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

CONSENT AGENDA ITEM No. 11-B

DATE: December 5, 2007

TO: Fresno Local Agency Formation Commission

FROM: Rick Ballantyne, Executive Officer
Darrel Schmidt, Deputy Executive Officer

SUBJECT: Consider Adoption – Municipal Service Review and Sphere of Influence Update Prepared for the Silver Creek Drainage District

Summary / Background

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires LAFCo to review and update, as necessary, special district Spheres of Influence (SOIs) before January 1, 2008, and every five years thereafter. Prior to, or in conjunction with an agency's SOI update, LAFCo is required to conduct a *Municipal Service Review* (MSR) for each agency.

On December 13, 2006, the Commission directed staff to enter into a contract with Braitman & Associates to prepare MSRs and SOI Updates for numerous cities and special districts. The attached MSR and SOI Update have been prepared for the Silver Creek Drainage District.

Municipal Service Reviews provide a comprehensive review of the services provided by a city or district and present recommendations with regard to the condition and adequacy of these services and whether or not modifications to a city or district's SOI are necessary. MSRs can be used as informational tools by LAFCo and local agencies in evaluating the efficiencies of current district operations and may suggest changes in order to better serve the public.

Sphere of Influence updates may involve an affirmation of the existing SOI boundaries or recommend modifications to the SOI boundaries. LAFCo is not required to initiate changes to an SOI based on findings and recommendations of the service review, although it does have the power to do so.

State law requires that the Commission adopt written MSR determinations for each of the following nine criteria:

1. Infrastructure needs or deficiencies
2. Growth and population projections for the affected area
3. Financing constraints and opportunities
4. Cost avoidance opportunities
5. Opportunities for rate restructuring
6. Opportunities for shared facilities
7. Government structure options, including advantages and disadvantages of the consolidation or reorganization of service providers
8. Evaluation of management efficiencies
9. Local accountability and governance

As part of an SOI update, or adopting an SOI, the Commission is required to consider the following four criteria and make appropriate determinations in relationship to each of the following:

1. The present and planned land uses in the area, including agricultural and open-space lands.
2. The present and probable need for public facilities and services in the area.
3. The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.
4. The existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency.

There are three drainage districts within Fresno County, for which Fresno County is the principal county. These are Camp 13 Drainage District, Panoche Drainage District, and Silver Creek Drainage District. This report covers the Silver Creek Drainage District. Panoche Drainage District also appears on today's agenda. The MSR prepared for Camp 13 Drainage District was adopted by the Commission at its June 13, 2007 hearing.

Environmental Determination

The California Environmental Quality Act ("CEQA") requires that the Commission undertake and review an environmental analysis before granting approval of a project, as defined by CEQA. The MSR is categorically exempt from the preparation of environmental documentation under a classification related to information gathering (Class 6 - Regulation section 15306), which states: "Class 6 consists of basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. These may be strictly for information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted, or funded." Indeed, this MSR collects data for the purpose of evaluating municipal services provided by the agency. There is no land use change or environmental impact created by such a study.

Furthermore, the MSR qualifies for a general exemption from environmental review based upon CEQA Regulation section 15061(b)(3), which states: "The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." Additionally, the SOI update qualifies for the same general exemption from environmental review based upon CEQA Regulation section 15061(b)(3).

There is no possibility that this MSR or SOI update may have a significant effect on the environment because there are no land use changes associated with either document. If the Commission approves and adopts the MSR and SOI update and determines that the project is exempt from CEQA, staff will prepare and file a notice of exemption with the County of Fresno, as required by CEQA Regulation section 15062.

Discussion / Summary of Determinations

The Silver Creek Drainage District encompasses 49,873 acres (77.9) square miles including the unincorporated area surrounding the City of Mendota and south and west of the City of Firebaugh. The District shares a common boundary with Panoche Drainage District to the west. The District was formed in 1982.

Limited information was available to include in this report because the District did not respond to staff's written request for information, which would have provided sufficient information from which to perform a more thorough review of the District. Information received from the District's representative was verbal and limited.

The District was formed to provide flood control for agricultural land which had been damaged by flooding from Panoche Creek. The District appears to be inactive; however, as its Board of Directors has not met for some time, it has no employees, and does not have an adopted budget.

Per Government Code Section 56871, a special district may be considered a non-user of corporate powers if it has been in existence for at least three years and one or more of the following conditions have existed or now exist:

- During the preceding three years any of the following events have not occurred:
 - There has not been a duly selected and acting quorum of the board of directors of the district.
 - The board of directors has not furnished or provided services or facilities of substantial benefit to residents, landowners, or property within the district.
 - The board of directors has not levied or fixed and collected any taxes, assessments, service charges, rentals, or rates or expended the proceeds of those levies or collections for district purposes.
- During the preceding one-year period a quorum of the duly selected and acting board of directors has not met for the purpose of transacting district business.
- The district has no assets, other than money in the form of cash, investments, or deposits.

It is not known whether these conditions exist. If the Commission were to find the District to be a non-user of corporate powers and there is reasonable probability those powers would not be used in the future, the District could be dissolved without election pursuant to Government Code Section 57102.

Though the District provides no service at this time, the District representative indicates that plans are underway for the District to apply for grant funds and to become active in providing services in the future. Only very limited information concerning the District was available.

- The District does not have an active or current governing Board.
- The District does not have any assets or infrastructure.
- The District has not adopted a budget in recent years. It has no debt.
- The District does not impose rates, assessments, or receive any funding from charges for service.
- The District does not have any cost avoidance opportunities, with the exception of dissolving the District.

The most likely alternative government structure option would be to dissolve the District. Should the District continue to remain inactive for a significant period of time, staff believes that dissolution of the District may be appropriate. Consolidation with Panoche Drainage District may also be a possibility; however, there is insufficient information available to determine if this would be beneficial for either District. Neither Silver Creek Drainage District or Panoche Drainage District has suggested consolidation as a possibility.

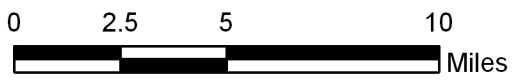
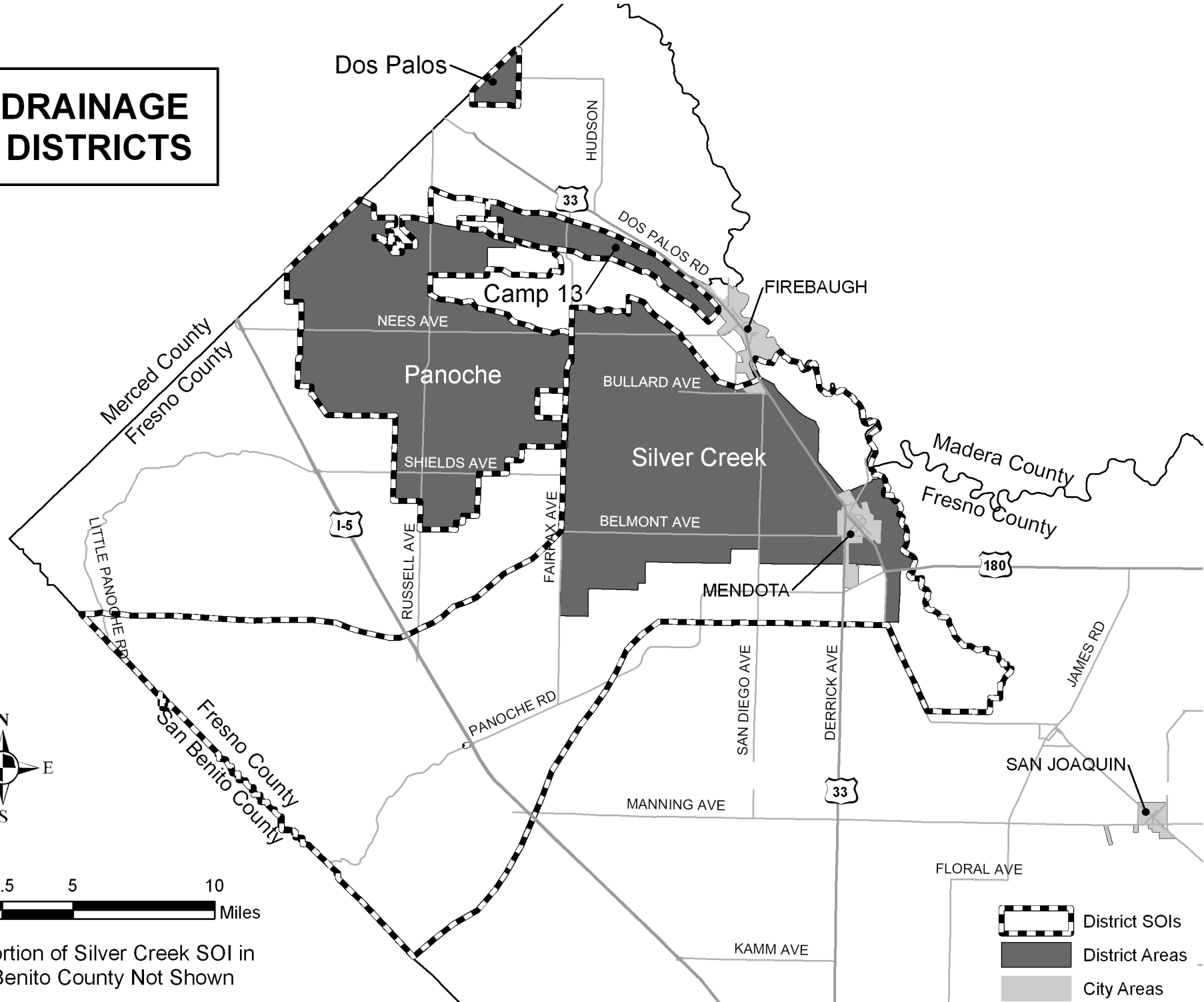
The District's SOI within Fresno County is 155,864 acres in size, significantly larger than the District area, with the bulk of the Sphere being located west of the District's boundary, extending beyond Fresno County's western boundary and into San Benito County. The District has not indicated a need or desire to change its Sphere of Influence.

Given that the District representative states that the District is seeking grant funding to utilize in District operations, staff believes it may be inappropriate to seek to revise the District's SOI to a "zero" sphere, dissolve the District, or seek to consolidate the District with the neighboring Panoche Drainage District at this time. Staff believes it would be appropriate to revisit these possibilities in approximately one year should the District still be inactive at that time. Staff recommends that the Commission update the District's current SOI by reaffirming its current SOI boundary, and to direct staff to report back to the Commission in approximately one year regarding the District's efforts to reactivate the District.




Recommendations:

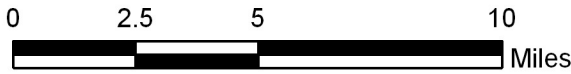
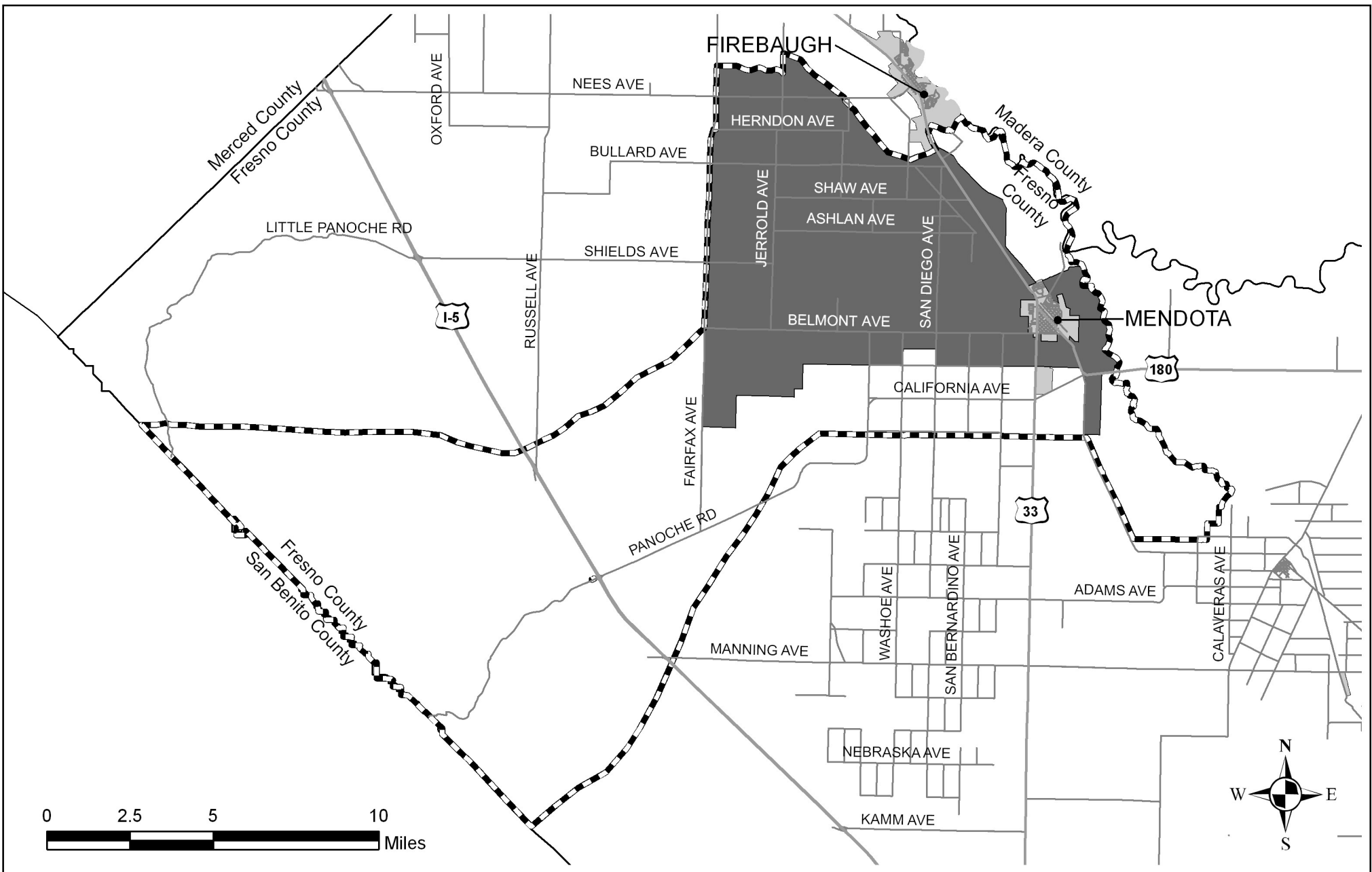
- A. Acting as Lead Agency pursuant to California Environmental Quality Act (CEQA) Guidelines, find that prior to adopting the written determinations, the Municipal Service Review and Sphere of Influence determinations under consideration are Categorical Exempt from the provisions of the California Environmental Quality Act (CEQA) under Section 15306, "Information Collection" and the general exemption from environmental review, CEQA Regulation Section 15061(b)(3), and find that the SOI Update qualifies for the same general exemption from environmental review based upon CEQA Section 15061(b)(3).
- B. Find the Municipal Service Review and Sphere of Influence Update prepared for the Silver Creek Drainage District are complete and satisfactory.
- C. Find that the written determinations within the Municipal Service Review and Sphere of Influence Update satisfy State Law.
- D. Pursuant to Government Code Sections 56425 and 56430 make the required determinations for the Municipal Service Review and Sphere of Influence Update, adopt the Municipal Service Review prepared for the Silver Creek Drainage District by Braitman and Associates, and update the Sphere of Influence for said District by reaffirming its current boundary.
- E. Direct staff to report back to the Commission in approximately one year on the efforts of District staff to reactivate the District.

DRAINAGE DISTRICTS



Note: Portion of Silver Creek SOI in San Benito County Not Shown

-  District SOIs
-  District Areas
-  City Areas



Fresno Local Agency Formation Commission Silver Creek Drainage District

Note: Portion of District SOI Located in San Benito County Not Shown

District Formed: 1982

SOI Adopted: 8/21/1985

Map Date: October 2007

District Area: 49,782 Acres

Sphere Area: 155,864 Acres

Acreeage in Fresno County

Legend

- District SOI
- District Area
- City Areas

RESOLUTION NO. MSR-07-50B

**FRESNO LOCAL AGENCY FORMATION COMMISSION
FRESNO COUNTY, CALIFORNIA**

In the Matter of

LAFCo Determination

RESOLUTION MAKING DETERMINATIONS)	MAKE DETERMINATIONS AND ADOPT
AND ADOPTING MUNICIPAL SERVICE)	MUNICIPAL SERVICE REVIEW; AND
REVIEW; AND MAKING DETERMINATIONS)	MAKE DETERMINATIONS AND
AND UPDATING SPHERE OF INFLUENCE)	UPDATE SPHERE OF INFLUENCE FOR
FOR THE SILVER CREEK DRAINAGE)	THE SILVER CREEK DRAINAGE
DISTRICT)	DISTRICT

WHEREAS, pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 56425 et. Seq.) the Fresno Local Agency Formation Commission is required to review and update, as necessary, Spheres of Influence of local agencies not less than once every five years; and

WHEREAS, Government Code Section 56430 directs the Commission to conduct a review of municipal services not later than the time it considers an action to establish or update a Sphere of Influence (SOI); and

WHEREAS, the Executive Officer prepared a Municipal Service Review (MSR) and Sphere of Influence Update for the Silver Creek Drainage District; and

WHEREAS, notice of this Commission's hearing of said request was duly given in a publication of general circulation as required by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and State law, and at the time and in the form and manner provided by law; and

WHEREAS, the Commission has heard, discussed and considered all relevant evidence, including but not limited to the Executive Officer's *Municipal Service Review and Sphere of Influence Update Report*, environmental documentation, applicable land use plans and all testimony, correspondence and exhibits received during the public hearing process, all of which are included herein by reference.

NOW, THEREFORE, BE IT RESOLVED that the Local Agency Formation Commission of the County of Fresno does HEREBY STATE, FIND, RESOLVE, DETERMINE, AND ORDER as follows:

Section #1. Acting as Lead Agency pursuant to California Environmental Quality Act (CEQA) Guidelines, this Commission finds that prior to adopting the written determinations, the Municipal Service Review and Sphere of Influence determinations under consideration are Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA) under Section 15306, "Information Collection" and the general exemption from environmental review, CEQA Regulation Section 15061(b)(3), and finds that the SOI Update qualifies for the same general exemption from environmental review based upon CEQA Regulation Section 15061(b)(3).

Section #2. This Commission finds the Municipal Service Review and Sphere of Influence Update prepared for the Silver Creek Drainage District are complete and satisfactory.

Section #3. This Commission finds that the written determinations within the Municipal Service Review and Sphere of Influence Update satisfy State Law.

Section #4. Pursuant to Government Code Sections 56425 and 56430, this Commission makes the required determinations for the Municipal Service Review and Sphere of Influence Update, adopts the Municipal Service Review prepared for the Silver Creek Drainage District by Braitman and Associates, and updates the Sphere of Influence for said District by reaffirming its current boundary.

Section #5. Direct staff to report back to the Commission in approximately one year on the efforts of District staff to reactivate the District.

Section #6. The Executive Officer is hereby authorized and directed to mail certified copies of this resolution as provided in Government Code Section 56882 and to file, as appropriate, in the Office of the Fresno County Clerk all environmental documents, if any, pertaining to the approval of this Proposal, as required by State law.

* * * * *

ADOPTED THIS 5th DAY OF DECEMBER, 2007, BY THE FOLLOWING VOTE:

AYES: Commissioners Rodriguez, Fortune, Anderson, Larson, Lopez

NOES: None

ABSENT: None

**STATE OF CALIFORNIA)
COUNTY OF FRESNO)**

CERTIFICATION

I, Victor Lopez, Chairman of the Fresno Local Agency Formation Commission (LAFCo), Fresno County, State of California, hereby certify that the foregoing resolution was adopted by the Commission on the 5th day of December, 2007.



**Victor Lopez, Chairman
Fresno Local Agency Formation Commission**

SILVER CREEK DRAINAGE DISTRICT

MUNICIPAL SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE

Report to the
Fresno Local Agency Formation Commission

Prepared By:

Braitman & Associates
8277 Cheshire St.
Ventura, CA 93004

December 2007

1. MUNICIPAL SERVICE REVIEW

Description of District

The Silver Creek Drainage District was created in 1982 pursuant to the County Drainage District Act of 1903 (Water Code, Section 56000 et seq.).

The District encompasses approximately 49,873 acres (77.9 sq. miles). Its Sphere of Influence is much larger than its boundaries, as shown on the enclosed map.

The District appears to be inactive and a non-user of corporate powers. The District governing board has not met in some time. The District has no employees and no budget.

Government Code Section 56871 defines a special district as being a non-user of corporate powers if it has been in existence for at least three years and one or more of the following conditions have existed or now exist:

During the preceding three-years any of the following events have not occurred:

- There has not been a duly selected and acting quorum of the board of directors of the district.
- The board of directors has not furnished or provided services or facilities of substantial benefit to residents, landowners, or property within the district.
- The board of directors has not levied or fixed and collected any taxes, assessments, service charges, rentals, or rates or expended the proceeds of those levies or collections for district purposes.

During the preceding one-year period a quorum of the duly selected and acting board of directors has not met for the purpose of transacting District business.

The District has no assets, other than money in the form of cash, investments, or deposits.

If LAFCO finds that a district is a non-user of corporate powers and there is a reasonable probability those powers will not be used in the future, the district may be dissolved without election pursuant to Government Code Section 57102.

District Services

While the District apparently provides no service at this time, it is authorized to provide drainage related services as per its enabling act. Jeff Bryant, on behalf of the District, indicates that plans are underway for the District to apply for grant funds and to become active in providing drainage services in the future. No further information is available.

2. MSR DETERMINATIONS

This portion of the report addresses the factors specified in the governing statute for Municipal Service Reviews.

Infrastructure Needs and Deficiencies

The District has no assets or infrastructure improvements.

Growth and Population Projections

Permitted District services do not affect rates or location of development or growth.

Financing Constraints and Opportunities

The District has not adopted a budget in recent fiscal years. There is no District debt.

Cost-Avoidance Opportunities

There are no obvious opportunities for cost avoidance in District operations other than to dissolve the District.

Opportunities for Rate Restructuring

The District does not impose rates or charges.

Opportunities for Shared Facilities

The District has no facilities.

Government Structure Options

A government structure option is to dissolve the District to reflect the fact that it provides no services and is inactive. A representative of the District indicates that plans are being discussed to activate the District in the near future, though no details about those plans have been provided to the LAFCO office.

Management Efficiencies

The District is not an active agency.

Local Accountability and Governance

The District does not have an active or current governing board.

3. SPHERE OF INFLUENCE REVIEW AND UPDATE

Government Code Section 56076 defines Sphere of Influence as “A plan for the probable physical boundaries and service area of a local agency, as determined by the commission.”

Description of Current Sphere of Influence

The District’s Sphere of Influence is much larger than its boundaries as shown on the enclosed map.

Possible “Zero” Sphere of Influence

If the Commission finds it is probable that the District will remain inactive, it could adopt a “zero” Sphere of Influence indicating it would approve a proposal to dissolve the District if submitted.

If the other hand, the Commission accepts the District’s testimony that plans are being developed to reactivate the District, it could affirm the current Sphere and direct the LAFCO staff to report back to the Commission in one year as to the success of efforts to reactivate the District, and make a different decision about the District Sphere at that time if warranted. If the District’s plans to become a more active in the near future are to be successful, these plans would be best served if the Commission did not adopt a “zero” Sphere of Influence.

Sphere of Influence Determinations

It is recommended the Commission affirm the current Sphere and adopt the following determinations.

1. Present and planned land uses in the area, including agriculture and open-space;

Present land uses are largely agricultural lands. No land use changes are planned.

2. Present and probable need for public facilities and services in the area;

Drainage services may be required but they are being met without the participation of the Silver Creek Drainage District. Consideration is being given to reactivating the District.

3. Present capacity of public facilities and adequacy of public service that the agency provides or is authorized to provide;

The District has no assets and provides no services at this time.

4. Existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

Social or economic communities of interest are not relevant to the Sphere of Influence determination for this agency.

4. ACKNOWLEDGEMENTS & REFERENCES

This draft Municipal Service Review was prepared by Braitman & Associates working at the direction of the Fresno LAFCO staff. Responsibility for any errors or omissions rests with those who prepared the report.

Available Documentation

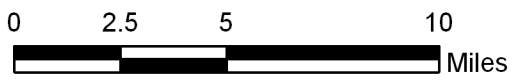
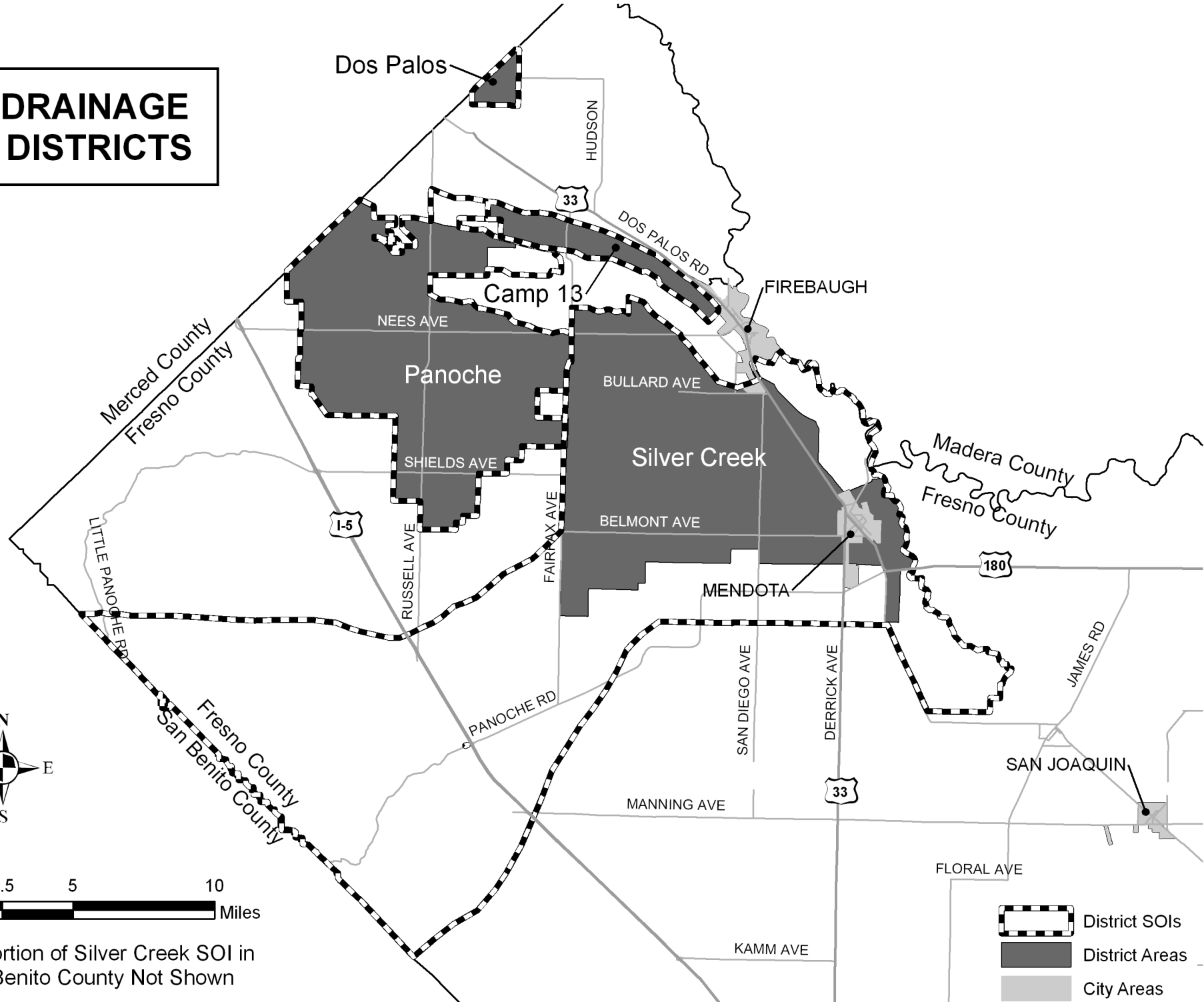
The District did not submit a “Request for Information for Municipal Service Reviews” nor were related documents received. Verbal information was provided by Jeff Bryant who manages this and other local special districts.

5. RECOMMENDATIONS




In consideration of information gathered and evaluated during the Municipal Service Review it is recommended the Commission:

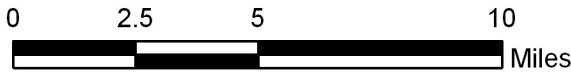
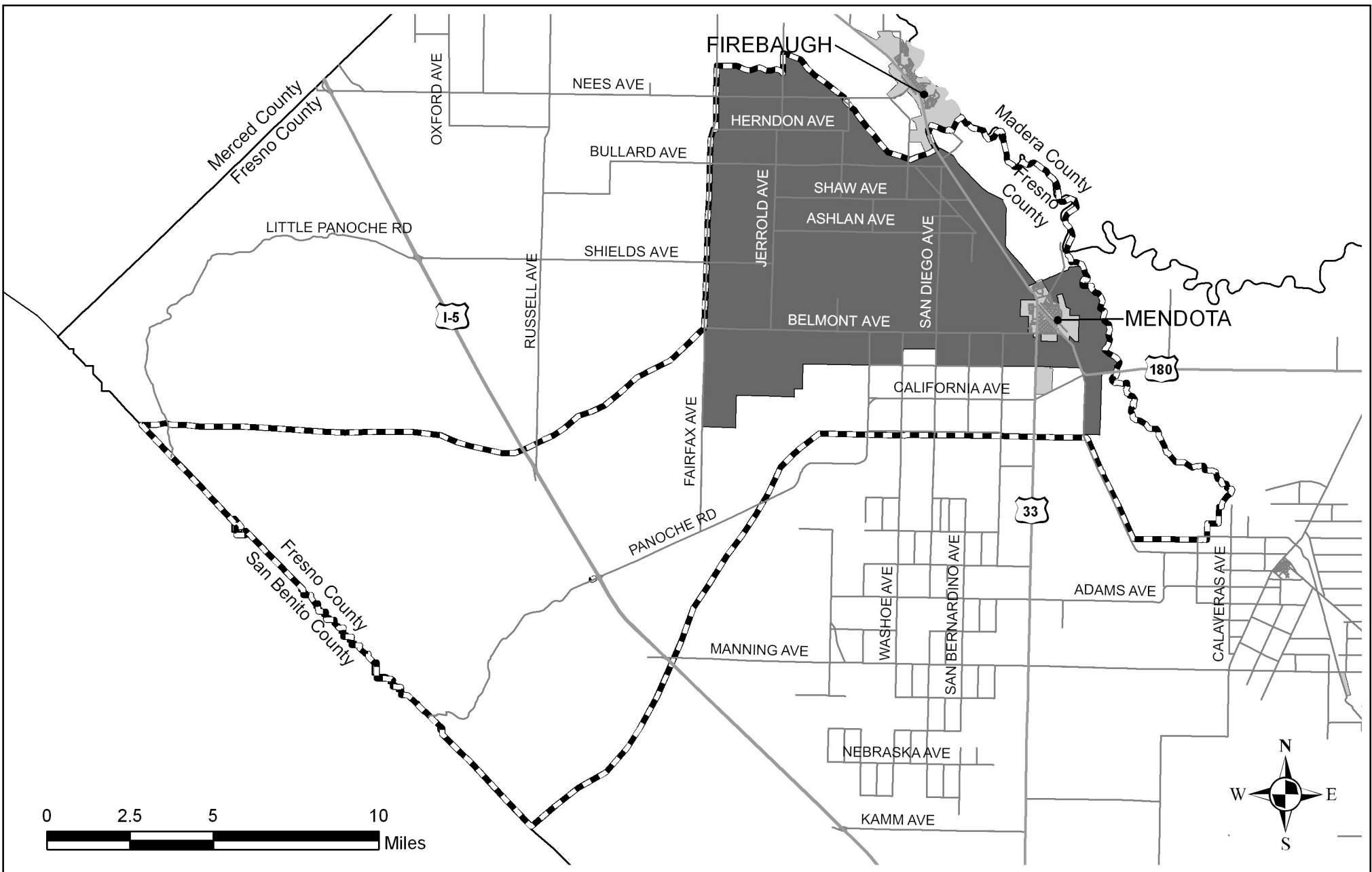
1. Accept public testimony regarding the proposed Municipal Service Review.
2. Approve the recommended Municipal Service Review determinations, together with any changes deemed appropriate.
3. Affirm the current Sphere of Influence and direct the LAFCO staff to report back in one year on the efforts of District staff to reactivate the District.

DRAINAGE DISTRICTS



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-  District SOIs
-  District Areas
-  City Areas



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