

M E M O R A N D U M

TO: Local Agency Formation Commission

FROM: Stephen Lucas, Executive Officer
Stephen Betts, Deputy Executive Officer

**SUBJECT: Agenda Item 3.1 – LAFCo File No. 17-07 – Mosquito Abatement Districts Municipal Service Review Update/Sphere of Influence Plan
(Continued from the November 2, 2017 meeting)**

DATE: November 29, 2017, for the meeting of December 7, 2017

BACKGROUND

This item has been heard by the Commission at the Commission’s August 3, September 7, October 5, and November 2, 2017, meetings. At the November 2 meeting, the Commission continued the item open until the Commission’s December 7, 2017, meeting to allow Staff to make final revisions to the Public Review Draft Municipal Service Review Update/Sphere of Influence Plan.

Staff recommends that the Commission 1) review the changes as outlined below; 2) open the hearing for public comments; 3) provide direction to staff for any final changes to the MSR/SOI Plan document; and 4) adopt Resolution 02 2017/18 approving the Mosquito Abatement Districts Municipal Service Review Update/Sphere of Influence Plans. Resolution 02 2017/18 gives the Durham Mosquito Abatement District a Probationary Sphere of Influence boundary.

REVISIONS TO THE PUBLIC REVIEW DRAFT MUNICIPAL SERVICE REVIEW UPDATE/SPHERE OF INFLUENCE PLAN.

Based upon written comments and comments received at the public hearings, Staff made a number of revisions to the Draft Municipal Service Reviews and Sphere of Influence Plans as was first presented to the Commission at the Commission’s August 3, 2017, meeting. Additions to these documents are underlined, while deletions are ~~struck through~~. Many of the revisions corrected minor typographical or formatting errors. However, several sections of the Draft Municipal Service Reviews and Sphere of Influence Plans were significantly revised to reflect the Commission’s desires, new issues, and to reflect comments received at the various public hearings. The following is a brief summary of the more significant changes to the Draft Municipal Service Reviews and Sphere of Influence Plans.

Section 1 (Introduction)

There was only one significant revision in this section, which is found on Page 1-23. This revision added a new paragraph regarding a recently published report by the UC Davis Western Integrated Pest Center on the importance of an integrated pest management program in preventing the spread of West Nile Virus in California. This report - *Management of Mosquitoes: A Case Study of West Nile Virus in California* (October 2017) – has been attached to the MSR/SOI Plan as Attachment D.

Section 2 (Butte County Mosquito and Vector Control District)

There are several significant revisions to the Butte County Mosquito and Vector Control District's section, as follows:

- On Page 2-38 and 2-39, additional information has been provided regarding the duties of BCMVCD staff.
- On Page 2-53, the first paragraph was amended to state that that BCMVCD would like DMAD to stop fogging operations within the BCMVCD portion of the Butte Creek Estates Subdivision.
- On Page 2-54, the first paragraph now notes that the BCMVCD Board of Trustees is against annexation of their portion of the Butte Creek Estates Subdivision to DMAD. This paragraph also now notes that annexing the DMAD portion of the Butte Creek Estates Subdivision to BCMVCD is feasible and would provide the residents of that area with comprehensive mosquito abatement services
- On Pages 2-54, information regarding the rice fields within DMAD was revised to reflect updated information. Additionally, this section (on Page 2-55) now contains a map that shows a potential detachment/annexation area of approximately 14,700 acres, which would reduce DMAD's jurisdictional boundaries from its current size of approximately 38,372 acres to approximately 23,675 acres, which would be a 39% reduction.
- On Page 2-56, MSR Determination 7-3 was revised to eliminate the initial recommendation that the BCMVCD north portion of the Butte Creek Estates Subdivision be annexed to DMAD. Additionally, this determination now states that DMAD should stop all fogging operations within BCMVCD's portion of the Butte Creek Estates Subdivision and that both districts work together to resolve the issue of the dual service provisions within the Butte Creek Estates Subdivision.
- On Page 2-60, Sphere of Influence Findings and Recommendations # 7 was added and which states that the rice fields and wetlands within DMAD should be detached from DMAD and annexed to BCMVCD.

Section 3 (Durham Mosquito Abatement District)

There are several significant revisions to the Durham Mosquito Abatement District's section, as follows:

- On Pages 3-4, 3-5, 3-10, and 3-11, changes were made to provide more accurate information regarding the number and location of light traps deployed by DMAD and corrects information about the District's collection of dead birds (the District does not collect dead birds).
- On Page 3-15, additional language was added to MSR Determination 3-2 (Adequacy of Public Services) regarding the elements that should be included within an integrated pest management program. Additionally, this determination notes that the DMAD District Manager recently indicated that the District intends to adopt an integrated pest management program.
- On Pages 3-45 and 3-46, the information regarding DMAD's fogging operations within BCMVCD's portion of the Butte Creek Estates Subdivision was revised to reflect a more accurate assessment of the situation. This section now notes that BCMVCD would like DMAD to stop fogging operations within this area and eliminates the initial recommendation that this area be annexed to DMAD. This section also notes that the BCMVCD Board of Trustees is against annexation of their portion of the Butte Creek Estates Subdivision to DMAD.

- On Pages 3-46 to 3-48, information regarding the rice fields within DMAD was revised to reflect updated information. Additionally, this section now contains a map that shows a potential detachment/annexation area of approximately 14,700 acres, which would reduce DMAD's jurisdictional boundaries from its current size of approximately 38,372 acres to approximately 23,675 acres, which would be a 39% reduction.
- On Page 3-49, MSR Determination 7-3 was revised to eliminate the initial recommendation that the BCMVCD portion of the Butte Creek Estates Subdivision be annexed to DMAD. Additionally, this determination now states that DMAD should stop all fogging operations within BCMVCD's portion of the Butte Creek Estates Subdivision and that both districts work together to resolve the issue of the dual service provisions within the Butte Creek Estates Subdivision. If a mutually agreeable solution cannot be negotiated, BCMVCD should explore the annexation of the south portion of BCES to promote consistency in services throughout the residential subdivision.
- On Page 3-52, a paragraph was added that notes that MSR Determination 3-2 recommends that DMAD adopt and follow an integrated pest management program.
- On Page 3-53, SOI Determination 3-2 was added that recommends that DMAD adopt and follow an integrated pest management program. SOI Determination 3-2 also lists the elements that should be included in the integrated pest management program.
- On Page 3-54, Findings and Recommendations # 4, which affirmed the Zero Sphere of Influence for DMAD, was eliminated and the remaining findings/recommendations renumbered.
- On Page 3-55, Sphere of Influence Findings and Recommendations # 8 (formerly # 9) was revised to acknowledge that a recommendation that DMAD be dissolved or consolidated with BCMVCD is a difficult process.
- On Page 3-55, Sphere of Influence Findings and Recommendations # 9 was added that now states that the rice fields and wetlands within DMAD should be detached from this district and annexed to BCMVCD.
- On Page 3-55, Sphere of Influence Findings and Recommendations # 10 was added. This finding/recommendation states that the Commission should give a Probationary Sphere of Influence to DMAD for a period of one year, which would give the District adequate time to adopt and implement an integrated pest management program and to create a comprehensive website. While DMAD aggressively pursues adult mosquito eradication through consistent fogging, it does not have a comprehensive vector control strategy that is based on an adopted and documented Integrated Vector Management Plan (IVMP). The District should immediately develop, adopt, and make publicly available an IVMP that clearly details its vector control strategy that includes a reasonable and effective plan to address currently unmet needs in the vast agricultural areas where mosquito breeding grounds surround populated areas of the District. The integrated pest management program should, at a minimum, include the following elements:
 1. Outreach and education;
 2. Mosquito surveillance;
 3. Treatment thresholds;
 4. Biological and microbial control;
 5. Physical and cultural control; and
 6. Chemical control.

It is vitally important to public accountability that the District maintain adequate records/documentation that demonstrates how each of the IVMP factors have been implemented and evaluated for effectiveness. At the end of the year, the Commission would review the service provisions of DMAD to ensure that the District has adopted and implemented the comprehensive integrated pest management program and has created and

maintained a comprehensive website. Should the Commission determine that the District has adequately implemented the above measures and is providing adequate services; the Commission may give the District a traditional Coterminous Sphere of Influence boundary.

Section 4 (Oroville Mosquito Abatement District)

There are several significant revisions to the Oroville Mosquito Abatement District's section, as follows:

- On Page 4-1, a footnote was added to note that the OMAD District Manager passed away in September 2017.
- On Page 4-3, the table showing the members of the OMAD Board of Trustees was revised to delete the two board members who were recently removed due to residing outside of OMAD jurisdictional boundaries. Additionally, a footnote was added to note that on October 10, 2017, the Butte County Board of Supervisors removed the two Trustees.
- On Page 4-26, two new sentences were added that note that the OMAD Board of Trustees recently met at a location outside of OMAD's jurisdictional boundaries and that the OMAD Board of Trustees held a meeting without proper notice. Additionally, the information regarding the issue of the two OMAD Board of Trustees residing outside of the District boundaries was revised to state that these two Trustees were removed from their positions by the Butte County Board of Supervisors.
- The third paragraph on Page 4-27 was revised to note that OMAD District Manager passed away during the preparation of this MSR/SOI Plan. Additionally, the sixth paragraph on Page 4-27 was revised to note that the death of the OMAD District Manager significantly affected the ability of the District to provide vital mosquito abatement services during the mosquito season.
- Several paragraphs were added to Pages 4-34 and 4-35 to reflect the issues that have come up after the death of OMAD District Manager. The new paragraphs are:

The recent passing of OMAD's District Manager significantly impacted the ability of the District to provide mosquito abatement services during the mosquito season. The District Manager's passing left the District basically unmanaged as there was no other District staff to perform the district manager duties, which included performing fogging operations. As of the date of this MSR, the OMAD Board of Trustees has not filled the District Manager position. The District Manager for the Durham Mosquito Abatement District did perform some duties for OMAD in an attempt to keep the District functioning. The District Manager for the Butte Mosquito and Vector Control District offered his assistance to the OMAD Board of Trustees.

In light of the recent death of the OMAD District Manager (which has significantly impacted the District operations), the inability of the District to complete required financial reports for numerous years, and the recent removal of two OMAD Board of Trustees due to residency requirements, it is increasingly clear that the administrative and the organizational and service capacity of OMAD is seriously impacted. These problems provide ample evidence that OMAD should be dissolved and their service area annexed to the Butte County Mosquito and Vector Control District, which clearly has the capability to provide efficient and effective mosquito abatement services to the Oroville area.

The BCMVCD Board of Trustees recently gave permission to their District Manager to discuss a contractual arrangement with OMAD's attorney. If approved by both Districts, the contractual arrangement would provide for BCMVCD to provide mosquito abatement services within OMAD's service area. OMAD would provide funding to BCMVCD to perform these services. The contractual agreement appears to be a reasonable way for effective mosquito abatement services to be provided to the Oroville area. However, the contractual agreement should only be a short-term measure, with dissolution of OMAD and annexation of their service area to BCMVCD being the ultimate goal.

- MSR Determination 6-11 was added to Page 4-37. MSR Determination 6-11 states:

In light of the recent death of the OMAD District Manager (which has significantly impacted the District operations), the inability of the District to complete required financial reports for numerous years, and the recent removal of two OMAD Board of Trustees due to residency requirements, it is increasingly clear that the administrative and the organizational and service capacity of OMAD is seriously impacted. These problems provide ample signs that show that OMAD should be dissolved and their service area annexed to the Butte County Mosquito and Vector Control District, which clearly has the capability to provide efficient and effective mosquito abatement services to the Oroville area.

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. Butte LAFCo is the Lead Agency for environmental review for the proposed mosquito abatement districts MSRs and the SOI Plans.

The Municipal Service Reviews for the mosquito abatement districts are categorically exempt from the preparation of environmental review 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." The 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. There is no possibility that the MSR update will have a significant effect on the environment because there are no land use changes associated with the MSR update.

The SOI Plans for the mosquito abatement districts are categorically exempt from environmental review pursuant to CEQA Guidelines Section 15061(b)(3) – General Rule Exemption, which states 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. The SOI Plans for the Butte County Mosquito and Vector Control District and for the Oroville Mosquito Abatement District do not recommend any changes to these districts current SOI. The SOI Plan for the Durham Mosquito Abatement recommends that the District, which currently has a Zero Sphere of Influence boundary, be given a Probationary Sphere of Influence, which would exclude the rice fields located within the

District and also exclude the Butte Creek Estates Subdivision portion of the District. The granting of the Probationary Sphere of Influence to the Durham Mosquito Abatement District will not have any effect on the environment because the proposed SOI area is within Durham Mosquito Abatement District's jurisdictional boundaries.

SUMMARY

The revised Public Review Draft Mosquito Abatement Districts MSR/SOI Plan accurately reflects the service provisions being provided by the three mosquito abatement districts within Butte County. The issue of the lack of adequate mosquito abatement services being provided by DMAD to the rice fields found within their boundaries has been clearly identified in the MSR/SOI Plan and this issue would be resolved by a future detachment of that area from DMAD and subsequent annexation to BCMVCD. The issue of DMAD performing fogging operations within a portion of BCMVCD's jurisdictional boundaries has been accurately identified in the MSR/SOI Plan, but this issue still needs to be resolved, which will require the cooperation of both districts.

Issues regarding the Oroville Mosquito Abatement District, such as the recent death of the OMAD District Manager and the lack of having required annual financial reports completed, have been clearly identified in the MSR/SOI Plan. The recent death of the OMAD District Manager has significantly affected the ability of the District to provide mosquito abatement services to the Oroville area. OMAD and BCMVCD are currently in discussions about BCMVCD providing mosquito abatement services within OMAD's jurisdictional boundaries on a contractual basis. This should only be viewed as an interim measure, with the dissolution of OMAD being the ultimate goal.

ACTION REQUESTED:

Staff recommends that the Commission take the following actions:

1. Open the hearing to the public and receive any additional comments.
2. Consider the revisions to the Public Review Draft MSR/SOI Plan and provide any direction to staff regarding any additional revisions.
3. Adopt Resolution No. 02 2017/18 approving the Mosquito Abatement Districts MSR/SOI Plan and which gives a Probationary Sphere of Influence to the Durham Mosquito Abatement District.
4. Direct Staff to prepare the Final Mosquito Abatement Districts MSR/SOI Plan.

Exhibits:

- A. Resolution 02 2017/18 (Page 7)
- B. Notice of Determination Page 10)
- C. Map of proposed Sphere of Influence boundary for the Durham Mosquito Abatement District (Page 11)

RESOLUTION NO. 02 2017/18

ADOPTION OF MOSQUITO ABATEMENT DISTRICTS MUNICIPAL SERVICE REVIEWS AND WRITTEN DETERMINATIONS, AND ADOPTION OF SPHERE OF INFLUENCE PLANS

WHEREAS, a municipal service review mandated by Government Code Section 56430 and a sphere of influence update mandated by Government Code Section 56425 for the three mosquito abatement districts within the County of Butte have been conducted by the Local Agency Formation Commission of the County of Butte (hereinafter referred to as “the Commission”) in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Sections 56000 et seq.); and

WHEREAS, at the times and in the form and manner provided by law, the Executive Officer has given notice of the public hearing by the Commission on this matter; and,

WHEREAS, the Executive Officer, pursuant to Government Code Section 56428 and 56430, has reviewed this proposal and prepared a report, including his recommendations thereon, and has furnished a copy of this report to each person entitled to a copy; and

WHEREAS, this Commission held public hearings regarding the Public Review Draft Mosquito Abatement Districts Municipal Service Reviews/Sphere of Influence Plans on August 3, September 7, October 5, November 2, and December 7, 2017, and at the time and place specified in the notice of public hearing and as continued open by the Commission; and

WHEREAS, at the above noted hearings, this Commission heard and received all oral and written protests; the Commission considered all plans and proposed sphere of influence amendments, objections and evidence which were made, presented, or filed; and all persons present were given an opportunity to hear and be heard in respect to any matter relating to the proposal, in evidence presented at the hearing; and

WHEREAS, acting as Lead Agency pursuant to the California Environmental Quality Act (CEQA) Guidelines, the Commission finds that the Mosquito Abatement Districts Municipal Service Reviews/Sphere of Influence Plans are Categorically Exempt from the provisions of CEQA under Section 15306, “Information Collection” and under Categorically Exempt from the provisions of CEQA under Section 15061(b)(3) – General Rule Exemption, respectively; and

WHEREAS, Municipal Service Review determinations for each Mosquito Abatement District are made in conformance with Government Code Section 56430 and local Commission policy; and

WHEREAS, Sphere of Influence determinations for each Mosquito Abatement District are made in conformance with Government Code Section 56425 and local Commission policy; and

WHEREAS, based on presently existing evidence, facts, and circumstances considered by this Commission, including the findings as outlined above, the Commission adopts written determinations as set forth. No changes to the Butte County Mosquito and Vector Control District’s existing Sphere of Influence boundary is proposed and the Oroville Mosquito Abatement District shall continue to have a Zero Sphere of Influence boundary. The Commission grants a Probationary Sphere of Influence boundary to the Durham Mosquito

Abatement District as shown in the DMAD MSR section and as shown in the staff memorandum for the Commission's December 7, 2017, meeting. The Probationary Sphere of Influence boundary for the Durham Mosquito Abatement District is subject to the following conditions:

1. The Durham Mosquito Abatement District shall adopt a comprehensive integrated pest management program within six months of the Commission's approval of the Mosquito Abatement Districts Municipal Service Reviews/Sphere of Influence Plans. The Durham Mosquito Abatement District shall continuously implement the provisions of the adopted integrated pest management program;
2. The Durham Mosquito Abatement District shall create a comprehensive website within six months of the Commission's approval of the Mosquito Abatement Districts Municipal Service Reviews/Sphere of Influence Plans. The Durham Mosquito Abatement District shall keep the website current;
3. Within two (2) months of Commission's adoption of the Mosquito Abatement Districts Municipal Service Reviews/Sphere of Influence Plans, the Durham Mosquito Abatement District and/or the Butte County Mosquito and Vector Control District shall submit an application to LAFCo to detach the rice field area of the Durham Mosquito Abatement District from that district and annex the rice field area to the Butte County Mosquito and Vector Control District.
4. The Probationary Sphere of Influence shall be for a period of one year from the date of adoption of the Mosquito Abatement District's Municipal Service Reviews/Sphere of Influence Plans.
5. At the end of the one year period, or sooner at the direction of the Commission, the Commission shall review the service provisions of the Durham Mosquito Abatement District to ensure that the District has adopted and implemented the comprehensive integrated pest management program and has created and maintained a comprehensive website. Should the Commission determine that the District has adequately implemented these measures, the Commission may give the District a traditional Coterminous Sphere of Influence boundary. Should the Commission determine that the District has not adequately followed through with these measures and/or determine that District services are inadequate, the Commission can remove the Probationary Sphere of Influence and give the District a Zero Sphere of Influence.
6. During the probationary period, the Butte County Mosquito and Vector Control District and the Durham Mosquito Abatement District will have an overlapping Sphere of Influence boundary. Should the Commission give the Durham Mosquito Abatement District a coterminous Sphere of Influence boundary, the Sphere of Influence boundary for the Butte County Mosquito and Vector Control District shall be modified to remove the overlapping Sphere of Influence area.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to powers provided in §56425 and §56430 of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, the Local Agency Formation Commission of the County of Butte adopts written determinations as set forth in the Mosquito Abatement District Municipal Service Reviews and Sphere of Influence Plans, dated November 27, 2017, and adopts the Mosquito Abatement District Municipal Service Reviews and Sphere of Influence Plans, adopted by the Commission on December 7, 2017.

PASSED AND ADOPTED by this Local Agency Formation Commission of the County of Butte, on the 7th day of December 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINS:

ATTEST:

Clerk of the Commission

CARL LEVERENZ, Chair
Butte Local Agency Formation Commission

Notice of Exemption

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

County Clerk
County of: Butte
25 County Center Drive
Oroville, CA 95965

From: (Public Agency): Butte LAFCo
1453 Downer Street, Suite C
Oroville, CA 95965

(Address)

Project Title: MSRs/SOI Plans for Mosquito Abatement Districts in Butte County, LAFCo File No. 17-07

Project Applicant: Butte Local Agency Formation Commission (LAFCo)

Project Location - Specific:
All of Butte County and the Hamilton City area of Glenn County

Project Location - City: Numerous Project Location - County: Butte

Description of Nature, Purpose and Beneficiaries of Project:
Municipal Service Reviews and Sphere of Influence Plans for Mosquito Abatement Districts in Butte County - Butte County Mosquito and Vector Control District; the Durham Mosquito Abatement Districts; and the Oroville Mosquito Abatement District.

Name of Public Agency Approving Project: Butte Local Agency Formation Commission

Name of Person or Agency Carrying Out Project: Butte Local Agency Formation Commission

- Exempt Status: **(check one):**
- Ministerial (Sec. 21080(b)(1); 15268);
 - Declared Emergency (Sec. 21080(b)(3); 15269(a));
 - Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
 - Categorical Exemption. State type and section number: 15306 (MSRs) & 15061(b)(3) (SOI Plans)
 - Statutory Exemptions. State code number: _____

Reasons why project is exempt:
The MSRs only provide information about the mosquito abatement districts in Butte County.
The granting of a Probationary Sphere of Influence to DMAD will not have any impacts to the environment as the area in question is already within the jurisdictional boundaries of DMAD and the area is within the SOI of BCMVCD.

Lead Agency
Contact Person: Stephen Betts Area Code/Telephone/Extension: (530) 538-7784

- If filed by applicant:**
1. Attach certified document of exemption finding.
 2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: *Stephen Betts* Date: 7-24-17 Title: Deputy Executive Officer

Signed by Lead Agency Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code. Date Received for filing at OPR: _____
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Potential DMAD/BCMVC D Boundary Changes

