MEMORANDUM

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 October 5, 2017 meeting)

DATE: October 25, 2017, for the meeting of November 2, 2017

BACKGROUND

This item has been heard by the Commission at the Commission’s August 6, September 7, and October 5, 2017, meetings. At the October 5 meeting, the Commission continued the item open until the Commission November 2, 2017, meeting to primarily allow the affected agency boards to meet and for Staff to conduct additional outreach, refine possible detachment and annexation areas, and make additional revisions to the Public Review Draft Municipal Service Review Update/Sphere of Influence Plan.

RECENT EVENTS

General

Staff has continued to talk with the general managers of both BCMVCD and DMAD to discuss and clarify the issues identified in the Public Review Draft Municipal Service Review /Sphere of Influence Plan Update and the issues brought up at the Commission’s previous hearings on the MSR/SOI Plan.

SUGGESTED ACTION: Direct Staff to revise Draft MSR/SOI as indicated by the Commission and prepare final MSR/SOI Plan Update for adoption at the Commissions December meeting.

Specific Commission Direction

The Commission directed staff to facilitate a meeting between the DMAD and BCMVCD Boards of Trustees. Staff informed both District Manager's of the Commission's request that they meet and offered to facilitate such a joint meeting. The DMAD Board agreed at its October 11 meeting that a meeting with BCMVCD Board would be very helpful to clear the air and address misperceptions and will meet as soon as possible. The BCMVCD at its meeting the same day, declined to meet with DMAD at that time.

SUGGESTED ACTION: If the Commission continues to believe a joint meeting of the District Boards is valuable, Staff will prepare a formal letter from the Commission Chair requesting such though it may not change the outcome.
Oroville Mosquito Abatement District (OMAD)

- Since the Commission’s October 5, 2017, meeting, the Butte County Board of Supervisors at their October 10, 2017, meeting vacated the seats of two Trustees for not meeting the residency requirements. OMAD is now operating without a District Manager and only three Trustees (two of which terms expire in December 2017). This situation creates an administrative concern that if allowed to continue will certainly impact the District's ability to administratively function in a manner that might be expected by the public (or LAFCO). The filling of vacant seats is the prerogative of the County Board of Supervisors, the Commission has no role in appointing district trustees. Without appointment action, the District will not have an acting quorum as of December 31, 2017.

- The OMAD Board of Trustees met on October 18, 2017, at its regular time and location. Because of the two vacated seats and the absence of two other trustees, the Board could take no action for lack of a quorum. The Executive Officer attended the meeting along with the Oroville City Administrator and Durham Mosquito Abatement District Manager who has been serving as de facto staff these past few weeks following the loss of the former Manager. While no action could be taken at the meeting, LAFCO staff discussed the entire MSR/SOI process and the preliminary LAFCO directions to date. Given the lack of the full board, there is no clear indication if the OMAD will support a self initiated dissolution. The Board of Trustees (unofficially) indicated they would convene a special meeting so that all three remaining Trustees could be present.

- The Draft MSR/SOI Plan identified that OMAD had not prepared required financial reports for numerous years. It now appears that the District's accountant has failed to respond to its communications and currently possesses all of the District's financial papers for the years that no financial audits/reports were prepared.

- In light of the recent loss of OMAD’s District Manager, the removal of two District Trustees, the expiring terms of two other trustees in December the inability to prepare required financial reports, and the inability to provide comprehensive mosquito abatement services, it is increasingly clear that the administrative, organizational and service capacity of OMAD is seriously impacted.

SUGGESTED ACTIONS:

1. Revise the Draft MSR/SOI update to reflect all new developments to date.
2. Determine to dissolve the District for reasons identified in the Draft MSR.
3. Send a letter from the Chair to OMAD indicating the Commission's intentions to proceed with implementing the Draft MSR Determinations, including all options leading to dissolution.
4. Continue to offer administrative assistance to OMAD Board of Trustees to include advising on Brown Act requirements and possible clerical assistance with respect to noticing of Board meetings.
Staff attended the DMAD Board meeting on October 11, 2017 and discussed the MSR/SOI process, potential actions and outcomes of various scenarios. The DMAD Board was cooperative and passionate about their commitment to the Durham community and genuinely believes the District is providing the services the community requires and at a level the community requests. The Board was very clear that the community would overwhelmingly resist efforts to consolidate or dissolve the District. The Board also indicated its strong commitment to improving its services to the community through specific actions currently under consideration by the Commission as discussed below.

The DMAD District Manager provided written comments supported by the District Board of Trustees (Exhibit B) regarding the proposed boundary adjustments with the BCMVCD involving the rice fields within their district and regarding DMAD’s fogging operation within the Butte County Mosquito and Vector Control District’s portion of the Butte Creek Estates Subdivision. The DMAD District Manager believes that the rice fields within DMAD should be detached and annexed to BCMVCD, which has the resources needed to provide comprehensive mosquito abatement services to that large area. In exchange for loss revenue from the rice fields, the DMAD District Manager believes that the portion of the Butte Creek Estates Subdivision within BCMVCD should be detached from BCMVCD and annexed to DMAD.

The DMAD District Manager also indicates that the District is currently in the planning stages to create a website for the District. Additionally, the District Manager indicates that the District is currently in the planning stage to create and implement an integrated vector management program (IVMP). The lack of a website and an integrated mosquito management program are determinations in the Draft MSR/SOI Plan and key components of an effective vector control effort.

Based on public testimony to the Commission and the sentiments of the District Board, it is reasonable to expect any consolidation or dissolution effort would face a strong reaction from the community and a very uncertain outcome should a likely election be necessary. Such actions would also consume scarce financial resources that could otherwise be used for services. These concerns alone may not be reason to shy away from such actions, but when combined with the Districts commitment to make significant administrative/service improvements and agree to boundary adjustments, it may be most appropriate to consider an alternative approach that improves overall services in and around the Durham area and respects the communities wishes.

SUGGESTED ACTION:

1 Consider granting DMAD a probationary coterminous sphere of influence (SOI) to reflect the District’s desire to make key improvements to improve its service to the community. The SOI can be granted on a probationary basis for one year to ensure that the District is providing effective services and has implemented the determinations found in the MSR/SOI Plan, such as adjusting its boundaries, creating and maintaining a comprehensive website and creating and following an integrated vector management program. After one year, the Commission will revisit the probationary sphere of influence determination and if the District failed to follow through on the determinations, the Commission could reinstate the Zero Sphere of Influence AND pursue a reorganization with BCMVCD at that time.
Butte County Mosquito and Vector Control District

- The BCMVCD Board met on October 11, 2017 and discussed the MSR/SOI process, potential actions and outcomes of various scenarios. The DMAD Manager attended and conveyed to the Board that the DMAD Board agreed to a joint meeting as discussed above and supported the proposals to adjust their boundaries as discussed below. As reported to Staff by both District Managers in attendance, the BCMVCD Board was not receptive to a joint meeting or adjusting its boundaries as proposed by DMAD. While the BCMVCD Board has consistently indicated it will not initiate an action to assume the service area of any other Districts, it appears to not support an alternative compromise on the boundary issue that improves the overall mosquito abatement efforts countywide.

- The BCMVCD District Manager provided written comments (Exhibit C) that clarifies the comments provided by the DMAD District Manager (Exhibit B).

- BCMVCD agrees that they are the most effective agency to provide mosquito abatement services to the rice fields located within DMAD. It is understood that BCMVCD will not object to the annexation of the rice fields to their district.

- It is reported that BCMVCD is not in favor of the detachment of their northern portion of the Butte Creek Estates Subdivision and the subsequent annexation of that area to DMAD.

BCMVD and DMAD Potential Boundary Changes

Rice Lands

A large area within DMAD consists of rice fields, which, if not properly managed and treated, could be significant sources of large populations of mosquitoes. This area, which is approximately 14,760 acres in size and consists of 85 parcels, includes the majority of the rice fields within DMAD and includes bordering parcels to ensure the creation of logical, effective, and efficient jurisdictional boundaries. It should be noted that this area also contains the Rancho Esquin wetlands area, which is already being treated by BCMVCD under contract with the landowner. Based upon property tax and parcel assessment revenue data provided by Butte County, the detachment of the 85 parcels could result in the loss of approximately $14,942 in revenue to DMAD ($10,635 in property tax revenue and approximately $4,307 in parcel assessment revenue). Conversely, the BCMVCD would assume service responsibility for the area which is likely to cost the District considerably more to treat than is received from taxes/assessments.

Both Districts agree that BCMVCD is the most effective agency to provide mosquito abatement services to the rice fields within DMAD. Treatment of the rice fields by BCMVCD, which provides a full range of mosquito abatement services (most importantly aerial spraying), will result in fewer mosquitoes in the Durham and south Chico areas, an overall improved public health outcome.

SUGGESTED ACTION:

1. Amend MSR with a determination to alter the boundaries between BCMVCD and DMAD transferring rice lands from DMAD to BCMVCD and strongly encourage DMAD and BCMVCD to cooperatively initiate a reorganization application to cause the boundary
changes. This action is likely to result in overall improvements to vector control efforts countywide while not unnecessarily causing financial hardship to BCMVCD.

Butte Creek Estates Subdivision

The northern portion of the Butte Creek Estates Subdivision (BCES) is within BCMVCD and the southern portion of the BCES is within DMAD. The BCES consists of approximately 177 parcels: 95 parcels are within BCMVCD and 82 parcels within DMAD. Tax revenue from the BCMVCD portion of BCES is approximately $7,720 while the tax revenue from the DMAD portion of the BCES is approximately $8,721.

As the Commission is already aware, DMAD has been providing fogging services within the BCMVCD portion of the BCES. BCMVCD stopped fogging operations within their portion of the BCES in order to ensure that clean water standards were not violated and residents were not exposed to unnecessary and potentially unsafe levels of insecticides. As seen in the attached correspondence from both Districts (Exhibits B & C), there is some disagreement concerning the services in this area. BCMVCD indicates it provides all other mosquito abatement services to their portion of the BCES.

Ideally, the BCES should only be within one mosquito abatement district so that all of the parcels within the subdivision are treated by one district. The DMAD District Manager has stated that they are in favor of the annexation of the BCMVCD portion of BCES to DMAD. However, BCMVCD is not in favor of this proposal as it believes that BCMVCD provides more effective mosquito abatement services than DMAD can provide.

Aside from service levels concerns, the issue of which District serves BCES is related fiscally to the rice fields swap discussed above. DMAD stands to lose approximately $14,942 in revenue from detaching the rice fields (and the service responsibility). This is a large financial hit to a District budget of approximately $135,000 (= 11%). By annexing the north BCES areas currently in the BCMVCD, but presently served by DMAD, DMAD would recover approximately $7,720 in new revenue, making the loss of the rice fields revenue less uncomfortable. Conversely, BCMVCD will lose approximately $7,720 (= 2%) in existing revenue, a fraction of its $3,600,000 budget. While financial concerns are just a part of a service review equation, it can represent a disproportionally significant factor when reviewing agencies with very small budgets.

It is acknowledged that the BCMVCD can provide a full range of mosquito abatement services to BCES that DMAD may not equally provide. However, DMAD has been providing services to the area for 10 years and it appears to be receiving effective mosquito control primarily through fogging, as the well maintained subdivision does not generally represent a significant source of unmaintained breeding habitat (pools, ponds, etc).

SUGGESTED ACTION:

2. Amend MSR with a determination to alter the boundaries between BCMVCD and DMAD transferring the north portion of Butte Creek Estates Subdivision from BCMVCD to DMAD and strongly encourage DMAD and BCMVCD to cooperatively initiate a reorganization application to cause the boundary changes. This action which combined with the rice fields swap, is likely to result in overall improvements to vector control efforts countywide while not unnecessarily causing financial hardship to DMAD which would have a deleterious effect on overall vector control services in the region.
**Summary of Suggested Actions**

**General:**

1. Revise Draft MSR/SOI as indicated by the Commission and prepare final MSR/SOI Plan Update for adoption at the Commissions December meeting.

2. Direct Staff to prepare a formal letter from the Commission Chair requesting the Boards of Trustees of BCMVCD and DMAD meet immediately to discuss identified issues related to cooperative services and potential boundary changes.

**Oroville Mosquito Abatement District:**

1. Revise the Draft MSR/SOI update to reflect all new developments to date.

2. Determine to dissolve the District for reasons identified in the Draft MSR.

3. Send a letter from the Chair to OMAD indicating the Commission's intentions to proceed with implementing the Draft MSR Determinations, including all options leading to dissolution.

4. Continue to offer administrative assistance to OMAD Board of Trustees to include advising on Brown Act requirements and possible clerical assistance with respect to noticing of Board meetings.

**Durham Mosquito Abatement District:**

1. Consider granting DMAD a probationary coterminous sphere of influence (SOI) to reflect the District’s desire to make key improvements to improve its service to the community. The SOI can be granted on a probationary basis for one year to ensure that the District is providing effective services and has implemented the determinations found in the MSR/SOI Plan, such as adjusting its boundaries, creating and maintaining a comprehensive website and creating and following an integrated vector management program. After one year, the Commission will revisit the probationary sphere of influence determination and if the District failed to follow through on the determinations, the Commission could reinstate the Zero Sphere of Influence AND pursue a reorganization with BCMVCD at that time.

**Proposed Boundary Changes:**

1. Amend MSR with a determination to alter the boundaries between BCMVCD and DMAD transferring rice lands from DMAD to BCMVCD and strongly encourage DMAD and BCMVCD to cooperatively initiate a reorganization application to cause the boundary changes. This action is likely to result in overall improvements to vector control efforts countywide while not unnecessarily causing financial hardship to BCMVCD.

2. Amend MSR with a determination to alter the boundaries between BCMVCD and DMAD transferring the north portion of Butte Creek Estates Subdivision from BCMVCD to DMAD and strongly encourage DMAD and BCMVCD to cooperatively initiate a reorganization application to cause the boundary changes. This action which combined with the rice fields swap, is likely to result in overall improvements to vector control efforts countywide.
efforts countywide while not unnecessarily causing financial hardship to DMAD which would have a deleterious effect on overall vector control services in the region.

**ACTION REQUESTED:**

1. Open the hearing to the public and receive any additional comments.
2. Consider Suggested Actions.
3. Provide any future direction to Staff.
4. Continue the hearing open until the Commission’s December 6, 2017, meeting.

**Exhibits:**

A. Map of potential boundary changes  
B. Comments from DMAD District Manager, dated October 16, 2017  
C. Comments from BCMVCD District Manager, dated October 17, 2017
October 16, 2017

Dear Steve Lucas, LAFCO Board, BCMVCD Board and Mathew Ball-BCMVD Manager,

After a great deal of consideration and review of the many issues presented, the Durham Mosquito Abatement District (DMAD) hereby formally offers the following proposal to LAFCO and BCMVCD. The proposal we offer is one that we believe offers the best solution to the myriad of concerns under consideration. We believe it is the best possible and workable plan that should work for everyone. Steve Lucas has agreed that our plan makes sense and Matthew Ball also seems to think it should work for his District as well. We are willing to compromise and do what we believe is best for our District and our local communities.

DMAD PROPOSAL:

DMAD proposes to forfeit the rice property that is in our district lines. DMAD does not have the type of equipment to service the area as effectively as BCMVCD. Although we have done air control sporadically in the past the cost can be high and beyond the capability of our budget to handle regularly while effectively controlling other areas in our District. The loss of revenue to DMAD is approximately $14,942 according to LAFCO numbers in agenda item 3.2.

As part of the proposal, in exchange for the rice property the DMAD is asking BCMVCD to forfeit their portion of Butte Creek Country Club. BCMVCD dollar portion of the Country Club is $7,785. The DMAD dollar share of the Country Club is approximately $8,721. If DMAD was to lose this plus the rice revenue it would greatly affect our ability to service and provide control at the same levels we currently provide. We strongly believe the Country Club should be given entirely into DMAD. We solely have serviced this area for the last 10 plus years while BCMVCD has spent virtually no money or resources in the Country Club for the last 10 years. DMAD has provided everything including larvicide, fogging, and mosquito fish delivery. In addition we took on all service calls in the area. BCMVCD trusted us to do so and we provided this service with their blessing. If we were doing an insufficient job they could have stepped in at any time. It should be noted that this was an agreement between the two managers. DMAD gladly did it because it only made sense that one district take care of the area. We also wanted to show our appreciation for helping us out with the duck habitat that they control in our district. As far as we know they are fully reimbursed for their control work in the habitat area. DMAD is not being reimbursed to control all of the Country Club we just did what we thought was the right thing to do.

In conclusion the DMAD board stands ready and willing to engage in meaningful dialogue in an attempt to craft a workable plan that can address all of LAFCO and individual district concerns. Please be advised that our district is currently in the planning stages and efforts to enhance the service and effectiveness of our District including a new interactive website and adopting new control measures for mosquito control. One that relies on the latest use and practices based on advanced science. We hope to have these enhancements up and running by the next mosquito season.

Should you require any additional information or have any questions we stand ready to provide you with whatever you need.

Respectfully submitted,

Aaron Amato, District Manager
Durham Mosquito Abatement District
October 17, 2017

Steve Lucas
Executive Officer
Butte Local Agency Formation Commission (LAFCo)
1453 Downer St., Suite C, Oroville, CA 95965-4950

Dear Mr. Lucas,

I have read and reviewed Aaron Amator’s letter dated October 16, 2017. With this letter I wish to correct some statements made by Mr. Amator.

1. “We believe it is the best possible and workable plan that should work for everyone. Steve Lucas has agreed that our plan makes sense and Matthew Ball also seems to think it should work for his District as well.”

I have met with and spoke with Mr. Amator multiple times regarding the MSR/SOI. At no point have I agreed to any plan. Mr. Amator and I have agreed on several things, namely:

- DMAD needs to be financially sound to continue to operate, at the very least, at the same level as has been done in the past.
- A reduction of nearly $15K-$25K in revenue would have a significant impact on DMAD’s ability to provide an adequate level of service.
- The people of Durham strongly support their district and would likely vote to keep control of their district.

Please be advised that I have never indicated that his proposal would work for BCMVCD.

2. “We (DMAD) solely have serviced this area for the last 10 plus years while BCMVCD has spent virtually no money or resources in the Country Club for the last 10 years.”

This is not accurate. The BCMVCD has conducted aerial surveillance of the Butte Creek Estates Country Club (BCECC) for the past 10 plus years, identifying any and all unmaintained swimming pools. BCMVCD has conducted all necessary surveillance inspections and control as we do in other areas. BCMVCD continues to conduct monthly storm drain inspections and treatments, roadside gutter inspections, mosquito fish plants, and residuals on residential homes. BCMVCD also traps the area for adult mosquito abundance and virus detection as well as collects dead birds for the State’s Dead Bird Program. A great deal of resources and expenditures were used to conduct and complete these services.

3. “DMAD has provided everything including larvicide, fogging, and mosquito fish delivery in addition we took on all service cells in the area. BCMVCD trusted us to do so and we provided this service with their blessing. (emphasis original)”
The BCMVCD is unaware of any larviciding and/or mosquitofish delivery in BCMVCD’s service area provided by DMAD. As stated before, the BCMVCD has provided all normal services except for fogging to the northern part of BCECC. BCMVCD has answered 44 service requests since 2010.

4. “It should be noted that this was an agreement between the two managers.”

Prior BCMVCD management may have had an informal arrangement with DMAD to conduct the fogging for all the BCECC area. Sometime after being appointed as BCMVCD Manager, I became aware of DMAD fogging in BCMVCD’s service area and was concerned about the duplication of services and the over-application of adulticides. Mr. Amator and I had a discussion whereupon Mr. Amator stated that it was his board’s wishes to fog all of BCECC as residents there were (allegedly) upset that only half of the neighborhood was being fogged. While BCMVCD had previously used adulticides there, to remain in compliance with the applicable pesticide laws, I reluctantly agreed to allow DMAD to continue to fog in BCMVCD’s portion of BCECC.

BCMVCD remains committed to finding a workable solution to the vector control issues raised in the LAFCo report. Should you have any further questions and/or inquiries, please do not hesitate to contact me.

Respectfully,

Matthew C. Ball
District Manager

Cc  Aaron Amator
     Manager Durham MAD

     Durham MAD
     Board of Trustees

     Butte County MVCD
     Board of Trustees