five years, while the agency's long-term SOI shall include land that is within the probable growth boundary of an agency and therefore anticipated to be annexed in the next 20 years.

LAFCO may recommend government reorganizations to particular agencies in the county, using the SOIs as the basis for those recommendations. In determining the SOI, LAFCO is required to complete an MSR and adopt the nine determinations previously discussed.

In addition, in adopting or amending an SOI, LAFCO must make the following determinations:

- Present and planned land uses in the area, including agricultural and open-space lands
- Present and probable need for public facilities and services in the area
- Present capacity of public facilities and adequacy of public service that the agency provides or is authorized to provide
- Existence of any social or economic communities of interest in the area if the Commission determines these are relevant to the agency

The CKH Act stipulates several procedural requirements in updating SOIs. It requires that special districts file written statements on the class of services provided and that LAFCO clearly establish the location, nature and extent of services provided by special districts.

By statute, LAFCO must notify affected agencies 21 days before holding the public hearing to consider the SOI and may not update the SOI until after that hearing. The LAFCO Executive Officer must issue a report including recommendations on the SOI amendments and updates under consideration at least five days before the public hearing

1.6 Possible Approaches to the Sphere of Influence

LAFCO may recommend government reorganizations to particular agencies in the county, using the SOIs as the basis for those recommendations. Based on review of the guidelines of Modoc LAFCO as well as other LAFCOs in the State, various conceptual approaches have been identified from which to choose in designating an SOI. These seven approaches are explained below:

1) Coterminous Sphere:

A coterminous sphere means that the sphere for a city or special district that is the same as its existing boundaries. This is the recommendation for South Fork Irrigation District.

2) Annexable Sphere:

A sphere larger than the agency's boundaries identifies areas the agency is expected to annex. The annexable area is outside its boundaries and inside the sphere.

3) Detachable Sphere:

A sphere that is smaller than the agency's boundaries identifies areas the agency is expected to detach. The detachable area is the area within the agency bounds but not within its sphere.

4) Zero Sphere:

A zero sphere indicates the affected agency's public service functions should be reassigned to another agency and the agency should be dissolved or combined with one or more other agencies.

5) Consolidated Sphere:

A consolidated sphere includes two or more local agencies and indicates the agencies should be consolidated into one agency.

6) Limited Service Sphere:

A limited service sphere is the territory included within the SOI of a multi-service provider agency that is also within the boundary of a limited purpose district which provides the same service (e.g., fire protection), but not all needed services. Territory designated as a limited service SOI may be considered for annexation to the limited purpose agency without detachment from the multi-service provider.

This type of SOI is generally adopted when the following four conditions exist:

- a) The limited service provider is providing adequate, cost effective and efficient services
- b) The multi-service agency is the most logical provider of the other services
- c) There is no feasible or logical SOI alternative, and
- d) Inclusion of the territory is in the best interests of local government organization and structure in the area

Government Code §56001 specifically recognizes that in rural areas it may be appropriate to establish limited purpose agencies to serve an area rather than a single service provider, if multiple limited purpose agencies are better able to provide efficient services to an area rather than one service district.

Moreover, Government Code Section §56425(i), governing sphere determinations, also authorizes a sphere for less than all of the services provided by a district by requiring a district affected by a sphere action to “establish the nature, location, and extent of any functions of classes of services provided by existing districts” recognizing that more than one district may serve an area and that a given district may provide less than its full range of services in an area.

7) Sphere Planning Area:

LAFCO may choose to designate a sphere planning area to signal that it anticipates expanding an agency’s SOI in the future to include territory not yet within its official SOI.

1.7 SOI Amendments and CEQA

LAFCO has the discretion to limit SOI updates to those that it may process without unnecessarily delaying the SOI update process or without requiring its funding agencies to bear the costs of environmental studies associated with SOI expansions. Any local agency or individual may file a request for an SOI amendment. The request must state the nature of and reasons for the proposed amendment, and provide a map depicting the proposal.

LAFCO may require the requester to pay a fee to cover LAFCO costs, including the costs of appropriate environmental review under CEQA. LAFCO may elect to serve as lead agency for such a review, may designate the proposing agency as lead agency, or both the local agency and LAFCO may serve as co-lead agencies for purposes of an SOI amendment. Local agencies are encouraged to consult with LAFCO staff early in the process regarding the most appropriate approach for the particular SOI amendment under consideration.

2 SETTING

2.1 Pit River

The Pit River is a major river draining northeastern California into the state's Central Valley. The Pit, the Klamath and the Columbia are the only three rivers in the U.S. that cross the Cascade Range.

The longest tributary of the Sacramento River, the Pit River contributes as much as eighty percent of the combined water volume into Lake Shasta; the junction of their Lake Shasta arms is 4 miles northeast of Shasta Dam. The main stem of the Pit River is 207 miles long, and some water in the system flows 315 miles to the Sacramento River measuring from the Pit River's longest source.

The Pit River drains a sparsely-populated volcanic highlands area, passing through the south end of the Cascade Range in a deep canyon northeast of Redding. The River is so named because of the pits the Achumawi dug to trap game that came to water at the river.

The Pit River rises in several forks in Modoc, Lassen and Shasta counties in the northeastern corner of California. Originating in the Warner Mountains, the 58-mile South Fork Pit River source originates just southeast of Buck Mountain in the Warner Mountains in the extreme southeastern corner of the Modoc National Forest 9 miles west of the Nevada border. The South Fork is formed from the confluence of several creeks in Jess Valley 13 miles northeast of Madeline and flows west through a narrow canyon, past Likely, then generally through a broad ranching valley where its waters are diverted for irrigation and waterfowl conservation in an extensive system of canals. The 30-mile long North Fork tributary begins 5 miles southeast of the town of Davis Creek. It flows generally south-southwest, joining the South Fork from the north near Alturas.

The combined River flows west-southwest in a winding course across Modoc County, past Canby and through the Modoc National Forest in the narrow Stonecoal Valley gorge. It turns south to flow past Lookout and into northern Lassen County, past Bieber to emerge into the ranching region of Big Valley. North of Little Valley it runs east into northeastern Shasta County, passing through the Cascades in a serpentine canyon in the Shasta National Forest. It flows through the Fall River Valley Joining the Fall River. Together they span much of the Valley forming one of the largest systems of fresh water springs in the country while passing through the Town of Fall River Mills and culminating in two spectacular waterfalls. It then flows south to join the Sacramento River as the eastern arm of Shasta Lake reservoir, approximately 15 miles north of Redding. The lower 30 miles of the river forms the longest of the five arms of Lake Shasta, which is formed by Shasta Dam on the Sacramento downstream from the original confluence.

The River is a popular destination for fly fishing and rafting in its lower reaches, and is used for hydroelectric both in the powerhouses below Fall River Mills and at Shasta Dam. It is also used extensively for irrigation and conservation purposes.

2.2 Proposed Hydroelectric Project

The following information is presented on a proposed hydroelectric project which did not get built to provide background information on the South Fork Irrigation District.

2.2.1 Planning Commission Meeting on Proposed Hydroelectric Project

The following article from the *Klamath Falls Herald and News* January 24, 2003 edition by Jean Bilodeaux describes a Modoc County Planning Commission meeting regarding a proposed hydroelectric plant:

Modoc hydro project raises concerns

ALTURAS - The room could hardly hold the 30 or so people who attended to protest, they squeezed around a large table and ringed the outer walls of the room. The applicant did not attend, but one representative from the South Fork Irrigation District was there.

Dave Alvord, Modoc County's associate planner, was flooded with a roomful of questions concerning the proposed West Valley Hydroelectric project during a Thursday morning hearing.

GeoSense, an engineering company based in Idaho Falls, Idaho, wants to build a 2.8 megawatt hydroelectric generating facility eight miles east of Likely. The electricity generated would supply power to about 2,800 homes.

The company wants to divert 100 cubic feet per second through two powerhouses before releasing the water back into the South Fork of the Pit River. This would leave about five cfs in the river for a 2.9 mile distance.

"This is a non-consumptive use of the water and is allowed by existing South Fork Irrigation District laws," said Ken McGarva of the South Fork Irrigation District. McGarva said the Irrigation District would receive either 5 percent of the gross profits or buy-in for a possible larger profit or loss. Money generated to the District would relieve or erase the \$20,000 per year in fees paid by the 13 district users.

Many of the concerns were centered on the 2.9-mile stretch of River, from where the water is taken from the River to where it is returned. Some speakers claimed fish habitat would essentially be destroyed.

Don Baker, who lives near the river, said that while the five cfs might sustain a redband trout, "it won't support the rainbow and brown trout also in the stream." The area in question is considered by some as one of the most pristine and best fishing areas in the Western U.S.

Most of the people at the meeting live along the affected portion of the river. Many agreed with resident Dag Weiser, who claimed, "The River is what makes our property beautiful and desirable as a home. The River is

what we invested in, to live near, fish in and care for. The River is essential to us and our neighbors, as well as countless other critters. It is an investment in our future." Speakers said noise levels created by the power plant were not considered in the preliminary report.

"The noise level caused by 100 cfs of water down a metal pipe and 100 cfs hitting the river and the noise of the turbine engine in a metal building would all combine to destroy the serenity of our existence for 12 months of the year," said Norm Vogt, who lives close to one of the proposed power plants. "This would all occur within a stone's throw of our home. This noise would completely disrupt our daytime peace and nighttime sleep. This for us would be a hell on earth, both day and night." River turbidity was another concern.

"The long-term effect of dumping 100 cfs into the River has not been addressed. It will cause turbidity in the River clear to Likely," said Bob Ensign. Alvord said a turbidity test showed no significant impact. Baker, however, was skeptical, noting, "The water samples were taken and tested by Nick Josten, the GeoSense engineer for this project. It seems to me that it's a case of the fox guarding the hen house. He's making the evaluation and stands to gain the most."

Representatives from the Forest Service and Bureau of Land Management, agencies involved in the permitting process, said they will require an unbiased third party to do the sampling and testing.

Spokesmen for both agencies agreed there was insufficient data to make any decisions. "The information provided to us was 20 years old and does not meet our standards," said Forest Service representative Jayne Biggerstaff.

It was also reported that rumors that the proposed plant will result in lower electric rates were untrue. Lynn Culp of Surprise Valley Electric said the company does not plan on buying electricity generated by the plant. The proposed plant would wheel their electricity on SVE lines before selling it to the grid. "Any cost of changes that may have to be made to our existing lines in order to wheel this power will have to be paid for by their company," said Culp. Another public meeting will be scheduled.

Correspondent Jean Bilodeaux covers Surprise Valley. She can be reached at (530) 279-2031, or at P.O. Box 5, Cedarville, CA 96104, or by sending an e-mail to jeanb@hdo.net.²

² http://www.ebold.com/~savesouthfork/article_HandN_03.htm, August 26, 2011

2.2.2 Federal Energy Regulation Commission Application P-12053

In spite of the acrimonious Planning Commission meeting described above; the proposed hydroelectric plant application process continued with scoping meetings held in Likely on June 15, 2005. The following is a news account of these meetings:

Modoc County, CA - Modoc County Under Federal Energy Regulation Commission Application P-12053, Nicholas Josten of Idaho filed an application to construct a hydroelectric plant upon the South Fork of the Pit River, located in rural Modoc County. This project proposes to generate electrical power for a maximum of 2,200 households.

As partners, the South Fork Irrigation District of Likely, California and Barry Swenson of Alturas Ranches who is financing the studies and arranging for the financing of the million plus dollar project, propose to divert 100 cubic feet from a River that hardly runs 45 cubic per second during average years along a three mile stretch of scenic roadway that runs alongside Jess Valley Road. The River is home to the endangered red band trout and the project site is proposed to sit on a 31 acre piece of BLM property, situated between two private residences and in the midst of a small residential area.

Swenson, a multimillionaire Silicon Valley Builder and Land Developer, dba Green Valley Corporation, and a sixty percent stakeholder in the South Fork Irrigation District, owns much property in Santa Clara, Monterey, Marin, Alameda, Fresno, Contra Costa, San Joaquin, Yuba, Sutter, Sonoma and Modoc Counties and builds major hotels and commercial buildings. He started acquiring property in Modoc County in 1997.

Two fiery and heated scoping sessions were held Wednesday, June 15th, 2005 in Likely, California, with FERC officials and representatives of the National Forest Service and BLM on a proposed small hydropower project on the South Fork of the Pit River in Modoc County. Swenson's representative threatened landowners and opponents, "You people will find yourselves living in a community that hates you if you continue this!" (meaning opposing the project)³

The following information from the Federal Energy Regulation Commission (FERC) describes the hydroelectric plant application and request for an exemption (instead of a license) which was denied in 2006:

Background

- 1. On July 18, 2003, Nicholas Josten filed an exemption application for the proposed project, which would occupy approximately 31 acres of federal lands managed by the U.S. Forest Service and the Bureau of Land Management, and consist of two developments: West Valley A and West Valley Alternative B-1. The upper development, West Valley A, would be a run-of-river*

³ <http://santacruz.indymedia.org/newswire/display/17998/index.php>, August 26, 2011.

development with a capacity of 1.0 MW and would include a diversion structure, irrigation canal, penstock, powerhouse (upper powerhouse), tailrace pipe, and 3,000-foot-long transmission line. (Unpublished letter from J. Mark Robinson to Nicholas E. Josten. Project No. 12053-003)

2. *The lower development, West Valley Alternative B-1, would be a run-of-river development with a capacity of 1.36 MW and would include the West Valley Dam and reservoir, outlet works, penstock, powerhouse (lower powerhouse), tailrace canal, and 4.5-mile-long transmission line.*
3. *The upper development would divert water from the South Fork Pit River into the irrigation canal. The water would travel approximately three miles through the canal and drop about 140 feet through a penstock to the upper powerhouse. Water would exit the upper powerhouse through a tailrace pipe. The water, as supplemented by irrigation flows from the reservoir, would leave through the outlet pipe in the dam and drop about 100 feet through a penstock to the lower powerhouse. The lower powerhouse would discharge water into a tailrace canal, which would discharge into the South Fork Pit River two and one half miles downstream from the upper development diversion structure.*
4. *On September 21, 2006, the Director dismissed the exemption application. The Director concluded that the upper development did not qualify as an exemption because it would neither be located at, nor use the water power potential of, an existing dam. The Director further found that, regarding the lower development, the applicant did not provide documentary evidence that he had the real property interests for the West Valley Dam and reservoir (which is owned and operated by the South Fork Irrigation District) or for the proposed 4.5-mile-long transmission line.*
5. *On October 6, 2006, the applicant filed a request for rehearing of the Director's order, arguing that the project would use a natural water feature to generate power, and that he had provided evidence of sufficient property rights to operate the project. On October 12, 2006, he filed a second pleading in which he asked that, if his rehearing request is not granted, his exemption application be converted to a license application.*

Decision

On September 21, 2006, the Director, Office of Energy Projects (Director), issued a letter order dismissing the exemption application filed by Nicholas Josten (applicant) for the 2.36-megawatt (MW) West Valley A&B Hydro Project No. 12053, proposed to be located on the South Fork of the Pit River in Modoc County, California, because the project did not qualify for an exemption from the licensing requirements of Part I of the Federal Power Act (FPA), and the application did not comply with the Commission’s regulations.

On October 6, 2006, the applicant filed a timely request for rehearing of the Director’s order. We conclude that the Director’s findings were correct, and we therefore deny rehearing. However, as discussed below, we will allow the application to be converted to a license application.⁴

2.3 Modoc County Agriculture

The value of all agricultural products produced in Modoc County for 2008 (the most recent report available) was \$108,879,894. This represents an overall increase of approximately 10% from the previous year due to an increase in field crop revenue. The value of field crops in Modoc County in 2008 is shown in the table below.⁵

Field Crops in Modoc County 2008⁶					
Crop	Acres	Production Per Acre	Total Production	Price Per Unit	Total Value
Barley	2255	2.75	6,201 Tons	\$300	\$1,860,375
Wheat	8330	3.25	27,072 Tons	\$225	\$6,091,313
Oats	70	2.25	157 Tons	\$175	\$27,563
Peas	153	1.55	230 Tons	\$500	\$114,750
Alfalfa	34,400	5.30	182,320 Tons	\$200	\$36,464,000
Grain Hay	10,050	3.00	30,150 Tons	\$150	\$4,522,500
Meadow Hay	20,000	1.75	35,000 Tons	\$110	\$3,850,000
Pasture (Irrigated)	50,000		250,000 *AUM	\$22	\$5,500,000
Pasture (Dryland)	320,000		336,000 *AUM	\$12	\$4,032,000
TOTAL					\$62,462,500

*Animal Unit Months, an AUM is equal to 31 days x 26 pounds per day or about 800 pounds of air-dried forage.⁷

⁴ UNITED STATES OF AMERICA FEDERAL ENERGY REGULATORY COMMISSION Project No. 12053-003 ORDER DENYING REHEARING AND GRANTING REQUEST TO CONVERT APPLICATION (Issued October 31, 2006)

⁵ Modoc County Department of Agriculture, 2008 Crop Report, Joseph A. Moreo Agricultural Commissioner, 202 West Fourth Street, Phone 530-233-6401, Fax 530-233-5542, July 1, 2009, Page 1.

⁶ Modoc County Department of Agriculture, 2008 Crop Report, Joseph A. Moreo Agricultural Commissioner, 202 West Fourth Street, Phone 530-233-6401, Fax 530-233-5542, July 1, 2009, Page 2.

⁷ <http://ag.arizona.edu/arec/pubs/rmg/1%20rangelandmanagement/1%20aum93.pdf>, January 12, 2012.

3 SOUTH FORK IRRIGATION DISTRICT

3.1 History

The South Fork Irrigation District was formed in 1933.⁸ This makes the District fairly old; however, all of the new laws still apply to the District. The main crops grown in the District are grass, alfalfa, wild rice, and grain.⁹

3.2 Board of Directors

The South Fork Irrigation District Directors serve four-year terms as follows:

Division 1: Vacant (expires 12/14)

Division 2: Kenneth McGarva (President) (expires 12/14)
PO Box 116, Likely, CA 96116

Division 3: John Flournoy (expires 12/16)
PO Box 96, Likely, CA 96116

Secretary: Jay Younger, PO Box 1766, Alturas, CA 96101

Since there are only thirteen water users¹⁰ it is difficult to maintain a full board. The independent Auditor noted that 85% of the water shares are owned or managed by individuals operating the District (57% Alturas Ranches, 16% Likely Land and Livestock Inc. and 12% McGarva Ranch.)¹¹ The Board meetings are held at Alturas Ranches as required.¹²

3.3 Contact Information

Contact information for the South Fork Irrigation District is as follows:

Mail: South Fork Irrigation District, PO Box 1766, Alturas, CA 96101
Phone: 530-233-4661 (Alturas Ranches)
Phone: 530-4809 (Ken McGarva)

3.4 Water

The water for the District is stored behind the West Valley Dam on the Pit River. The Dam was raised an additional five feet in 1960.¹³ The District has 22,000 acre-feet of water per year.¹⁴

⁸ South Fork Irrigation District, Modoc LAFCO Questionnaire, September 30, 2011.

⁹ South Fork Irrigation District, Modoc LAFCO Questionnaire, September 30, 2011.

¹⁰ http://www.ebold.com/~savesouthfork/article_HandN_03.htm, August 26, 2011

¹¹ South Fork Irrigation District, Audit Report for the year ended June 30, 2011, prepared by Haws, Theobald and Auman, PC, 1740 Main Street Suite A, Susanville, Ca 96130, Phone: 530-257-1040, Fax: 530-257-8876, www.htacpa.com, May 31, 2012, Page 13.

¹² South Fork Irrigation District, Modoc LAFCO Questionnaire, September 30, 2011.

¹³ Modoc LAFCO, South Fork Irrigation District File.

¹⁴ South Fork Irrigation District, Modoc LAFCO Questionnaire, September 30, 2011.

3.5 Finances

3.5.1 Assets

The South Fork Irrigation District paid to have an Audit for the fiscal year ended June 30, 2011. This Audit was completed May 31, 2012. The Audit shows the following Assets and Liabilities with the note that there is no value listed for the property, plant and equipment because the \$555,125 value of the improvements has been totally depreciated.¹⁵

SOUTH FORK IRRIGATION DISTRICT STATEMENT OF NET ASSETS JUNE 30, 2011¹⁶	
	Business-Type Activities-Water
ASSETS	
Current Assets	
Cash on Hand and in Banks	\$205,356
Accounts Receivable*	\$25,966
Total Assets	\$231,322
LIABILITIES	
Current Liabilities	
Accounts Payable	\$2,070
Total Liabilities	\$2,070
NET ASSETS	
Invested in Capital Assets, Net of Related Debt	
Unrestricted	\$229,253
Total Net Assets	\$229,253

*There are no significant receivables which are not scheduled for collection within one year of year end.¹⁷

Since the District has substantial assets, the District appears to have a good financial position. The audit found more problems in the operation of the District than with the actual financial position. The District can afford to have an audit performed every year as required by law.

3.5.2 Expenses and Revenue

The Expense and Revenue table shown below shows that the District depends on taxes as well as on charges to support the operations of the District.

¹⁵ South Fork Irrigation District, Audit Report for the year ended June 30, 2011, prepared by Haws, Theobald and Auman, PC, 1740 Main Street Suite A, Susanville, Ca 96130, Phone: 530-257-1040, Fax: 530-257-8876, www.htacpa.com, May 31, 2012, Page 12.

¹⁶ South Fork Irrigation District, Audit Report for the year ended June 30, 2011, prepared by Haws, Theobald and Auman, PC, 1740 Main Street Suite A, Susanville, Ca 96130, Phone: 530-257-1040, Fax: 530-257-8876, www.htacpa.com, May 31, 2012, Page 3.

¹⁷ South Fork Irrigation District, Audit Report for the year ended June 30, 2011, prepared by Haws, Theobald and Auman, PC, 1740 Main Street Suite A, Susanville, Ca 96130, Phone: 530-257-1040, Fax: 530-257-8876, www.htacpa.com, May 31, 2012, Page 11.

South Fork Irrigation District Expenses, Charges and Revenue June 30, 2011¹⁸			
Business Type Activities	Expenses	Charges for Service	Net (Expense) Revenue and Changes in Net Assets
Irrigation	\$33,371		(33,371)
Watermaster	\$29,550	\$32,288	2,738
Total Business Activities	\$62,921	\$32,288	(30,633)
	General Revenues		
	Property Taxes Levied*		45,674
	Interest Earnings		106
	Total General Revenue		45,780
	Change in Net Assets		15,147
	Net Assets Beginning July 1, 2010		\$214,106
	Net Assets Ending June 30, 2011		\$229,253

*Secured property taxes attach as an enforceable lien on property as of January 1. Taxes are payable in two installments on December 20 and June 20. Unsecured property taxes are payable in one installment on or before August 31. The District does its own billing and collections.¹⁹

Since the District is responsible to collect both the fees and the taxes it is important for the District to keep and maintain accurate records of all payment and charges for each land owner.

3.5.3 Net Assets in Proprietary Funds

The table below shows the net assets for the District but it shows how they are divided between the Irrigation Fund and the Watermaster Fund.

¹⁸ South Fork Irrigation District, Audit Report for the year ended June 30, 2011, prepared by Haws, Theobald and Auman, PC, 1740 Main Street Suite A, Susanville, Ca 96130, Phone: 530-257-1040, Fax: 530-257-8876, www.htacpa.com, May 31, 2012, Page 4.

¹⁹ South Fork Irrigation District, Audit Report for the year ended June 30, 2011, prepared by Haws, Theobald and Auman, PC, 1740 Main Street Suite A, Susanville, Ca 96130, Phone: 530-257-1040, Fax: 530-257-8876, www.htacpa.com, May 31, 2012, Page 11.

South Fork Irrigation District Net Assets in Proprietary Funds June 30, 2011²⁰			
	Irrigation Fund	Watermaster Fund	Total
ASSETS			
Current Assets*			
Cash on Hand and in Banks	\$149,979	\$55,377	\$205,356
Accounts Receivable	\$13,037	\$12,929	\$25,966
Total Assets	\$163,016	\$68,306	\$231,322
LIABILITIES			
Current Liabilities			
Accounts Payable	\$2,070		\$2,070
Total Current Liabilities	\$2,070		\$2,070
NET ASSETS			
Invested in Capital Assets, Net of Related Debt			
Unrestricted**	\$160,947	\$68,306	\$229,253
Total Net Assets	\$160,947	68,306	\$229,253

* There are no Non-Current Assets such as property, plant and equipment because these have been totally depreciated as noted above in this report.

**When both restricted and unrestricted resources are available for use, it is the District's policy to use restricted resources first, then unrestricted resources as they are needed.²¹

3.5.4 Revenues and Expenses

The following table shows the revenue and expenses and divides the expenses into various categories. Since the District does not have a formal Budget this is the only information available on the various categories for expenses. However, the amount included in "other expenses" is fairly large. The District needs to have a formal Budget preparation and adoption process with additional detail.

²⁰ South Fork Irrigation District, Audit Report for the year ended June 30, 2011, prepared by Haws, Theobald and Auman, PC, 1740 Main Street Suite A, Susanville, Ca 96130, Phone: 530-257-1040, Fax: 530-257-8876, www.htacpa.com, May 31, 2012, Page 5.

²¹ South Fork Irrigation District, Audit Report for the year ended June 30, 2011, prepared by Haws, Theobald and Auman, PC, 1740 Main Street Suite A, Susanville, Ca 96130, Phone: 530-257-1040, Fax: 530-257-8876, www.htacpa.com, May 31, 2012, Page 12.

South Fork Irrigation District Revenues and Expenses June 30, 2011²²			
	Irrigation Fund	Watermaster Fund	Total
Operating Revenues			
Fees		32,288	32,288
Watermaster Services		10,223	10,223
Other Operating Revenue	6,000		6,000
Total Operating Revenue	\$6,000	\$42,511	\$48,511
Operating expenses			
Watermaster Fee		28,950	28,950
Office	16,570	6,000	22,570
Salaries	4,000		4000
Watermaster Assessment	10,223		10,223
Rent	3,900		3,900
Other Expenses	8,901	600	9,501
Total Operating Expenses	\$43,594	\$35,550	\$79,144
Operating Income (Loss)	(\$37,594)	\$6,961	(\$30,633)
Non-Operating Revenue and Expenses			
Interest Income	78	28	106
Taxes and Assessments	45,674		45,674
Total Non-Operating Revenues and Expenses	45,752	28	45,780
Net Income (Loss)	8,158	6,989	15,147
Beginning Net Assets July 1, 2010	\$152,789	\$61,317	\$214,106
Ending Net Assets June 30, 2011	\$160,947	\$68,306	\$229,253

Since the assets have increased it may be possible for the District to employ a part-time bookkeeper or to contract with an accounting service to help with the budget process and to maintain the records recommended by the independent auditor.

3.5.5 Risk Management and Litigation

The Audit makes the following statement regarding risk management and litigation.²³

The District is exposed to various risks of losses related to torts; theft of, damage to, and destruction of assets; error and omissions; injuries to employees and customers; and natural disasters. The District has managed these risks by providing employee education and prevention programs. Expenses and claims are recognized when it is probable that a loss has occurred and the amount of the loss can be reasonable

²² South Fork Irrigation District, Audit Report for the year ended June 30, 2011, prepared by Haws, Theobald and Auman, PC, 1740 Main Street Suite A, Susanville, Ca 96130, Phone: 530-257-1040, Fax: 530-257-8876, www.htacpa.com, May 31, 2012, Page 6.

²³ South Fork Irrigation District, Audit Report for the year ended June 30, 2011, prepared by Haws, Theobald and Auman, PC, 1740 Main Street Suite A, Susanville, Ca 96130, Phone: 530-257-1040, Fax: 530-257-8876, www.htacpa.com, May 31, 2012, Page 13.

estimated. In determining claims, events that might create claims, but for which none have been reported are considered.

The District's management estimates that the amount of actual or potential claims against the District as of June 30, 2011 will not materially affect the financial condition of the District. Therefore, the funds contain no provision for estimated claims.

Since no mention is made of insurance it is assumed that the District has none. The District may want to investigate joining a joint powers authority such as the Golden State Risk Management Authority or other similar organization. The Golden State Risk Management Authority provides many local governments and special districts low-cost insurance and services such as employee and governing board education.

3.5.6 Independent Auditor's Findings and Recommendations

The independent auditor found four significant deficiencies in the District operations as described below. The auditor noted that the first three items listed below are "material weaknesses" which means that there is a reasonable possibility that a material misstatement of the District's financial statement will not be prevented or detected and corrected on a timely basis.²⁴

A. Lack of Segregation of Duties

According to the Auditor, the District has exposure to risk of financial statement misstatement and the potential risk of errors or fraud because the same personnel assigned to duties that involve access to the general ledger and other accounting records also have custody of and responsibility for handling cash and other assets. The District states that "Due to the number of employees of the District, it is not possible for the District to cost-effectively mitigate this finding....The District does, however, believe that being aware of this weakness will insure that existing employees and Board members will maintain diligence to potential risks of not having an adequate segregation of duties."

It will also be important that the District continue to have an annual audit (there was no audit for 2010).

B. Financial Reporting

According to the Auditor, the District does not have policies and procedures in place to ensure that complete and accurate financial statements, Management Discussion and Analysis (MD&A) and footnote disclosures are prepared in accordance with Generally Accepted Accounting Practices (GAAP) prior to the annual audit. The District has determined that the costs of correcting this control weakness (hiring an accountant) outweigh the benefits to be received. The District will continue to rely on the independent auditor to prepare its annual audited financial statements.

²⁴ South Fork Irrigation District, Audit Report for the year ended June 30, 2011, prepared by Haws, Theobald and Auman, PC, 1740 Main Street Suite A, Susanville, Ca 96130, Phone: 530-257-1040, Fax: 530-257-8876, www.htacpa.com, May 31, 2012, Pages 14-23.

C. Accounts Receivable

According to the Auditor, the District does not have supporting detail for accounts receivable showing balances owed from each water share owner. The District needs to establish a process for tracking balances from each customer and to follow up on aging balances. The District has agreed to do this by June 20, 2013.

D. Internal Control

The Auditor noted the following conditions:

1. The District does not have signed board minutes.
2. The Treasurer is not reviewing bank statements and reconciliations.
3. The District does not annually establish a budget to be used as a guide for financial decision making during the year.
4. The District does not have a formal capitalization threshold policy. (This would include determining the useful life of capital assets and following a depreciation schedule for these assets.)

The District has planned the following corrective actions to be completed by June 30, 2013:

1. The District will maintain signed board minutes.
2. The Treasurer will review bank statements and reconciliations.
3. The District will establish a budget.
4. The District will adopt a formal capitalization threshold policy.

4 MUNICIPAL SERVICE REVIEW

Modoc LAFCO is responsible for determining if an agency is reasonably capable of providing needed resources and basic infrastructure to serve areas within its boundaries and, later, within the Sphere of Influence.

LAFCO will do the following:

1. Evaluate the present and long-term infrastructure demands and resources available to the District.
2. Analyze whether resources and services are, or will be, available at needed levels.
3. Determine whether orderly maintenance and expansion of such resources and services are planned to occur in line with increasing demands.

The Final Municipal Service Review Guidelines prepared by the Governor's Office of Planning and Research recommend issues relevant to the jurisdiction be addressed through written determinations called for in the Cortese-Knox-Hertzberg Act.

Determinations are provided for each of the six factors, based on the information provided in this Municipal Service Review.

4.1 Growth and Population Projections for the South Fork Irrigation District Area

Purpose:

To evaluate service needs based on existing and anticipated growth patterns and population projections.

4.1.1 Population Data for Modoc County

There is no population data available specifically for the South Fork Irrigation District. The US Census Bureau reports that the population of Modoc County is estimated to have declined from 2010 to 2011 as shown below:

POPULATION CHANGE 2010 TO 2011²⁵

	MODOC COUNTY	STATE OF CALIFORNIA
Population, 2011 estimate	9,517	37,691,912
Population, 2010 (April 1) estimates base	9,686	37,253,956
Population, percent change, April 1, 2010-July 1, 2011	-1.7%	1.2%

The District estimates that 125 people live within the District boundaries.²⁶

²⁵ US Census Bureau, <http://quickfacts.census.gov/qfd/states/06/06049.html>, October 17, 2012

²⁶ South Fork Irrigation District, Modoc LAFCO Questionnaire, September 30, 2011.

4.1.2 MSR Determinations on Growth and Population for South Fork Irrigation District Area

- 1-1) The population of the South Fork Irrigation District has remained the same or declined since 2010.
- 1-2) The South Fork Irrigation District supplies irrigation water to landowners and the land within the District is zoned for Agriculture.

4.2 MSR Determinations on Disadvantaged Unincorporated Communities (DUC)

Purpose:

The State Law requires LAFCO to consider whether or not an area is a Disadvantaged Unincorporated Community (DUC).

4.2.1 Determination of Likely Disadvantaged Unincorporated Community Status

In addition to a consideration of population growth, the State Law requires LAFCO to consider whether or not an area is a Disadvantaged Unincorporated Community (DUC). A DUC is an area where the Median Household Income is less than 80% of the State of California Median Household Income.

For 2010 the Median Household Income for Modoc County was \$34,588. Eighty percent of the \$60,883 State of California Median Household Income is \$48,706.40. Therefore, Modoc County would qualify as a DUC. However, there is no large incorporated city or other special district nearby which could help with service provision.

The South Fork Irrigation District is located near the community of Likely in Modoc County but there is no income data available for Likely so the County data is considered to be representative of the area.

4.2.2 MSR Determinations on Disadvantaged Unincorporated Communities near Likely

- 2-1) The South Fork Irrigation District is located near the community of Likely which is a Disadvantaged Unincorporated Community.
- 2-2) The South Fork Irrigation District is not a provider of urban services and cannot assist Likely in this way.

4.3 Capacity and Infrastructure

Purpose:

To evaluate the infrastructure needs and deficiencies in terms of supply, capacity, condition of facilities and service quality.

4.3.1 South Fork Irrigation District Infrastructure Background

The water for the District is stored behind the West Valley Dam on the Pit River. The Dam was raised an additional five feet in 1960.²⁷ The District has 22,000 acre-feet of water per year.²⁸

4.3.2 MSR Determinations Regarding Capacity and Infrastructure for South Fork Irrigation District

- 3-1) The South Fork Irrigation District has adequate capacity and infrastructure to serve the 13 landowners in the District.
- 3-2) The South Fork Irrigation District has adequate financial resources to maintain the infrastructure of the District.

4.4 Financial Ability

Purpose:

To evaluate factors that affect the financing of needed improvements and to identify practices or opportunities that may help eliminate unnecessary costs without decreasing service levels.

4.4.1 Financial Considerations

The financial condition of the South Fork Irrigation District is explained above in this report.

4.4.2 MSR Determinations on Financial Ability for South Fork Irrigation District

- 4-1) The South Fork Irrigation District has a strong financial position.
- 4-2) The South Fork Irrigation District should follow the procedures recommended by the independent auditor and prepare an annual budget.
- 4-3) The South Fork Irrigation District should follow the procedures recommended by the independent auditor and keep track of all tax and fee accounts.
- 4-4) The South Fork Irrigation District should have an independent audit prepared for each fiscal year.

²⁷ Modoc LAFCO, South Fork Irrigation District File.

²⁸ South Fork Irrigation District, Modoc LAFCO Questionnaire, September 30, 2011.

4.5 Opportunities for Shared Facilities

Purpose:

To evaluate the opportunities for a jurisdiction to share facilities and resources to develop more efficient service delivery systems.

4.5.1 South Fork Irrigation District Facilities

The South Fork Irrigation District facilities cannot be shared with other districts. The District might contract with another District to get help with clerical or bookkeeping services.

4.5.2 MSR Determinations on Shared Facilities for South Fork Irrigation District

- 5-1) The South Fork Irrigation District cannot share physical facilities with other districts but might be able to get clerical or accounting help from another district.

4.6 Government Structure and Accountability

Purpose:

To consider the advantages and disadvantages of various government structures that could provide public services, to evaluate the management capabilities of the organization and to evaluate the accessibility and levels of public participation associated with the agency's decision-making and management processes.

4.6.1 Government Structure

The South Fork Irrigation District has a three-member governing board.

4.6.2 MSR Determinations on Government Structure and Accountability for South Fork Irrigation District

- 6-1) The South Fork Irrigation District should make every effort to keep three members on the Board of Directors.
- 6-2) The South Fork Irrigation District should have a website or a page on the County website to explain the District to the public.
- 6-3) The South Fork Irrigation District Board of Directors should follow the recommendations of the independent auditor.

5 SOUTH FORK IRRIGATION DISTRICT SPHERE OF INFLUENCE

5.1 Present and Planned Land Uses in the Area, Including Agricultural and Open Space Lands Land Use

5.1.1 Land Use in the South Fork Irrigation District Area

According to the Modoc County General Plan, “Agricultural land is the cornerstone of the economic base of Modoc County.”²⁹ The land within the South Fork Irrigation District is designated for agricultural use and zoned for agriculture.

5.1.2 SOI Determinations Present and Planned Land Use for South Fork Irrigation District

- 1-1] The land in the South Fork Irrigation District is used for agriculture and this use is expected to continue.
- 1-2] The SOI for the South Fork Irrigation District should be the same as the District Boundary.

5.2. Municipal Services: Present Need

5.2.1 Service Need for South Fork Irrigation District

There is a need for the South Fork Irrigation District to provide water for agricultural uses.

5.2.2 SOI Determinations for Facilities and Services: Present and Probable Need

- 2-1] There is a need for the South Fork Irrigation District to provide water for agricultural uses now and in the foreseeable future.

²⁹ Modoc County General Plan, September 1988, Page 29.

5.3 Public Facilities Future Capacity

5.3.1 Facilities and Capacity

The South Fork Irrigation District dam and other facilities are adequate because the water right is limited.

5.3.2 SOI Determinations for Public Facilities

- 3-1] The South Fork Irrigation District facilities are adequate to manage the water allocated to the District.
- 3-2] The District has sufficient capacity to maintain the water storage and irrigation facilities.

5.4 Social or Economic Communities of Interest

5.4.1 South Fork Irrigation District

The South Fork Irrigation District is a small part of the Modoc Community but the landowners have a shared economic interest to make the District succeed. The businesses supported by the District generate economic gains for the wider Modoc County community.

5.4.2 SOI Determinations for Social or Economic Communities of Interest

- 4-1] The South Fork Irrigation District is a small economic community which generates positive economic impacts for the Modoc County community.

APPENDIX A - LOCAL GOVERNMENT ISSUES

1 MUNICIPAL FINANCIAL CONSTRAINTS

Municipal service providers are constrained in their capacity to finance services by the inability to increase property taxes, requirements for voter approval for new or increased taxes, and requirements of voter approval for parcel taxes and assessments used to finance services. Municipalities must obtain majority voter approval to increase or impose new general taxes and two-thirds voter approval for special taxes.

Limitations on property tax rates and increases in taxable property values are financing constraints. Property tax revenues are subject to a formulaic allocation and are vulnerable to State budget needs. Agencies formed since the adoption of Proposition 13 in 1978 often lack adequate financing.

1.1 California Local Government Finance Background

The financial ability of the cities and special districts to provide services is affected by financial constraints. City service providers rely on a variety of revenue sources to fund city operating costs as follows:

- Property Taxes
- Benefit Assessments
- Special Taxes
- Proposition 172 Funds
- Other contributions from city or district general funds.

As a funding source, property taxes are constrained by statewide initiatives that have been passed by voters over the years and special legislation. Seven of these measures are explained below:

A. Proposition 13

Proposition 13 (which California voters approved in 1978) has the following three impacts:

- Limits the ad valorem property tax rate
- Limits growth of the assessed value of property
- Requires voter approval of certain local taxes.

Generally, this measure fixes the ad valorem tax at one percent of value; except for taxes to repay certain voter approved bonded indebtedness. In response to the adoption of Proposition 13, the Legislature enacted Assembly Bill 8 (AB 8) in 1979 to establish property tax allocation formulas.

B. AB 8

Generally, AB 8 allocates property tax revenue to the local agencies within each tax rate area based on the proportion each agency received during the three fiscal years preceding adoption of Proposition 13. This allocation formula benefits local agencies, which had relatively high tax rates at the time Proposition 13 was enacted.

C. Proposition 98

Proposition 98, which California voters approved in 1988, requires the State to maintain a minimum level of school funding. In 1992 and 1993, the Legislature began shifting billions of local property taxes to schools in response to State budget deficits. Local property taxes were diverted from local governments into the Educational Revenue Augmentation Fund (ERAF) and transferred to school districts and community college districts to reduce the amount paid by the State general fund.

Local agencies throughout the State lost significant property tax revenue due to this shift. Proposition 172 was enacted to help offset property tax revenue losses of cities and counties that were shifted to the ERAF for schools in 1992.

D. Proposition 172

Proposition 172, enacted in 1993, provides the revenue of a half-cent sales tax to counties and cities for public safety purposes, including police, fire, district attorneys, corrections and lifeguards. Proposition 172 also requires cities and counties to continue providing public safety funding at or above the amount provided in FY 92-93.

E. Proposition 218

Proposition 218, which California voters approved in 1996, requires voter- or property owner-approval of increased local taxes, assessments, and property-related fees. A two-thirds affirmative vote is required to impose a Special Tax, for example, a tax for a specific purpose such as a fire district special tax.

However, majority voter approval is required for imposing or increasing general taxes such as business license or utility taxes, which can be used for any governmental purpose. These requirements do not apply to user fees, development impact fees and Mello-Roos districts.

F. Proposition 26

Proposition 26 approved by California voters on November 2, 2010, requires that certain state fees be approved by two-thirds vote of Legislature and certain local fees be approved by two-thirds of voters. This proposition increases the legislative vote requirement to two-thirds for certain tax measures, including those that do not result in a net increase in revenue. Prior to its passage, these tax measures were subject to majority vote.

However, majority voter approval is required for imposing or increasing general taxes such as business license or utility taxes, which can be used for any governmental purpose. These requirements do not apply to user fees, development impact fees and Mello-Roos districts.

G. Mello-Roos Community Facilities Act

The Mello-Roos Community Facilities Act of 1982 allows any county, city, special district, school district or joint powers authority to establish a Mello-Roos Community Facilities District (a "CFD") which allows for financing of public improvements and services. The services and improvements that Mello-Roos CFDs can finance include streets, sewer systems and other basic infrastructure, police protection, fire protection, ambulance services, schools, parks, libraries, museums and other cultural facilities. By law, the CFD is also entitled to recover expenses needed to form the CFD and administer the annual special taxes and bonded debt.

A CFD is created by a sponsoring local government agency. The proposed district will include all properties that will benefit from the improvements to be constructed or the services to be provided. A CFD cannot be formed without a two-thirds majority vote of residents living within the proposed boundaries. Or, if there are fewer than 12 residents, the vote is instead conducted of current landowners.

In many cases, that may be a single owner or developer. Once approved, a Special Tax Lien is placed against each property in the CFD. Property owners then pay a Special Tax each year. If the project cost is high, municipal bonds will be sold by the CFD to provide the large amount of money initially needed to build the improvements or fund the services. The Special Tax cannot be directly based on the value of the property. Special Taxes instead are based on mathematical formulas that take into account property characteristics such as use of the property, square footage of the structure and lot size. The formula is defined at the time of formation, and will include a maximum special tax amount and a percentage maximum annual increase.

If bonds were issued by the CFD, special taxes will be charged annually until the bonds are paid off in full. Often, after bonds are paid off, a CFD will continue to charge a reduced fee to maintain the improvements.

H. Development Impact Fees

A county, cities, special districts, school districts, and private utilities may impose development impact fees on new construction for purposes of defraying the cost of putting in place public infrastructure and services to support new development.

To impose development impact fees, a jurisdiction must justify the fees as an offset to the impact of future development on facilities. This usually requires a special financial study. The fees must be committed within five years to the projects for which they were collected, and the district, city or county must keep separate funds for each development impact fee.

1.2 Financing Opportunities that Require Voter Approval

Financing opportunities that require voter approval include the following five taxes:

- Special taxes such as parcel taxes
- Increases in general taxes such as utility taxes
- Sales and use taxes
- Business license taxes
- Transient occupancy taxes

Communities may elect to form business improvement districts to finance supplemental services, or Mello-Roos districts to finance development-related infrastructure extension. Agencies may finance facilities with voter-approved (general obligation) bonded indebtedness.

1.3 Financing Opportunities that Do Not Require Voter Approval

Financing opportunities that do not require voter approval include imposition of or increases in fees to more fully recover the costs of providing services, including user fees and Development Impact Fees to recover the actual cost of services provided and infrastructure.

Development Impact Fees and user fees must be based on reasonable costs, and may be imposed and increased without voter approval. Development Impact Fees may not be used to subsidize operating costs. Agencies may also finance many types of facility improvements through bond instruments that do not require voter approval.

Water rates and rate structures are not subject to regulation by other agencies. Utility providers may increase rates annually, and often do so. Generally, there is no voter approval requirement for rate increases, although notification of utility users is required. Water providers must maintain an enterprise fund for the respective utility separate from other funds, and may not use revenues to finance unrelated governmental activities.

2 PUBLIC MANAGEMENT STANDARDS

While public sector management standards do vary depending on the size and scope of an organization, there are minimum standards. Well-managed organizations do the following eight activities:

- Evaluate employees annually.
- Prepare a budget before the beginning of the fiscal year.
- Conduct periodic financial audits to safeguard the public trust.
- Maintain current financial records.
- Periodically evaluate rates and fees.
- Plan and budget for capital replacement needs.
- Conduct advance planning for future growth.
- Make best efforts to meet regulatory requirements.

Most of the professionally managed and staffed agencies implement many of these best management practices. LAFCO encourages all local agencies to conduct timely financial record-keeping for each city function and make financial information available to the public.

3 PUBLIC PARTICIPATION IN GOVERNMENT

The Brown Act (California Government Code Section 54950 et seq.) is intended to insure that public boards shall take their actions openly and that deliberations shall be conducted openly. The Brown Act establishes requirements for the following:

- Open meetings
- Agendas that describe the business to be conducted at the meeting
- Notice for meetings
- Meaningful opportunity for the public to comment
- Few exceptions for meeting in closed sessions and reports of items discussed in closed sessions.

According to California Government Section 54959

Each member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this chapter, is guilty of a misdemeanor.

Section 54960 states the following:

(a) The district attorney or any interested person may commence an action by mandamus, injunction or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this chapter by members of the legislative body of a local agency or to determine the applicability of this chapter to actions or threatened future action of the legislative body.

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ABBREVIATIONS

AB	Assembly Bill
AF	Acre-foot (of water)
Alt.	Alternate
CEQA	California Environmental Quality Act
CFD	Community Facilities District
cfs	cubic feet per second
CKH	Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000
dba	doing business as
District	South Fork Irrigation District
DUC	Disadvantaged Unincorporated Community
ERAF	Educational Revenue Augmentation Fund
FERC	Federal Energy Regulation Commission
FPA	Federal Power Act
FPPC	Fair Political Practices Commission (California)
FY	Fiscal Year
GAAP	Generally Accepted Accounting Practices GAAP
LAFCO	Local Agency Formation Commission
MD&A	Management Discussion and Analysis (Accounting)
MSR	Municipal Service Review (LAFCO)
MW	Megawatts
OPR	Office of Planning and Research (California)
PO	Post Office
SOI	Sphere of Influence (LAFCO)
US	United States

DEFINITIONS

Acre foot: The volume of water that will cover one acre to a depth of one foot, 325,850 U.S. Gallons or 1,233,342 liters (approximately).

Bond: An interest-bearing promise to pay a stipulated sum of money, with the principal amount due on a specific date. Funds raised through the sale of bonds can be used for various public purposes.

California Environmental Quality Act (CEQA): A State Law requiring State and local agencies to regulate activities with consideration for environmental protection. If a proposed activity has the potential for a significant adverse environmental impact, an environmental impact report (EIR) must be prepared and certified as to its adequacy before taking action on the proposed project.

Gravity flow: flow of water in a pipe on a descending path.

Irrigation system: a complete set of system components including the water source, the water distribution network, and the general irrigation equipment.

Lateral: a pipe line other than the main water pressure line used to move water to the various delivery devices.

Local Agency Formation Commission (LAFCO): A five- or seven-member commission within each county that reviews and evaluates all proposals for formation of special districts, incorporation of cities, annexation to special districts or cities, consolidation of districts, and merger of districts with cities. Each county's LAFCO is empowered to approve, disapprove, or conditionally approve such proposals. The LAFCO members generally include two county supervisors, two city council members, and one member representing the general public. Some LAFCOs include two representatives of special districts.

Operations and maintenance costs: The ongoing, repetitive costs of operating and maintaining a water system.

Proposition 13: (Article XIII A of the California Constitution) Passed in 1978, this proposition enacted sweeping changes to the California property tax system. Under Proposition 13, property taxes cannot exceed 1% of the value of the property and assessed valuations cannot increase by more than 2% per year. Property is subject to reassessment when there is a transfer of ownership or improvements are made.³⁰

Proposition 218: (Article XIII D of the California Constitution) This proposition, named "The Right to Vote on Taxes Act", filled some of the perceived loopholes of Proposition 13. Under Proposition 218, assessments may only increase with a two-thirds majority vote of the qualified voters within the District. In addition to the two-thirds voter approval requirement, Proposition 218 states that effective July 1, 1997, any assessments levied may not be more than the costs necessary to provide the service, proceeds may not be used for any other purpose other than providing the services intended, and assessments may only be levied for services that are immediately available to property owners.³¹

Water year (WY): Period of time beginning October 1 of one year and ending September 30 of the following year and designated by the calendar year in which it ends. A calendar year used for water calculations. The US Bureau of Reclamation water year is March 1st to February 28th and October 1st to September 30th is the water account year.

³⁰ http://www.californiataxdata.com/A_Free_Resources/glossary_PS.asp#ps_08

³¹ http://www.californiataxdata.com/A_Free_Resources/glossary_PS.asp#ps_08

