
**BUTTE LOCAL AGENCY FORMATION COMMISSION (LAFCO)
EXECUTIVE OFFICER'S REPORT**

TO: Local Agency Formation Commission
FROM: Shannon Costa, Deputy Executive Officer
SUBJECT: *LAFCo File 23-08 – Dissolution – Drainage District No. 2*
DATE: February 22, 2023 for the March 2, 2023 LAFCo meeting

Summary

Proposed is the dissolution of Drainage District No. 2 (DD2). At its November 2, 2022 meeting, the Board of Directors adopted a resolution of application to dissolve DD2 involving 51 parcels encompassing an area of 7,587 acres south and west of the unincorporated community of Nelson in western Butte County. The proposed dissolution conforms to LAFCo policy and to the determinations of the *Municipal Service Review and Sphere of Influence Plan for Drainage Service Providers*, adopted by Butte LAFCO on June 7, 2018. Policy 5.6 of the Butte LAFCO Policies and Procedures provides that the Commission will approve a proposal for dissolution only if it determines that the services offered are no longer necessary, can be provided more efficiently by another agency or another agency agrees to provide the services, or that the agency is insolvent and unable to provide the service. The Executive Officer recommends approval of this proposal.

General Application Information

Application Submitted: December 20, 2022

Application Deemed Complete: January 20, 2022

100% Landowner Consent: No. (Not applicable as action has consent of Board of Directors GC567077.1)

Notice and Hearing Required: Yes (Mailed and published notice was provided)

Proponent: Drainage District No. 2

Landowner: Numerous

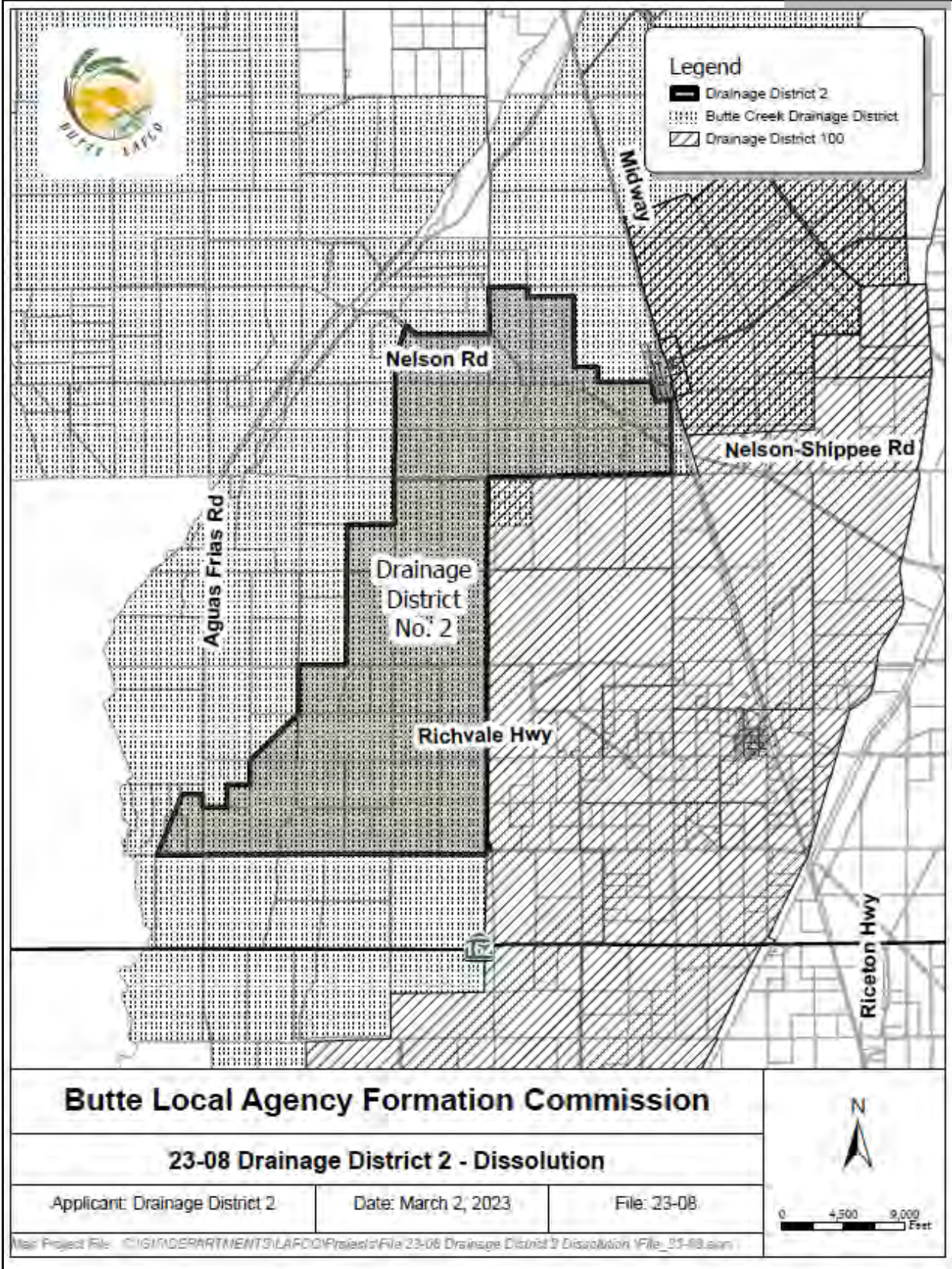
Location: South and west of the unincorporated community of Nelson in unincorporated western Butte County. The territory is located in Supervisorial District 4.

Proposal: Dissolution of Drainage District No. 2 involving approximately 51 parcels encompassing an area of 7,587 acres.

Requested

Action: Adopt Resolution No. 15 2022/23 (**Exhibit B**) approving the dissolution.

Exhibit A



BACKGROUND

Drainage District No. 2 (DD2) was formed in 1920 to make improvements to approximately eight miles of Little Dry Creek, which flows through DD2's boundaries. Additionally, DD2 maintains a lateral canal connecting Little Dry Creek to Butte Creek.

DD2 does not own or lease any detention facilities; however, it provides maintenance on approximately eight miles of Little Dry Creek and a section of a lateral between Little Dry Creek and Butte Creek for drainage purposes. Little Dry Creek is a naturally occurring tributary to Butte Creek. The Creek has been modified to accommodate irrigation and stormwater flows. DD2 provides no maintenance of private laterals, which are the responsibility of individual landowners utilizing the main drain ditches.

DD2 does not own or lease any lands, major facilities, or equipment. Little Dry Creek is not owned by the district. Rather, easements held across private property provide DD2 access to the creek for maintenance and operation purposes. DD2 has no employees and contracts its maintenance duties out to various outside vendors.



Little Dry Creek at Richvale Highway

Land Use

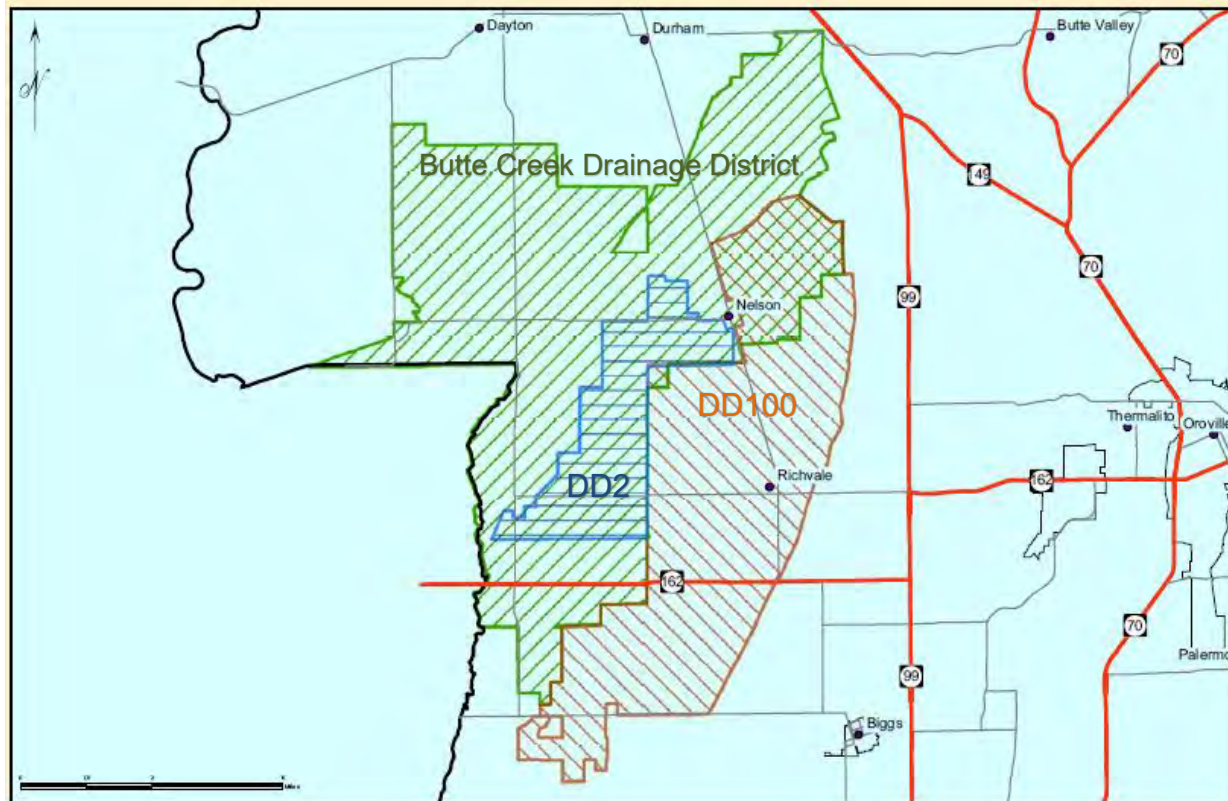
Land use within the DD2 boundary is primarily intensive agriculture with very low-density single-family residences. All 51 parcels within the District are zoned Agriculture with a 80-acre minimum lot size, nine of which are held in voluntary agricultural land conservation under rolling 10-year contracts associated with the Williamson Act.

District Funding and Expenses

Primary sources of revenue for DD2 include property taxes, interest, and charges for services. DD2 does not have an adopted Capital Improvement Plan, does not provide an annual contribution to the State Education Revenue Augmentation Funds (ERAF), and does not have an outstanding debt. DD2 is a member of the Special District Insurance Program.

For Fiscal Year 2020/2021, secured property taxes brought in \$1,985. Charges for services varies on a yearly basis, depending on the needs of DD2. For FY 2019/2020, \$2,833 was collected for services provided, while for FY 2020/2021 only \$602 was collected.

DD2 has an informal agreement that allows Western Canal Water District (WCWD) to utilize Little Dry Creek to convey WCWD's irrigation water downstream to local farmers during the summer season. In exchange for this conveyance, WCWD provides up to \$1,000 of in-kind service for maintaining Little Dry Creek for drainage.



DISCUSSION AND ANALYSIS

Grounds for Dissolution

Pursuant to Butte LAFCo policy 5.6.1 (Disincorporation and District Dissolution), the Commission will approve a proposal for dissolution only if it determines that the services offered or authorized are no longer necessary, the services can be provided more efficiently by another agency or provider and that agency agrees to provide the services, or the agency is insolvent and unable to provide the services. The dissolution of the DD2 was initiated by the Board of Directors through adoption of a Resolution of Application (see **Exhibit C**).

All of DD2 lies within the boundaries of Butte Creek Drainage District (BCDD), a much larger and better-funded district that surrounds DD2 on three sides. The primary purpose of the BCDD is to maintain the infrastructure along Butte Creek and the Moulton Cut to accommodate the drainage of agricultural water from rice fields and winter stormwater. This results in an area of overlap of services for parcels in DD2, as property taxes are allocated to two separate districts performing the same services. Both District's operations are currently administered by Western Canal Water District's Manager as neither district has sufficient staff or resources to perform its own administrative and managerial duties. Previous MSR determinations found that because of operational and service redundancies, DD2 should seek dissolution or consolidation with Butte Creek Drainage District.

Plans for Service

Government Code Section 56653 (*Plan for Services*) requires that every proposal involving a change of organization (dissolution/annexation) shall include a Plan for Services that addresses how services are to be provided based on the action requested. Through its contractual agreements, the General Manager of Western Canal Water District provides administrative and managerial services for DD2 and BCDD. Upon dissolution of DD2, BCDD will continue to provide services, including routine maintenance of Little Dry Creek. As such, the General Manager of Western Canal Water District will continue to provide administrative and managerial oversight. Essentially, no changes to the services provided to parcels within DD2 would occur.

BCDD serves 361 parcels in both Butte and Glenn Counties, totaling approximately 64,548 acres. BCDD is funded primarily through its share of property taxes and interest made on fund balance. For fiscal year 2020/2021, BCDD collected \$12,789 in secured property tax revenue and was able to budget \$3,950 for services provided.

BCDD participates in a multi-party maintenance agreement with Reclamation district No. 833, Drainage District No. 200, Butte Slough Irrigation Company and Drainage District No. 100. The agreement, established in 1936, quantifies the apportionment of expenses to be shared between the districts for the cost of clearing vegetation and bank stabilization along a section of Butte Creek known as Moulton Cut.

Other services provided within DD2 boundaries would be as follows:

<u>Service</u>	<u>Presently Provided By</u>	<u>Proposed Provider</u>
Fire Protection	CAL Fire	No Change
Police Protection	BC Sheriff	No change
Code Enforcement	County of Butte	No change
Sewer Service	None	No change
Cemetery Service	Biggs Gridley Cemetery District	No change
Domestic Water Service	None	No change
Agricultural Water Service	Drainage District No. 2	Butte Creek Drainage District
Animal Control	County of Butte	No change
Solid Waste	Private Collector	No change
Road/Street Maintenance	Butte County/private roads	No change
Power Infrastructure	PG&E	No change
Street Lighting	None	No change
Planning & Zoning	County of Butte	No change
Schools	Biggs Unified School District	No change
Resource Conservation	Butte Co. Resource Conservation Dist.	No change
Mosquito Abatement	Butte Co. Mosquito & Vector Control Dist.	No change
Recreation	None	No change
Storm Water Drainage	None	No change

Effect of Dissolution

Upon the date of dissolution recordation, Drainage District No. 2 shall be dissolved and, pursuant to Government Code Section 57450, all powers granted to DD2 shall cease to exist. The Commission, as provided by this code section, is empowered to determine and name the successor agency in order to wind of the affairs of DD2.

Successor Agency

The Butte Creek Drainage District shall be named the successor agency. This will involve the transfer of the responsibility to oversee the discontinuation and management of all services, revenues, assets and liabilities to Butte Creek Drainage District, including any fund balances, property, liabilities, property tax share and parcel assessments as discussed below.

Property Tax Agreement

Primary sources of revenue include property taxes, interest, and charges for current services. DD2 receives a small increment of secured property tax, which for fiscal year 2020/2021 amounted to \$1,985. Upon dissolution of DD2, any remaining funds associated with DD2's share of property taxes will be evenly distributed amongst the other local agencies within the affected Tax Rate Areas associated with DD2, thus benefitting its residents.

Physical/Financial Assets

All of DD2's physical and financial assets would become the property of Butte Creek Drainage District, as the successor agency after the dissolution is complete. As previously discussed, DD2 has no physical assets and it is anticipated that only a small amount of financial assets would remain upon dissolution, and that money be transferred to Butte Creek Drainage District as the successor agency.

Liabilities and Obligations

DD2 has no known liabilities or financial obligations. Upon dissolution of DD2, any outstanding bills, such as insurance, would be resolved by the Butte Creek Drainage District utilizing any remaining funds held by DD2.

INDIVIDUAL FACTORS FOR CONSIDERATION

California Government Code §56668 (*Factors to be Considered in Review of Proposal*) provides a list of factors to be considered in the review of a proposal. The Commission's review shall include, but is not limited to, consideration of these factors:

(a) Population; land use; topography; proximity to other populated areas; the likelihood of significant growth in the area.

Drainage District No. 2 is located south and west of the unincorporated community of Nelson on western Butte County. The topography within DD2 is flat, with very low slope of 1% to 2%. Land use within DD2 is primarily intensive agriculture, with all of the parcels in the District zoned AG with 80 acre minimum lot size. Significant growth in the area is limited due to land use restrictions, including zone and minimum lot size.

(b) The need for organized community services; probable effect of the proposed annexation on the cost and adequacy of services and controls in the area and adjacent areas.

The District's primary purpose is to maintain infrastructure on Little Dry Creek to drain agricultural water from rice fields. Winter stormwater is also carried through the same conveyance facilities. Due to the slope of the land, impervious soil type, and type of crop grown in the area, water runoff in the area could cause flooding if not controlled properly.

DD2's boundaries lie wholly within the bounds of Butte Creek Drainage District, a much larger district that surrounds DD2 on three sides. The two districts were formed under the same enabling statute and provide similar services in that they collect revenue to maintain portions

of a waterway. Dissolution of DD2 would provide more efficient and seamless management of the drainage resources in the area.

(c) The effect of the proposed action and of alternative actions.

The proposed dissolution would eliminate redundancy in service provided to those within the bounds of DD2. Currently, drainage services are provided by both Drainage District No. 2 and Butte Creek Drainage District; the dissolution would reduce costs associated with maintenance of drainage ways, as well as administrative and managerial costs.

(d) The conformity of the proposal with the adopted commission policies on providing planned, orderly, efficient patterns of urban development.

The proposed dissolution is consistent with Butte LAFCo policies regarding dissolution in that drainage services can be more efficiently provided by the Butte Creek Drainage District (5.6.1) and services provided by Drainage District No. 2 are not necessary. Dissolution of Drainage District No. 2 would eliminate a redundancy in services provided in the area.

(e) The effect of the proposal on agricultural lands.

The primary land uses within DD2 is intensive agricultural use. The proposed dissolution would not adversely affect agricultural lands within the district, as they would continue to receive drainage services provided by the Butte Creek Drainage District, administered by Wester Canal Water District. No development or changes to land uses are proposed.

(f) Boundaries of the territory.

The subject territory is parcel specific, with definite and certain boundaries. There are no known conflicts with lines of assessment or ownership.

(g) Consistency with city or county general and specific plans.

The proposal is consistent with Butte County General Plan policies that support ongoing agriculture uses in the western county. The parcels are not otherwise part of a specific plan.

(h) The sphere of influence of any local agency which may be applicable to the proposal being reviewed.

DD2 lies within the boundaries of Butte Creek Drainage District (BCDD), a much larger and better-funded district that provides the same drainage services to Butte Creek. Dissolution of DD2 would eliminate service redundancies to parcels within DD2, as the services would only be provided by BCDD.

Services provided by other local agencies overlapping DD2's service area would not be effected by the dissolution.

(i) The comments of any affected local agency.

On January 17, 2023, LAFCo staff circulated the proposal for review and comment from twenty local public agencies and County departments. No substantive comments were received.

(j) The ability of the receiving entity to provide the services.

Butte Creek Drainage District is funded primarily through its share of property taxes and interest made on fund balance. For fiscal year 2020/2021, BCDD collected \$12,789 in secured property tax revenue and was able to budget \$3,950 for services provided. BCDD is much larger in size compared to DD2, covering approximately 64,548 acres in both Butte and Glenn Counties. BCDD participates in a multi-party maintenance agreement with Reclamation district No. 833, Drainage District No. 200, Butte Slough Irrigation Company and Drainage District No. 100. The agreement, established in 1936, quantifies the apportionment of

expenses to be shared between the districts for the cost of clearing vegetation and bank stabilization along a section of Butte Creek known as Moulton Cut. Upon dissolution of DD2, Butte Creek Drainage District will continue to provide drainage services within its service boundary; no impacts to drainage services are anticipated.

(k) Availability of adequate water supplies.

DD2 is not a water purveyor and no changes associated to water supplies are anticipated upon dissolution of the district.

(l) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs.

The proposed reorganization will not have any effect on any city or on the County of Butte in achieving their respective fair share of regional housing needs.

(m) Any information or comments from the landowner or owners, voters, or residents of the affected territory.

Pursuant to Government Code Section 56660, a notice of the public hearing for the proposed reorganization was placed in the Chico Enterprise Record on February 9, 2023. As of the date of this staff report, no public comments have been received resulting from these notices.

(n) Any information relating to existing land use designations.

All parcels in the territory are identified in the Butte County General Plan Land Use Diagram for intensive agricultural uses with an 80-acre minimum lots size. Many of the parcels participate in voluntary Williamson Act contracts.

(o) The extent to which the proposal will promote environmental justice.

The CKH Act defines a "disadvantaged unincorporated community" as inhabited territory (12 or more registered voters), or as determined by commission policy, that constitutes all or a portion of a "disadvantaged community" as defined by Water Code Section 79505.5. The Water Code Section 79505.5 defines a "disadvantaged community" as a community with an annual median household income that is less than 80 percent of the statewide annual median household income. The parcels within DD2 are not identified as a disadvantaged unincorporated community.

Based upon the above responses, the proposal appears to be consistent with the listed factors.

Applicable Butte LAFCo Policies

Section 2.0 (*LAFCo General Policies and Standards*) and Section 5.6 (*Disincorporation and District Dissolution*) of Butte LAFCo Policies and Procedures provides the Commission with general standards for dissolution and annexation proposals. The relevant policies for consideration and guidance for this proposal include:

- The creation of logical boundaries (2.11.2).
- Consistency of a proposal with the Sphere of Influence and Municipal Service Review of the affected jurisdiction(s) (4.1.1).
- Determination of the most efficient service provider (4.2).
- Determination that the services provided by the district to be dissolved can be provided more efficiently by another agency and that agency agrees to provide the services (5.6.1)

The proposal is substantially consistent with the above policies in that:

- The proposed reorganization will result in the dissolution of Drainage District No. 2, consistent with the findings and determinations of the *Municipal Service Review and Sphere of Influence Plan for Drainage Service Providers*, adopted by Butte LAFCO on June 7, 2018.
- DD2 lies within the boundaries of Butte Creek Drainage District (BCDD), a much larger district that surrounds DD2 on three sides.
- Butte Creek Drainage District participates in a multi-party agreement for the ongoing maintenance of Butte Creek. No disruption to drainage services would be realized through the dissolution of DD2.
- Through its contractual agreements, the District Manager for Wester Canal Water District will continue to provide administrative and managerial oversight of Butte Creek Drainage District, which will continue to provide drainage services within DD2 boundaries.

Conducting Authority Proceedings

Pursuant to Government Code Section 57077.1(c)(1) (Dissolution initiated by District Board as discussed above) LAFCo will approve the dissolution without protest proceedings or election.

Environmental Analysis

Drainage District No. 2 is the lead agency for the proposal under the California Environmental Quality Act (CEQA). DD2 found the proposal to be Categorical Exempt from further CEQA review, pursuant to Section 15320 (Changes in Organization of Local Agencies). Staff concurs with the Agency's use of Section 15320 exemption.

CONCLUSION

Butte Creek Drainage District, through its existing multi-party agreements, will continue to provide adequate drainage services to properties within their service area. Dissolution of DD2 will result in a more efficient distribution of revenues collected from property taxes, with no disruption to services provided. The proposed dissolution conforms to LAFCo policy and to the determinations of the *Municipal Service Review and Sphere of Influence Plan for Drainage Service Providers*, adopted by Butte LAFCO on June 7, 2018 and is supported by Butte LAFCo policies that encourage efficient services (2.8) and implementation of MSRs.

ALTERNATIVES FOR COMMISSION ACTION

After reviewing this report and any testimony or materials that are presented, the Commission may take one of the following actions:

OPTION 1 – APPROVE WITH CONDITIONS the proposal as submitted:

- A. Find that the proposed reorganization is Categorical Exempt from the California Environmental Quality Act pursuant to Section 15320 (Changes in Organization of Local Agencies).
- B. Adopt Resolution 15 2022/23 making determinations approving the dissolution of the Drainage District No. 2 involving approximately 51 parcels encompassing an area of 7,587 acres and naming Butte Creek Drainage District as the successor agency.
- C. Pursuant to Government Code Section 57077.1(c)(1) the Commission waives protest proceedings and elections.

OPTION 2 - DENY the proposal.

OPTION 3 - CONTINUE the proposal to a future date.

ACTION REQUESTED: Approve OPTION 1, Conditional Approval

PROPOSED MOTION:

I recommend that the Commission adopt resolution 15 2022/23 making determinations approving the proposed dissolution of Drainage District No. 2, finding the proposal exempt from environmental review pursuant to CEQA Guidelines section 15320, and waiving protest provisions.

Respectfully submitted,

Shannon Costa

Shannon Costa
Deputy Executive Officer

Attachments:

Exhibit A: District Map
Exhibit B: Draft LAFCo Resolution No. 15 2022/23
Exhibit C: DD2 Resolution of Application

RESOLUTION NO. 15 2022/23**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION
OF THE COUNTY OF BUTTE MAKING DETERMINATIONS AND ORDERING THE
DISSOLUTION OF DRAINAGE DISTRICT NO. 2**

RESOLVED, by the Local Agency Formation Commission of the County of Butte, State of California, that

WHEREAS, a proposal for the dissolution of certain territory from Drainage District No. 2 in the County of Butte was heretofore filed by the Board of Directors of Drainage District No. 2 and accepted for filing on January 20, 2023, by the Executive Officer of this Local Agency Formation Commission pursuant to Title 5, Division 3, commencing with Section 56000 of the Government Code; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56658, set March 2, 2023, as the hearing date on this proposal and gave the required notice of public hearing; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56665, has reviewed this proposal and prepared a report, including recommendations thereon, and has furnished a copy of this report to each person entitled to a copy; and

WHEREAS, this Commission called for and held a noticed public hearing on March 2, 2023, and at the hearing this Commission heard and received all oral and written protests, objections and evidence which were made, presented or filed, and all persons present were given an opportunity to hear and be heard with respect to this proposal and the report of the Executive Officer; and

WHEREAS, this Commission considered the factors determined by the Commission to be relevant to this proposal, including, but not limited to, factors specified in Government Code Section 56668; and

NOW, THEREFORE, the Local Agency Formation Commission of the County of Butte **DOES HEREBY RESOLVE, DETERMINE AND ORDER** as follows:

Section 1. Environmental Action:

- A. Drainage District No. 2, as the lead agency, has determined that the proposed dissolution is categorically exempt from the provisions of the California Environmental Quality Act pursuant to Section 15320 (Changes in Organization of Local Agencies). This exemption is appropriate for actions which involve the organization or reorganization of local governmental agencies where the changes do not change the geographical area in which previously existing powers are exercised, including the consolidation of two or more districts having identical powers.

Section 2. General Findings and Determinations:

- A. The Commission has considered the factors determined by the Commission to be relevant to this proposal, including, but not limited to, Butte LAFCo Policies and Procedures, Sphere of Influence and *Municipal Service Review and Sphere of Influence Plan for Drainage Service Providers*, adopted by Butte LAFCO on June 7, 2018, and other factors specified in Government Code

Section 56668 and as described in the staff report dated February 23, 2023 for the meeting of March 2, 2023.

- B. The dissolution area shall consist of 51 parcels, totaling approximately 7,587 acres as described in Exhibit "A."
- C. The subject area is found to be uninhabited, and is assigned the following short form designation: 22-08 – Drainage District No. 2 Dissolution.
- D. Pursuant to Butte LAFCO Policy 2.13.1, the Commission determines that agricultural and/or open space lands will not be adversely affected by this proposal.
- E. The proposal only involves the dissolution of Drainage District No. 2. No other special districts will be affected by this proposal.
- I. Butte Creek Drainage District shall be named the successor agency in order to wind up the affairs of the Drainage District No. 2. This will involve the transfer of all revenues, assets and liabilities to Butte Creek Drainage District, to include fund balances, property tax share and parcel assessments.
- J. Butte Creek Drainage District, through its existing multi-party agreements, will continue to provide adequate drainage services to properties within their service area.
- H. A Master Property Tax Sharing Agreement is in affect with the Butte County that does not transfer any County share of property tax to the District. Drainage District No. 2's ad-valorem property tax revenue collected from the parcels within the territory shall be redistributed proportionally to each agency in each Tax Rate Areas within the district.

Section 3. Conditions requested by LAFCO:

- A. All LAFCO, County of Butte and State of California fees must be paid in full prior to filing the Certificate of Completion.
- B. Pursuant to Government Code Sections 57451, 56452, 57453, and 56476, the Commission determines the Butte Creek Drainage District to be the Successor Agency for the purposes of winding up the affairs of Drainage District No. 2.
- C. Pursuant Government Code Sections 56886(r) and 57463, Butte Creek Drainage District, as the successor agency, is permitted to use any unspent funds within the former Drainage District No. 2 territory for the benefit of its residents.

Section 4. The boundaries, as set forth in the proposal or as amended by action of the Commission, are hereby approved as submitted and are as depicted in "Exhibit A" attached hereto and by this reference incorporated herein.

Section 5. Waiver of Protest Proceedings:

- A. Pursuant to Government Code Section 57077.1(c)(1) the Commission waives protest proceedings and elections for the dissolution of Drainage District No. 2.

Section 6. The Executive Officer is hereby authorized and directed to mail certified copies of this Resolution as provided in Section 56882 of the Government Code.

PASSED AND ADOPTED by this Local Agency Formation Commission of the County of Butte, on the 2nd day of March, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINS:

ATTEST:

Clerk of the Commission

BILL CONNELLY, Chair
Butte Local Agency Formation Commission