

# MEMORANDUM

**TO:** Local Agency Formation Commission

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

**SUBJECT:** **11-02 MS – Review and Consideration of the Municipal Service Review Update and Sphere of Influence Plan/Update for the Lake Oroville Area Public Utility District and Certification of a Final Environmental Impact Report**

**DATE:** June 26, 2013, for the meeting of July 10, 2013

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## Summary / Background

At the June 6, 2013, LAFCo meeting, the Commission reviewed the Draft Environmental Impact Report, the Draft Municipal Service Review Update, and the Draft Sphere of Influence Plan for the Lake Oroville Area Public Utility District. Because the Draft EIR was still within a 45-day public review period, which ended on June 24, the Commission could not formerly act on the project.

This item was continued open from the Commission's June 6 meeting to allow the public comment period for the Draft Environmental Impact Report to conclude and to allow for the preparation of a Final Environmental Impact Report, Findings of Fact, a Statement of Overriding Considerations, and the for the preparation of the necessary resolutions adopting/certifying these documents. No written comments from the public or from any State or local public agency regarding the Draft EIR, the Draft MSR, or the Draft SOI Plan were received.

Staff has prepared three resolutions (attached) for approval of the LOAPUD SOI Update project. Staff requests that the Commission: 1) review and consider the Final EIR, the MSR Update, the SOI Plan, and the three resolutions; 2) receive and consider any public comment on these documents, 3) Provide staff with any needed changes to the documents; and 4) adopt Findings of Fact, adopt a Statement of Overriding Considerations regarding environmental impacts, certify the Final EIR, adopt the MSR Update, and adopt the SOI Plan.

## COMMISSION ACTION

After reviewing this report, the Draft MSR Update, the Draft SOI Plan, the Draft and Final Environmental Impact Reports, the adopting resolutions, and any testimony or materials that are presented, staff recommends the Commission take the following actions:

1. Identify any changes needed to the Draft Environmental Impact Report, the Final Environmental Impact Report, the Municipal Service Review Update, or the SOI Plan.
2. Adopt Resolution 09 2013/14 adopting Findings of Facts and Statement of Overriding Considerations regarding environmental impacts.
3. Adopt Resolution 10 2013/14 certifying the Final Environmental Impact Report.

4. Adopt Resolution 11 2013/14 approving the Municipal Service Review Update and approving the Sphere of Influence Plan/Update

Respectfully submitted,

*Stephen Betts*

Stephen Betts  
Deputy Executive Officer

- Attachment 1: Resolution 09 2013/14 adopting Findings of Fact and a Statement of Overriding Considerations (Findings of Facts and Statement of Overriding Considerations attached to this Resolution as Exhibits "A" and "B" respectfully)
- Attachment 2: Resolution 10 2013/14 certifying the Final Environmental Impact Report (Final Environmental Impact Report attached to this Resolution as Exhibit "A")
- Attachment 3: Resolution 11 2013/14 approving the Municipal Service Review Update and approving the LOAPUD Sphere of Influence Plan/Update

## RESOLUTION NO. 09 2013/14

**RESOLUTION ADOPTING FINDINGS OF FACT AND A STATEMENT OF OVERRIDING  
CONSIDERATIONS FOR THE SPHERE OF INFLUENCE UPDATE FOR THE LAKE  
OROVILLE AREA PUBLIC UTILITY DISTRICT (LAFCO FILE NO. 11-02 MS)  
(State Clearinghouse # 2013012036)**

**WHEREAS**, on June 29, 2010, the Lake Oroville Area Public Utility District (“LOAPUD” or “District”) requested that the Commission update the District’s Sphere of Influence;

**WHEREAS**, a Notice of Preparation (NOP) for an Environmental Impact Report (EIR) for the LOAPUD SOI Update was published in the *Oroville Mercury Register/Chico Enterprise Record* on January 14, 2013, which was also placed on the LAFCo webpage. A public scoping meeting was held on January 24, 2013, to present the project description to the public and interested agencies, and to receive comments from the public and interested agencies regarding the scope of the environmental analysis to be included in the Draft EIR. No concerns were raised in response to the NOP during preparation of the Draft EIR;

**WHEREAS**, a Draft EIR (State Clearinghouse # 2013012036) was prepared and circulated for a 45-day public review and comment period starting May 9, 2013, and ending on June 24, 2013. A Notice of Availability for the Draft EIR was filed with the State Clearinghouse and with the Butte County Clerk’s Office, and was published in the *Oroville Mercury Register/Chico Enterprise Record* on May 9, 2013. The Notice of Availability and the Draft EIR were placed on the LAFCo and LOAPUD web pages;

**WHEREAS**, the Commission held a noticed public meeting on June 6, 2013, to review and receive public comment on the Draft EIR. No oral comments were presented and no written comments were received. The Commission continued the public hearing on the Draft EIR open until the Commission’s July 10, 2013, meeting;

**WHEREAS**, a Final Environmental Impact Report (“Final EIR”) that incorporated the Draft EIR by reference was prepared and distributed to the Commission, and available for public review, on July 3, 2013. No written comments were received in regards to the Draft EIR and the Final EIR does not contain any written comments or responses to comments;

**WHEREAS**, the Commission reviewed the Final EIR during its meeting on July 10, 2013, which was open to the public for comment on the Final EIR at that meeting;

**WHEREAS**, the Commission has, by means of Resolution No. 10 2013/14, certified that the EIR has been prepared in full compliance with the terms of the California Environmental Quality Act;

**NOW, THEREFORE, THE BUTTE LOCAL AGENCY FORMATION COMMISSION** does hereby find, determine, resolve and order as follows:

1. The Commission hereby approves and adopts the Findings of Fact and Statement of Overriding Consideration attached hereto as Exhibits “A” and “B” respectfully, which are incorporated herein, pursuant to CEQA Guidelines §§ 15091, 15092, and 15093.

2. The Commission certifies that the Final EIR has been presented to the Commission. The Commission has reviewed the Final EIR and has considered the information contained in the Final EIR prior to acting on the District's application for the SOI Update, and that the Final EIR reflects the Commission's independent judgment and analysis.
3. The Commission directs that, upon approval of the District's application for the SOI Update, the Executive Officer is directed to file a Notice of Determination with the County Clerk of Butte County pursuant to the provisions of Public Resources Code section 21152.
4. Pursuant to CEQA Guideline § 15091(e), the documents and other materials that constitute the Record of Proceedings upon which the Commission has based its decision are located in and may be obtained from the LAFCo Commission Clerk at 1453 Downer Street, Suite C, Oroville, California, 95965.

**PASSED AND ADOPTED** by this Local Agency Formation Commission of the County of Butte, on the 10<sup>th</sup> day of July 2013 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAINS:**

**ATTEST:**

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Clerk of the Commission

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**CARL LEVERENZ**, Chair  
Butte Local Agency Formation Commission

**EXHIBIT A TO BUTTE LAFCO RESOLUTION NO. 09 2013/14**

**CEQA FINDINGS OF FACT IN SUPPORT OF  
CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR  
THE LAKE OROVILLE AREA PUBLIC UTILITY DISTRICT (LOAPUD)  
SPHERE OF INFLUENCE UPDATE (SCH: 2013012036)**

**I. BACKGROUND**

**A. Introduction**

The Project is an update of the Lake Oroville Area Public Utility District (LOAPUD) Sphere of Influence (SOI), which includes changes to the District's SOI boundary by the addition of new areas. Most projects of this type, SOI updates, do not propose any construction as a part of the project. Therefore, direct environmental impacts are fairly limited or non-existent. However, indirect secondary impacts may result as the SOI update has the potential to induce growth.

All discretionary projects in the State of California are required to undergo environmental review per state planning law. A discretionary project, such as a subdivision, general plan amendment or rezone, is one that requires governmental approval. Ministerial projects, those that are permitted by right such as, a single family home on a lot with the proper zoning, do not require environmental review, unless that jurisdiction has adopted ordinances requiring a review. The reader is directed to the local Zoning Ordinance for specific information about the various discretionary and ministerial procedures in the region.

**Sphere Of Influence:** The SOI is an important benchmark because it defines the primary area within which urban development is to be encouraged (Sections 56377(b) and 56841). In a 1977 opinion, the California Attorney General stated that an SOI should "serve like general plans, serve as an essential planning tool to combat urban sprawl and provide well planned efficient urban development patterns, giving appropriate consideration to preserving prime agricultural and other open-space lands" (60 Ops. Cal. Atty. Gen. 118).

Along this same line of reasoning, the California Appellate Court has held that spheres of influence must be adopted before an annexation to the affected city or district can be considered. (Resource Defense Fund v. LAFCO (1983) 138 Cal.App.3d 987). Section 56650.5 limits the validity of annexation proposals in specified urban areas unless the request is consistent with the applicable spheres of influence. Section 57025 requires LAFCO to send notice of pending annexation hearings to those affected agencies whose spheres contain territory within the proposal.

**Butte LAFCo:** The Butte Local Agency Formation Commission (Butte LAFCo) is responsible for determining boundaries of municipal service providers, such as the Lake Oroville Area Public Utility District, within its area of responsibility and jurisdiction. Along with its own locally adopted guidelines, the Butte LAFCo operates under the guidelines of the Cortese-Knox- Hertzberg Local Government Reorganization Act (CKH) of 2000 located in Government Code Section 56000.

Under the CKH Act, LAFCo has the mandate of:

- Discouraging urban sprawl
- Preservation of prime agricultural land and open space
- Assuring efficient local government services
- Encouraging orderly growth and development of local agencies

The tools that enable LAFCo's to accomplish those goals are the Municipal Service Review (MSR), the SOI, and the ability to change the organization of a municipal agency. The MSR provides data on services and the ability to provide services. This information is used to determine the SOI that is defined as the probable physical boundary and service area of a local agency. A change in organization, such as annexation must be consistent with the SOI.

In order to establish the SOI, LAFCo is required to make determinations with respect to the following:

- Present and planned land uses in the area, including agricultural and open space lands
- Present and probable need for public facilities and services
- Present capacity of public facilities and adequacy of public services provided by the agency
- Social or economic communities of interest
- The present and probable need for public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

The Domestic Water and Wastewater Service Providers Municipal Service Review, adopted by Butte LAFCo on June 1, 2006, contained an evaluation of the Lake Oroville Area Public Utility District. A subsequent review of LOAPUD is contained in the Wastewater Service Providers-Oroville Region Municipal Service Review, adopted by Butte LAFCo on November 5, 2009.

That MSR examined the services provided by the LOAPUD and the information in the MSR provides baseline information for the SOI study. However, some of the information in the 2009 MSR is already dated. Thus, additional information from LOAPUD has been collected and various other land planning documents have been reviewed, including land use zoning maps and the Butte County General Plan 2030, in order to provide the most current and accurate information available. To provide for a more coordinated process, the MSR Chapter for the Lake Oroville Area Public Utility District will be updated and re-adopted as a part of the proposed LOAPUD SOI Update process.

**Butte County General Plan:** A general plan is considered the guiding document within the state's cities and counties and is required for all municipalities in the state. The Butte County 2030 General Plan, adopted by the Butte County Board of Supervisors on October 26, 2010, represents the basic community values, ideals and aspirations with respect to land use, development and conservation policy that will govern the County through the year 2030. The County uses the General Plan goals, policies and actions to achieve its' ideals for the future of Butte County.

A general plan, as with all discretionary projects, is required to undergo environmental review. The Butte County General Plan Environmental Impact Report (EIR) was adopted at the same time as the General Plan by the County Board of Supervisors. The General Plan EIR identified the potential environmental impacts that may occur with the implementation of the General Plan. The EIR also determined which policies and actions identified in the General Plan would assist in reducing the potential impacts and, where necessary, provided additional policies and actions to reduce environmental impacts. Because of the nature of the LOAPUD SOI update project, that is, no actual

construction is a part of the project but the update may increase the potential for growth and result in indirect environmental impacts, this Initial Study relies on the policies and actions provided in the General Plan to assist in reducing potential indirect impact.

### **B. Project Location**

The project site is located in south-central Butte County, east of the City of Oroville. The Lake Oroville Area Public Utility District (LOAPUD) provides sanitary sewer collection services for the unincorporated area east and south of the City of Oroville as well as a small portion of the City of Oroville. See Figure 2-1 and 2-2 in the Draft EIR.

### **C. Project Setting**

LOAPUD's current service area boundary encompasses approximately 8,457 acres (13.2 square miles) ranging in elevation between approximately 200 feet and 1,000 feet above sea level.

LOAPUD provides service connections to approximately 4,423 customers. Customers include single and multiple family residences, a variety of commercial uses, and public facilities including schools and recreational facilities associated with nearby Lake Oroville. For purposes of record keeping and billing, LOAPUD converts non-residential customers to equivalent dwelling units (EDU). This adjusts larger wastewater customers to the equivalent number of residential customers which generate the same quantity of wastewater. LOAPUD currently serves 6,005 EDU according to District records.

LOAPUD's existing SOI is approximately 10,016.5 acres in size and includes 5,788 mostly unincorporated parcels. LOAPUD's existing service area boundaries include approximately 5,175 parcels, 143 of which (totaling approximately 133 acres) are within the jurisdictional boundaries of the City of Oroville. LOAPUD's SOI is not coterminous with its existing service area boundaries, with approximately 1,995 acres, consisting of 629 parcels, inside the SOI but not within the service area boundary. See Figures 2-3 and 2-4 in the Draft EIR for the existing service area and SOI boundaries. There are no substantial changes proposed to the existing SOI as this area has been considered a future service area for the District since 1985 when it was first adopted.

LOAPUD's sanitary sewer collection system was originally built in the 1930's, but only approximately two percent of the system is of that age. In the 1970's the construction of the State Line main trunk interceptor was completed, which allowed LOAPUD's system to expand significantly. Approximately 90 percent of the current system has been constructed since the 1960's. LOAPUD's sewer system is predominately a gravity flow system, although the District's system includes 4.5 miles of force mains and nine pump stations to move wastewater.

There are approximately 4,419 private service laterals connected to LOAPUD's sewer system representing 70 miles of pipe, roughly equivalent to the 78.5 miles of mains and collectors. The service laterals are the small diameter sewer lines that extend from the customer's dwelling or business to LOAPUD's sewer mains, which are normally located in the adjacent street.

Wastewater collected by LOAPUD is conveyed to LOAPUD's 30-inch-diameter interceptor sewer, which discharges into the Sewerage Commission-Oroville Region's (SC-OR) East Interceptor sewer trunk line approximately 1,550 feet east of South 5th Avenue, just northeast of the SC-OR wastewater treatment facility (WWTF). The East Interceptor, which serves only LOAPUD, is a 24-inch-diameter reinforced

concrete pipe. Wastewater conveyed by SC-OR's East Interceptor discharges into SC-OR's Main Interceptor on South 5th Avenue, which then flows into SC-OR's WWTF.

**Existing Land Use Designations:** State law requires every city and county in California to adopt and maintain a comprehensive and long-term General Plan that is to serve as a “blueprint” for land use and development. LOAPUD’s SOI falls mostly within the unincorporated area of Butte County, with a small portion (approximately 133 acres) located within the City of Oroville. As a result, land use development within the SOI is guided by the Butte County General Plan and the City of Oroville General Plan. General Plan goals and policies and land use designations establish the growth patterns and guide the future development of the area. Additionally, the zoning codes of these jurisdictions provide regulatory oversight implementing land use designations established in the General Plan.

The vast majority of the parcels within LOAPUD’s existing SOI are designated by the Butte County General Plan as Medium Density Residential, which allows for a density of 3 to 6 dwelling units per acre. The following table identifies the General Plan land use designations found within the Butte County unincorporated areas of the District. There are no parcels within LOAPUD’s existing SOI that are designated as agricultural in the Butte County General Plan. The areas of the existing SOI within the City of Oroville are designated primarily for urban-type uses, including medium density and mixed use residential, commercial, and industrial uses as shown in the following table.

**General Plan Land Use Designations within the Existing SOI**

General Plan Land Use Designation	Parcels	Acres
<i>Butte County</i>		
Rural Residential (5 to 10 ac/du)	164	892
Very Low Density Residential (1 du/5 ac to 1 du/ac)	207	176
Low Density Residential (1 to 3 du/ac)	41	114
Medium Density Residential (3 to 6 du/ac)	4,805	3,400
Medium High Density Residential (6 to 14 du/ac)	16	103
High Density Residential (14 to 20 du/ac)	2	28
Mixed Use	260	358
Retail and Office	79	211
Public	56	4,483
Resource Conservation	9	70
Recreation	6	49
<i>Subtotal</i>	<i>5,645</i>	<i>9,884</i>
<i>City of Oroville</i>		
Medium Low Density Residential (3-6 du/acres)	90	21
Mixed Use Residential	3	22
Mixed Use Commercial	8	3
Retail and Business Services	34	6
Industrial	8	80.5
<b><i>Subtotal</i></b>	<b><i>143</i></b>	<b><i>132.5</i></b>
<b>Total</b>	<b>5,788</b>	<b>10,016.5</b>

SOURCE: BUTTE COUNTY GIS, CITY OF OROVILLE GIS, BUTTE LAFCO

The following table shows the existing land uses within LOAPUD’s current SOI. As identified by the Butte County Assessor’s Office, the primary land use within the current LOAPUD SOI is residential, with 2,742 parcels developed with residential uses. The majority of the residential parcels are located in the Kelly Ridge, east Oroville, and south Oroville areas. There are over 800 undeveloped parcels within the District’s SOI that are identified by the County Assessor’s Office as residential vacant. LOAPUD’s SOI contains 93 parcels that are developed with a commercial use and seven parcels developed with industrial uses.

**Current Uses of Land in Existing SOI**

Land Use	Number of Parcels	Acreage
Residential	2,742	4,756
Residential Undeveloped	824	1,953
Commercial	93	221
Commercial Undeveloped	30	123
Public Recreation Areas	19	4,664
Schools	12	99
Agricultural	10	262
Industrial	7	35

*SOURCE: BUTTE LAFCO, BUTTE COUNTY ASSESSOR’S OFFICE*

**Agricultural Uses:** Agricultural uses within LOAPUD’s existing SOI consist of ten parcels totaling approximately 262 acres. Agricultural uses include cattle grazing, olives, vines, citrus, and nuts. A large portion of LOAPUD’s SOI was at one time developed with agricultural uses, primarily olive and citrus orchards, but those uses were mostly discontinued many years ago and many of the agricultural parcels were subsequently divided into smaller lots for residential uses. Figure 2-8 in the Draft EIR illustrates the agricultural parcels within the SOI.

**Williamson Act Lands:** The Williamson Act, or the California Land Conservation Act of 1965, enables local governments to enter into contracts with private landowners to preserve specific parcels of land for agricultural or related open space use. There are five parcels, totaling approximately 121 acres, within LOAPUD’s existing SOI that are currently under Williamson Act contracts. Only one of these parcels – APN 079-270-051 (4.5 acres in size) is within the LOAPUD service area boundaries. Two of the parcels – APNs 079-270-028 and 079-270-049 – cross the LOAPUD SOI boundary. These five parcels have been subject to a Williamson Act contract since 1972 and as of the writing of this document, notice of non-renewals have not been submitted for these parcels.

Butte LAFCo Policy 3.1.8 provides guidance relative to the inclusion of lands that are subject to Williamson Act contract in SOIs. Policy 3.1.8 is as follows:

- 3.1.8 Sphere Changes that include Williamson Act Lands. The Butte LAFCO shall not approve a change to a SOI to include lands that are subject to a Williamson Act contract if the annexing agency has the ability to provide sewer service, nonagricultural water, streets and/or roads unless these facilities or services specifically benefit the land uses that are allowed under the contract and the landowner consents to the sphere change.
  - 3.1.8.1 The Commission may, at its discretion, approve a sphere update or amendment if it finds either of the following:

- The update or amendment would facilitate planned, orderly and efficient patterns of land use or provisions of services, and the public interest in the change substantially outweighs the public interest in the current continuation of the contract beyond its current expiration date; or
- That the change is not likely to adversely affect the continuation of the contract beyond its current expiration date.

#### **D. Project Goals and Objectives**

Consistent with CEQA Guidelines Section 15124(b), a clear statement of objectives and the underlying purpose of the project shall be discussed. The mission of the Lake Oroville Area Public Utility District is to provide dedicated service and efficient wastewater collection at a reasonable price to all customers. The project proponent has identified the following objectives for the Project:

- Provide a comprehensive update to the LOAPUD SOI to ensure that the boundary is consistent with adopted General Plan growth areas.

#### **E. Project Description**

**Sphere of Influence Update Area:** The project consists of a request initiated by the Lake Oroville Area Public Utility District (LOAPUD) to the Butte Local Agency Formation Commission (LAFCo) to amend their Sphere of Influence (SOI). The Project would modify the District's existing SOI boundary by adding additional area to the SOI that is reflective of the County's recent 2010 General Plan Update and corresponding land use designations for future growth. The Project would support Butte LAFCo's mandated five-year review of the District's SOI. LOAPUD proposes to add 1,956 parcels totaling approximately 10,643 acres to the SOI, which represents a doubling of LOAPUD's current SOI. The parcels proposed to be added to the SOI are located in five separate geographical areas as shown in Figures 2-9 through 2-11 in the Draft EIR. The SOI additional areas are generally to the west, south, and east of the current LOAPUD SOI and include the proposed Rio D' Oro Specific Plan area along SR 70 south of Oroville, the Power House Hill Road/Lone Tree Road area, the future South Ophir Specific Plan area, the unincorporated community of Palermo and surrounding area, the Miners Ranch Road area, and the Stringtown Mountain Specific Plan area.

The Project would facilitate the future annexation of the SOI addition areas to LOAPUD for the provision of sanitary sewer services. Sanitary sewer service will be needed in the SOI addition areas to facilitate development of those areas consistent with public service conditions present or reasonably foreseeable in the proposed SOI amendment areas. The Project would facilitate development of the parcels in the District's SOI consistent with the land use designations and land use densities found in the Butte County General Plan.

It is again noted that the Project would not specifically implement or directly result in the construction of any new facilities. The action of Butte LAFCo on this matter is the first action in a series of actions and approvals that would need to occur prior to any physical development activity. Neither Butte LAFCo nor LOAPUD has any land use regulatory authority or land use approval authority. The jurisdiction for land use matters for all of the land areas within the proposed SOI would remain with Butte County, and neither Butte LAFCo nor LOAPUD has the authority to facilitate future development in a manner different than is currently outlined by the Butte County General Plan. Additionally, the presence or

availability of sewer services would not ultimately encourage nor prohibit the implementation of the Butte County's General Plan as sewer services provided by LOAPUD would not be the only wastewater treatment mechanism available to the County or landowners for existing or future development. The opportunity to provide wastewater treatment in the unincorporated lands through the use of on-site wastewater systems will continue to be option for new development.

As shown in the following table, the vast majority (85 percent) of the parcels in the SOI addition areas are designated by the Butte County General Plan for residential uses at various densities. The parcels designated for residential purposes range in size from 0.2 to 484 acres, with an average parcel size of 4.2 acres and a median parcel size of 1.7 acres. The Butte County General Plan envisions a significant amount of new development in the areas proposed to be added to LOAPUD’s SOI. See Figures 2-8 through 2-10 in the Draft EIR for maps showing the land use designations in the SOI update area.

**Butte County General Plan Land Use Designations within SOI Update Areas**

General Plan Land Use Designation	Number of Parcels	Acreage
Very Low Density Residential (1 du/5 ac to 1 du/ac)	730	3,150
Low Density Residential (1 to 3 du/ac)	434	415
Rural Residential (5 to 10 ac/du)	336	1,935
Foothill Residential	138	1,312
Mixed Use	104	414
Industrial	83	422
Retail and Office	54	87
Public	21	178
Agricultural	17	1,589
Medium Density Residential (3 to 6 du/ac)	17	182
Resource Conservation	14	272
Medium High Density Residential (6 to 14 du/ac)	5	27
Recreation Commercial	3	49
<b>Total</b>	<b>1,956</b>	<b>10,645</b>

*SOURCE: BUTTE LAFCO, BUTTE COUNTY GIS*

Existing land uses within the SOI update areas mostly reflects the General Plan land use designations for the areas. Within the SOI update area, 1,394 (72%) of the parcels are developed with residential uses. The SOI update area contains 373 parcels that are identified by the Butte County Assessor’s Office as residential vacant.

As shown in the following table, existing land uses within the SOI update area mostly reflect the General Plan land use designations for the areas. Within the SOI update areas, 1,394 (72%) of the parcels are developed with residential uses. The SOI update area contains 373 parcels that are identified by the Butte County Assessor’s Office as residential vacant.

**Major Land Uses within Proposed LOAPUD SOI Update Areas**

Land Use	Number of Parcels	Acreage
Residential	1,394	4,039
Residential Undeveloped	373	3,144
Commercial	57	315
Agricultural	46	2,000
Industrial Vacant	18	181
Public	16	189
Commercial Undeveloped	15	21
Industrial	15	85

*SOURCE: BUTTE LAFCO, BUTTE COUNTY ASSESSOR’S OFFICE*

**Public Service and Utility Providers:** The following entities provide public services and utilities within the LOAPUD SOI:

- Parks and Recreation: Feather River Recreation and Parks District and the City of Oroville Parks and Trees Department.
- Law Enforcement: Butte County Sheriff’s Office (BCSO), City of Oroville Police Department, California Highway Patrol (CHP).
- Fire Protection: Butte County Fire Department (BCFD), California Department of Forestry and Fire Protection (CAL FIRE). City of Oroville Fire Department. El Medio Fire Protection District.
- Schools: Palermo Union Elementary School District, Oroville City Elementary School District, Oroville Union High School District.
- Water: California Water Service Company– Oroville District, South Feather Water & Power Agency (SFWPA).
- Wastewater Treatment: Sewerage Commission-Oroville Region (SC-OR). On-site wastewater treatment systems regulated by the County or through County Service Areas.

**Surrounding Land Uses:** As the SOI update area covers a large amount of land uses, surrounding land uses vary but are generally similar to those of the existing SOI. As shown in Figures 2-8 through 2- 10 in the Draft EIR, lands to the immediate north of the SOI update area have the General Plan Land Use designation of Agriculture, Rural Residential, Medium Density Residential, Low Density Residential, Commercial and Resource Conservation. Lands south and east of the update area are designated as Agriculture, Foothill Residential and Rural Residential. The area north and west of the SOI update are either urban uses within the City of Oroville or the Oroville Wildlife Area, which is identified with the Resource Conservation land use designation in the Butte County General Plan.

**Critical Winter Deer Herd Range:** Migratory deer herds migrate from higher elevations in Butte, Plumas and Yuba Counties to lower elevation winter range areas in Butte County. There are some portions of this winter range in Butte County that are considered to be critical winter range areas, which include habitat that is critical to the survival of the migratory deer herds during severe winter conditions. The non-critical areas provide habitat that is suitable for winter conditions, but not critical during severe winter conditions.

Portions of the SOI update area are located in an area that is designed as critical winter range under the Butte County General Plan. However, update of the LOAPUD SOI does not, in and of itself, impede the migratory ability of the deer herd nor impact the critical winter range deer herd habitat. Any future

development that is permitted within the critical winter range deer herd habitat will be required to conform with the regulations set forth in the Butte County Deer Herd Migration Overlay Zone.

## **II. ENVIRONMENTAL REVIEW**

### **A. Lead Agency Status**

Butte Local Agency Formation Commission is the lead agency under the California Environmental Quality Act, Public Resources Code sections 21000 et seq. (“CEQA”) for preparation and certification of the Final EIR for the Project.

### **B. Purpose of the Environmental Impact Report**

Pursuant to the California Environmental Quality Act, Public Resources Code Sections 21000 et seq., and the CEQA Guidelines, California Code of Regulations, Title 14, Section 15000 et seq., (collectively, CEQA), an Environmental Impact Report (EIR) was prepared to analyze the environmental effects of The Lake Oroville Area Public Utility District Sphere of Influence Update (the “Project”).

1. Impacts of the Project: Executive Summary, Table ES-2, of the Draft EIR provides a Summary of Impacts Identified in the EIR and includes the following impact categories: Agricultural and Forest Resources, Air Quality, Greenhouse Gases and Climate Change, Land Use and Population, Utilities and Service Systems, Growth Inducing Impacts, and Cumulative Impacts.
2. Mitigation of Impacts Required by CEQA: CEQA states that a project shall not be approved if it would result in a significant environmental impact, or if feasible mitigation measures or feasible alternatives can avoid or substantially lessen the impact. Only when there are specific economic, social, or other considerations which make it infeasible to substantially lessen or avoid an impact can a project with significant impacts be approved.
  - A) Mitigation Measures may be clarified or amplified in the Final EIR, and as modified by the Resolution approving the Project, including the conditions of approval contained therein. The Draft EIR does not include any mitigation measures, rather, it identifies established policies, ordinances, best management practices, and permitting requirements that are intended to avoid, minimize, or mitigate an environmental impact. The Project, in and of itself, does not have a direct environmental impact that requires specific mitigation and the lead agency for the SOI update does not have local land use authority, therefore, the implementation of mitigation for projects within the SOI update area is outside of their jurisdiction. The implementing agencies (i.e. Butte County and City of Oroville) will implement their established policies, ordinances, best management practices, and permitting requirements on individual projects within the SOI update area.
  - B) Findings of Fact Required: CEQA Guidelines Section 15091 states that no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding.
    - 1) If the project can be defined as having significant impacts on the environment, then an

EIR must be prepared. Therefore, when an EIR has been completed which identifies one or more potentially significant environmental impacts, the approving agency must make one or more of the following findings for each identified significant impact:

- a. Changes or alterations have been required in, or incorporated into, such projects which mitigate or avoid the significant environmental effects thereof as identified in the completed Environmental Impact Report.
- b. Such changes or alterations are within the responsibility and jurisdiction of another public agency and such changes have been adopted by such other agency, or can and should be adopted by such other agency.
- c. Specific economic, transportation or other considerations make infeasible the mitigation measures or project alternatives identified in the Environmental Impact Report.

### **C. Procedural Background**

The Final EIR was prepared consistent with processing criteria established by the California Environmental Quality Act, which included the following activities:

1. On January 14, 2013, a Notice of Preparation (NOP) of an EIR for the Project was submitted to the State Clearinghouse (SCH#2013102036) for circulation to public agencies for comment. The NOP comment period extended from January 14, 2013 to February 12, 2013; no NOP comment letters were received.
2. On January 24, 2013, a duly noticed public scoping meeting was conducted to present the project description to the public and interested agencies, and to receive comments from the public and interested agencies regarding the scope of the environmental analysis to be included in the NOP; no verbal or written comments were received.
3. On May 9, 2013, Butte LAFCo released the Lake Oroville Area Public Utility District Sphere of Influence Update Draft EIR, a Notice of Completion, and a Notice of Availability. The documents were circulated for a 45-day public review period. The public review period concluded on June 24, 2013. There were no comments submitted during the comment period on the Draft EIR.
4. On June 6, 2013, a duly noticed public hearing was conducted by the Butte LAFCo to receive comment on the Draft EIR. There were no public comments provided during the public hearing.
5. On July 3, 2013, Butte LAFCo released the Final EIR for the Lake Oroville Area Public Utility District Sphere of Influence Update.
6. On July 10, 2013, Butte LAFCo held a duly noticed public hearing to consider certification of the Final EIR, adoption of the Statement of Overriding Considerations, and approval of the Project.

### **D. Documents Comprising Final EIR**

The Final EIR for the Project includes the following items (collectively referred to as the "Final EIR").

1. Draft EIR for The Lake Oroville Area Public Utility District Sphere of Influence Update (SCH 2013102036) dated April 2013;
2. Technical appendices for The Lake Oroville Area Public Utility District Sphere of Influence Update (SCH 2013102036) dated April 2013;
3. Final EIR for The Lake Oroville Area Public Utility District Sphere of Influence Update (SCH 2013102036) dated June 2013

### **III. DESCRIPTION OF THE RECORD**

For purposes of CEQA and the findings hereinafter set forth, the administrative record for the Project consists of those items listed in Section 21167.6 (e) of the Public Resources Code (Chapter 1230, Statutes of 1994) including but not limited to:

- A. Sphere of Influence Plan for the Lake Oroville Area Public Utility District, including:
  - a. A map defining the probable 20-year boundary of its service area delineated by near-term (<10 years) and long-term (>10 years) increments and coordinated with the Municipal Service Review.
  - b. Maps and explanatory text delineating the present land uses in the area, including, without limitation, improved and unimproved parcels; actual commercial, industrial, and residential uses; agricultural and open space lands; and the proposed future land uses in the area.
  - c. The present and probable need for public facilities and services in the sphere area. The discussion should include consideration of the need for all types of major facilities, not just those provided by the agency.
  - d. The present capacity of public facilities and adequacy of public services which the agency provides or is authorized to provide.
  - e. Identification of any relevant social or economic communities of interest in the area.
  - f. Existing population and projected population at build-out of the near- and long-term spheres of the agency.
  - g. A Municipal Service Review.
- B. The Notice of Preparation;
- C. The Scoping Meeting Notes;
- D. The Draft EIR, including its appendices;
- E. The Butte LAFCo Commission Meeting Notes for the Draft EIR;

- F. The Final EIR, including its appendices;
- G. All Notices of Availability, the Notice of Completion filed with the State Clearinghouse, the Notice of Determination that will be filed with the County Clerk's Office upon a final decision on the Project, and all staff reports and presentation materials related to the Project;
- H. All studies contained in, or referenced by, staff reports, the Draft EIR, or the Final EIR;
- I. All public reports and documents related to the Project prepared for Butte LAFCo, LOAPUD, Butte County, the City of Oroville, and other agencies;
- J. All documentary and oral evidence received and reviewed at public hearings and workshops, and all transcripts and minutes of those hearings related to the Project; and
- K. For documentary and informational purposes, all locally-adopted land use plans and ordinances, including, without limitation, general plans, area plans and ordinances, master plans together with environmental review documents, findings, mitigation monitoring programs and other documentation relevant to planned growth in the area.
- L. Any other materials required for the record of proceedings by Public Resources Code Section 21167.6, subdivision (e).

#### **IV LOCATION AND CUSTODIAN OF THE RECORD**

Pursuant to Public Resources Code section 21081.6 and California Code of Regulations, title 14, section 15091, Butte LAFCO is the custodian of the documents and other material that constitute the record of proceedings upon which the Butte LAFCO's decision is based. Such documents and other material are located at: Butte Local Agency Formation Commission, 1453 Downer Street, Suite C, Oroville, CA 95965-4950.

#### **V. DISCRETIONARY APPROVALS AND ACTIONS**

The Project involves the following discretionary approvals and CEQA actions by Butte LAFCO:

- A. **Certify the Final EIR for the Project** (SCH 2013102036), documenting compliance with CEQA, and independent review and consideration of the information in the EIR prior to taking action on the Project.
- B. **Adopt a Statement of Overriding Considerations;**
- C. **Approve the Lake Oroville Area Public Utility District Sphere of Influence Update.**

(Note: No mitigation measures are included in the EIR, therefore, a Mitigation Monitoring and Reporting Program has not been prepared and is not required for adoption.)

#### **VI. GENERAL FINDINGS**

## **A. Terminology of Findings**

Section 15091 of the CEQA Guidelines requires that, for each significant environmental effect identified in an EIR for a proposed project, the approving agency must issue a written finding reaching one or more of three allowable conclusions.

1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
3. Specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR.

For purposes of these findings, the terms “mitigation measures” and “conservation measures” shall constitute “changes or alterations” discussed above.

The term “avoid or substantially lessen” will refer to the effectiveness of one or more of the mitigation measures, conservation measures, or alternatives, to reduce an otherwise significant environmental effect to a less-than-significant level.

## **B. General CEQA Findings**

These findings comply with CEQA. Butte LAFCo has considered information and environmental effects as shown in the Final EIR prior to approving the Project. These findings represent the independent judgment and analysis of Butte LAFCo, which is the lead agency.

The Butte County General Plan EIR and the City of Oroville General Plan EIR are the first tier environmental documents because they provide an environmental assessment of impacts anticipated with build-out development within the proposed LOAPUD SOI update area. They provide first tier environmental analysis upon which supplemental environmental analysis, including the Lake Oroville Area Public Utility District Sphere of Influence Update EIR, is based. Portions of the findings herein were previously adopted as part of the Findings certifying the FEIR for Butte County General Plan EIR and the City of Oroville General Plan EIR.

## **C. Areas of Controversy**

The CEQA Guidelines require that an EIR identify areas of controversy known to the lead agency based upon review of public and agency comment. There were no concerns expressed verbally or in writing during the NOP public review period, including at the scoping meeting. The Draft EIR discusses potentially significant impacts associated with agricultural and forest resources, air quality, greenhouse gas emissions, land use and population, and utilities. There were no concerns expressed verbally or in writing during the Draft EIR public review period, including Butte LAFCo meeting that was held to accept comment.

**D. Changes to the DEIR Do Not Require Re-circulation.** No comments were received during the public review and comment period on the DEIR, and no portions of the DEIR have been modified, nor has new information has been added. As such, the FEIR does not result in the existence of:

1. A significant new environmental impact that would result from the project or an adopted mitigation measure;
2. A substantial increase in the severity of an environmental impact that is not reduced to a level of less than significant by adopted mitigation measures;
3. A feasible Project alternative or mitigation measure not adopted that is considerably different from others analyzed in the DEIR that would clearly lessen the significant environmental impacts of the project; or
4. Information that indicates that the public was deprived of a meaningful opportunity to review and comment on the DEIR.

Butte LAFCo finds that there is no significant new information within the meaning of Public Resources Code section 21092.1 and CEQA Guidelines section 15088.5 that trigger the thresholds for recirculation. Butte LAFCo finds that there are no substantial changes in the Project that necessitate revisions of the DEIR, nor has significant new information become available. Butte LAFCo finds that the Project falls within the scope of the DEIR analysis and that recirculation of the DEIR is not required prior to the approval of the Project.

#### **E. Evidentiary Basis for Findings**

These findings are based upon substantial evidence in the entire record before Butte LAFCo as described in Section III. The references to the Draft EIR and to the Final EIR set forth in these findings are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

### **VII. FINDINGS REGARDING ENVIRONMENTAL IMPACTS**

#### **A. Requirements Under CEQA**

CEQA Guidelines Section 15091 states that no public agency shall approve or carry out a Project for which an EIR has been certified which identifies one or more significant environmental effects of the Project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding.

The EIR fully evaluated the following impact categories: agricultural and forest resources, air quality, greenhouse gas emissions, land use and population, and utilities.

#### **B. No Impacts and Less Than Significant Impacts in Initial Study**

An Initial Study was prepared for this project. The following environmental topics, as presented in Appendix G of the CEQA Guidelines, were assessed and found to have no impact or a less than significant impact in the Initial Study.

1. Aesthetics

- Would the project have a substantial adverse effect on a scenic vista?
- Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?
- Would the project substantially degrade the existing visual character or quality of the site and its surroundings?
- Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

2. Biological Resources

- Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?
- Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?
- Would the project have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?
- Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?
- Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?
- Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

3. Cultural Resources

- Would the project cause a substantial adverse change in the significance of a historical resource as defined in '15064.5?
- Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to '15064.5?
- Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?
- Would the project disturb any human remains, including those interred outside of formal cemeteries?

4. Geology and Soils

- Would the project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:
  - i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.
  - ii) Strong seismic ground shaking?
  - iii) Seismic-related ground failure, including liquefaction?

- iv) Landslides?
    - Would the project result in substantial soil erosion or the loss of topsoil?
    - Would the project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?
    - Would the project be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?
    - Would the project have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?
5. Hazards and Hazardous Materials
- Would the project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?
  - Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?
  - Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?
  - Would the project be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?
  - For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?
  - For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?
  - Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?
  - Would the project expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?
6. Hydrology and Water Quality
- Would the project violate any water quality standards or waste discharge requirements?
  - Would the project substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?
  - Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?
  - Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?

- Would the project create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?
  - Would the project otherwise substantially degrade water quality?
  - Would the project place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?
  - Would the project place within a 100-year flood hazard area structures which would impede or redirect flood flows?
  - Would the project expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?
  - Would the project inundation by seiche, tsunami, or mudflow?
7. Land Use and Planning
- Would the project conflict with any applicable habitat conservation plan or natural community conservation plan?
8. Mineral Resources
- Would the project result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?
  - Would the project result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?
9. Noise
- Would the project expose persons to or generate noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?
  - Would the project expose persons to or generate excessive groundborne vibration or groundborne noise levels?
  - Would the project result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?
  - Would the project result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?
  - For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?
  - For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?
10. Population and Housing
- Would the project displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?
  - Would the project displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?
11. Public Services
- Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental

impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

- Fire protection?
- Police protection?
- Schools?
- Parks?
- Other public facilities?

12. Recreation

- Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?
- Does the project include recreational facilities or require the construction or update of recreational facilities which might have an adverse physical effect on the environment?

13. Transportation and Circulation

- Would the project cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?
- Would the project exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?
- Would the project result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?
- Would the project substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?
- Would the project result in inadequate emergency access?
- Would the project result in inadequate parking capacity?
- Would the project conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

14. Utilities and Service Systems

- Would the project require or result in the construction of new storm water drainage facilities or update of existing facilities, the construction of which could cause significant environmental effects?
- Would the project have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?
- Would the project be served by a landfill with sufficient permitted capacity to accommodate the projects solid waste disposal needs?
- Would the project comply with federal, state, and local statutes and regulations related to solid waste?

**C. No Impacts and Less Than Significant Impacts in Final EIR**

Eleven (11) impact categories were determined to have a less than significant impact in the Final EIR. There are no specific mitigation measures that are proposed; however, there are numerous policies, ordinances, best management practices, and permitting requirements that effectively ensure that the impact is reduced to a level of insignificance. Each of the impacts is identified below:

- **Impact 3.1-2:** Potential to conflict with Williamson Act Contracts
- **Impact 3.1-3:** Potential to conflict with existing zoning for agricultural use
- **Impact 3.1-4:** Potential to conflicts with forest or timber zoning or result in the conversion of forest lands or timber lands
- **Impact 3.2-1:** Operational Impacts
- **Impact 3.2-2:** Construction Impacts
- **Impact 3.3-1:** Potential to generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment
- **Impact 3.3-2:** Potential to conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases
- **Impact 3.4-1:** Potential to physically divide an established community
- **Impact 3.4-2:** Potential to conflict with an applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted to avoid or mitigate an environmental effect
- **Impact 3.4-3:** Induce Substantial Population Growth in an Area
- **Impact 4.5:** Cumulative Impacts on Growth Inducement

#### D. Significant Unavoidable Impacts

The following nine (9) impact categories were determined to be significant and unavoidable, even with the implementation of established policies, ordinances, best management practices, and permitting requires, and will require findings of overriding consideration in order for the Project to be approved.

- **Impact 3.1-1:** Potential to result in the conversion of Farmlands, including Prime Farmland, Unique Farmland, and Farmland of Statewide Importance, to non-agricultural uses or involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland.
- **Impact 3.2-3:** Cumulative Air Quality Impacts
- **Impact 3.3-3:** Cumulative Greenhouse Gas Emission Impacts
- **Impact 3.5-1:** Potential to exceed wastewater treatment requirements or capacity, or result in a determination by the wastewater treatment and/or collection provider which serves or may serve the project that is does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.
- **Impact 3.5-2:** Potential to require or result in the construction of new wastewater treatment and/or collection facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.
- **Impact 4.1:** Cumulative Impact on the Region's Air Quality.
- **Impact 4.2:** Cumulative Impact on the Conversion of Farmland.
- **Impact 4.3:** Cumulative Impact on Climate Change from Increased Project-Related Greenhouse Gas Emissions.
- **Impact 4.6:** Cumulative Impact on Permitted Capacity of Existing Wastewater Utilities.

For the significant and unavoidable impacts, Findings of Fact are required.

##### 1. Agricultural and Forest Resources

**Impact 3.1-1:** The proposed project has the potential to result in the conversion of Farmlands, including Prime Farmland, Unique Farmland, and Farmland of Statewide Importance, to non-agricultural uses or

involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland. This is a potentially significant impact.

Mitigation: No feasible mitigation is available to reduce these potential impacts to a less than significant level.

Findings: Specific economic, legal, social, technological, or other considerations, including provision of housing and employment opportunities in accordance with the adopted General Plan(s) as compared to the status quo, warrant the acceptance of this significant impact. The only methods available to avoid this impact would be denial of the project.

Statement of Facts: The EIR identified the Project, in and of itself, does not convert farmland and generally agricultural land does not require the use of a public sewer system. However, inclusion of agricultural land in a wastewater service area may assist in the conversion of this land to urban uses as it removes an impediment to development. Expansion of the SOI is an important benchmark because it defines the primary area within which urban development is to be encouraged and is the first of several steps that would be necessary to provide sewer service in areas that are not currently served. A secondary result of the LOAPUD SOI update is the potential to increase urban development through provision of sewer services where none were formerly available.

The Butte County General Plan Draft EIR identified that implementation of the Butte County General Plan 2030 (new development) has the potential to have a substantial adverse effect on farmland preservation. However, the Butte County General Plan 2030 includes goals and policies intended to protect farmland from urbanization and to enhance the County's agricultural industry. Butte County Agriculture Element Goal AG-2 and its supporting policies and actions seek to protect Butte County's agricultural lands from conversion to non-agricultural uses. Policy AG-P2.1 directs the County to work with the Local Agency Formation Commission (LAFCO) to create and maintain a consistent approach to the conservation of agricultural land through the designation of reasonable and logical SOI boundaries. Policy AG-P2.3 limits re-designation and rezoning of agricultural land to an urban designation. Policy AG-P2.6 directs the County to use proactive land use techniques, such as clustered development and density bonuses, to retain and protect agricultural land. The Butte County General Plan 2030 recognized that placing or keeping an agricultural designation on parcels that are not viable for agricultural use does not promote economic opportunities. Placing or keeping an agricultural designation on parcels that are not viable for agricultural use, but are close to urban centers, would also direct development away from the urban centers, which is inconsistent with numerous Butte County General Plan 2030 policies encouraging a compact urban form. The conversion of some agricultural lands was determined to be a significant and unavoidable consequence of the Butte County General Plan 2030.

A portion of the SOI Update area is within the City of Oroville's SOI. The City also has goals and policies to protect agricultural lands. Goal OPS-6 calls for the preservation of the maximum feasible amount of agriculturally productive land while Policy P6.2 requires that the City cooperate with Butte County to retain agricultural uses on lands within the Oroville Sphere of Influence prior to their annexation to the City. This goal and policy does require that agricultural land be considered prior to any form of conversion to another land use.

The LOAPUD SOI Update, in and of itself, will not result in conversion of Important Farmlands. Agricultural uses within the SOI update area are protected by the policies of the Butte County General Plan 2030. However, the Butte County General Plan EIR determined implementation of the General Plan

would result in the conversion of agricultural lands. This was considered to be a significant and unavoidable consequence of the Butte County General Plan 2030. The SOI Update would contribute to this conversion of agricultural lands by providing wastewater service to agricultural lands.

The City of Oroville General Plan EIR determined that the conversion of farmlands to non-agricultural use under the 2030 Draft General Plan would result in significant impacts to Unique Farmland and Farmland of Statewide Importance. Placing a Resource Management designation on these isolated parcels would not effectively prevent them from being converted to non-agricultural use, since the parcels are surrounded by other lands designated for nonagricultural use, which limits their viability as agricultural lands. Moreover, the City does not have an established farmland mitigation program, which could enable the City to mitigate impacts to the Farmland of Statewide Importance and the Unique Farmland within the SOI by collecting an impact fee and using those funds to help protect other farmland elsewhere. The Oroville General Plan EIR determined that since no feasible mitigation is available, this impact is significant and unavoidable.

There are no mitigation measures or design measures that could feasibly reduce the impact to a level of insignificance. As such, implementation of the proposed project would have a significant and unavoidable impact relative to this environmental topic. See Findings for Overriding Considerations in the Approval Resolution for the project, incorporated herein by reference.

## 2. Air Quality

**Impact 3.2-3:** The proposed project has the potential to cause cumulative air quality Impacts. This is a potentially significant impact.

**Mitigation:** There are numerous policies, ordinances, and regulations that are intended to reduce cumulative air quality impacts in the region. The local land use authorities and the Butte County AQMD require each project applicant to implement standard mitigation measures to ensure adequate dust control. Compliance with the standard mitigation measures should minimize the potential for violations of District Rule 200, Nuisance and Rule 205 Fugitive Dust. There are also specific mitigation measures that the Butte County AQMD can impose on a project as it related to the mitigation of combustion emissions from heavy-duty construction equipment. These requirements are evaluated by the local land use authority and the Butte AQMD on a project-by-project basis. Even with the implementation of policies, ordinances, and regulations, there is no feasible mitigation available to reduce these potential impacts to a less than significant level.

**Findings:** Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities as compared to the status quo, warrant the acceptance of this significant impact. The only methods available to avoid this impact would be denial of the project.

**Statement of Fact:** The region is designated nonattainment for ROG and NOx (Ozone precursors), PM<sub>10</sub>, and PM<sub>2.5</sub>. Operational and construction activities would increase emissions of ROG and NOx (Ozone precursors), PM<sub>10</sub>, and PM<sub>2.5</sub>. Each individual project will require an emissions model to determine if the project-level emissions exceed the thresholds of significance established for Butte County for operational and construction emissions.

It is anticipated that development in the SOI update area will incorporate Butte County Air Quality Management District standard mitigation measures for siting, building design, and building construction,

as well as mitigation measures that are intended to minimize emissions from equipment combustion and fugitive dust. The SOI update itself will not directly result in operational or construction emissions. However, indirectly the SOI update facilitates the development of land within the SOI update area, and that development would increase emissions of ROG and NOx (Ozone precursors), PM<sub>10</sub>, and PM<sub>2.5</sub>, all of which are pollutants for which Butte County is designated nonattainment. As such, indirectly the Project would have a significant and unavoidable impact from operational and construction emissions. See Findings for Overriding Considerations in the Approval Resolution for the project, incorporated herein by reference.

### 3. Greenhouse Gas Emissions and Climate Change

**Impact 3.3-3:** The proposed project has the potential to cause cumulative greenhouse gas emission impacts. This is a potentially significant impact.

**Mitigation:** No feasible mitigation is available to reduce this potential impact to a less than significant level.

**Findings:** Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities as compared to the status quo, warrant the acceptance of this significant impact. The only methods available to avoid this impact would be denial of the project.

**Statement of Fact:** The SOI update itself will not directly result in operational or construction GHG emissions because it does not directly result in development. However, indirectly the SOI update facilitates the development of land within the SOI update area, and that development would increase GHG emissions which cumulatively have been determined by Butte County to be a significant and unavoidable impact.

It is anticipated that development in the SOI update will be consistent with the SCS growth scenario and land use designations for the region. Additionally, it is anticipated that development within the SOI update area will be consistent with the policies and standard mitigation measures contained in the applicable General Plan(s) that are intended to minimize greenhouse gas emissions. The SOI update itself will not directly result in operational or construction emissions; however, indirectly the SOI update facilitates the development of land within the SOI update area, and that development would increase emissions of greenhouse gas emissions to levels that have been determined to be significant and unavoidable. As such, indirectly the Project would have a significant and unavoidable impact from greenhouse gas emissions. See Findings for Overriding Considerations in the Approval Resolution for the project, incorporated herein by reference.

### 4. Utilities and Service Systems

**Impact 3.5-1:** The proposed project has the potential to exceed wastewater treatment requirements or capacity, or result in a determination by the wastewater treatment and/or collection provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments. This is a potentially significant impact.

**Mitigation:** No feasible mitigation is available to reduce this potential impact to a less than significant level.

Findings: Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities as compared to the status quo, warrant the acceptance of this significant impact. The only methods available to avoid this impact would be denial of the project.

Statement of Fact: Significant amounts of inflow and infiltration enter the SC-OR member entities' sewer systems, which is conveyed to the SC-OR WWTP. SC-OR must provide adequate capacity to treat all of the flows sent by the member agencies through their collection systems. Depending on the severity of a storm, some of the wet weather flows coming into the WWTP are greater than the WWTP is permitted to treat and actually exceed the hydraulic capacity of the facility.

The SC-OR WWTP has adequate capacity to handle dry weather flows from the member entities including an expansion of the LOAPUD SOI. However, because the SOI update project would in fact increase the area for which wastewater would be integrated into existing SC-OR WWTP and the fact that AWWF has exceeded permitted capacity in the past and no expansion of facilities has occurred, it must be assumed that an increase in SOI size would increase the potential to exceed permitted wastewater flow at the SC-OR WWTP.

Project implementation by itself, an expansion of the LOAPU SOI, would not result in the potential to exceed wastewater treatment requirements or capacity, or result in a determination by SC-OR that the WWTP does not have adequate capacity to serve existing commitments. However, as an indirect result of this expansion, existing and future development has the ability to connect to the existing wastewater treatment system resulting in additional demand. This in combination with future projects within the other two member agency jurisdictions (TWSD and City of Oroville) may result in a deficit of capacity warranting improvements to increase treatment capacity. The only mitigation for this impact would be for SC-OR to seek an expansion of its permitted wastewater treatment capacity which would most likely require an expansion of existing SC-OR facilities. This is not under the purview of LOAPUD, as such this impact is considered cumulatively considerable and significant and unavoidable. See Findings for Overriding Considerations in the Approval Resolution for the project, incorporated herein by reference.

**Impact 3.5-2:** The proposed project has the potential to require or result in the construction of new wastewater treatment and/or collection facilities or expansion of existing facilities, the construction of which could cause significant environmental effects. This is a potentially significant impact.

Mitigation: No feasible mitigation is available to reduce this potential impact to a less than significant level.

Findings: Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities as compared to the status quo, warrant the acceptance of this significant impact. The only methods available to avoid this impact would be denial of the project.

Statement of Fact: SC-OR will need improvements to its existing facilities in the coming years to accommodate projected growth. These improvements and their funding are based on growth projections provided by member agencies. All growth projections provided by LOAPUD to SC-OR are based on the existing service area and SOI. An update of the SOI would increase potential users of the SC-OR facilities not anticipated in the original growth projections for SC-OR. As such, construction of unanticipated new wastewater treatment and/or collection facilities or expansion of existing facilities may be required to accommodate the SOI update. The SOI Update area is projected to increase the wastewater flow by 3.41 mgd at full buildout under maximum density conditions.

The Butte County General Plan has a number of policies which require adequate wastewater infrastructure and treatment facilities which assist in minimizing potential environmental impacts. For example, Policy PUB-P12.3 requires that new community sewage systems demonstrate the financial viability of constructing, operating, and maintaining the proposed community sewerage system and that these systems be managed by a public County sanitation district or other County-approved methods. Policy PUB-P12.4 requires that new sewer collection and transmission systems be designed and constructed to minimize potential inflow and infiltration and thus reduce that amount of wastewater flowing to the WWTP.

Policy PUB-P13.2 requires new development projects to demonstrate the availability of a safe, sanitary and environmentally sound wastewater system. This policy requires new development to assure that any wastewater facilities can accommodate their growth in an environmentally safe manner. However, this does not address existing development in the SOI update area which may connect to LOAPUD and require the expansion of the SC-OR WWTP, which, in turn, causes a significant environmental impact.

Because future improvements to the SC-OR WWTP and infrastructure necessary to accommodate growth in the SOI update area has not been determined, specific environmental impacts cannot be identified and mitigated at this time. As such, the SOI update has the potential to significantly impact the environment as a result of construction or expansion of SC-OR wastewater facilities. Actual facility expansion is not under the jurisdiction of LOAPUD but a SC-OR responsibility. All possible environmental impacts cannot be known at this time and therefore mitigation for these impacts is infeasible at this time. As a result, this is a cumulatively considerable and significant and unavoidable impact. See Findings for Overriding Considerations in the Approval Resolution for the project, incorporated herein by reference.

## 5. Cumulative

**Impact 4.1:** The proposed project has the potential to have a cumulative Impact on the region's air quality. This is a potentially significant impact.

**Mitigation:** No feasible mitigation is available to reduce this potential impact to a less than significant level.

**Findings:** Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities as compared to the status quo, warrant the acceptance of this significant impact. The only methods available to avoid this impact would be denial of the project.

**Statement of Fact:** The region is designated nonattainment for ROG and NO<sub>x</sub> (Ozone precursors), PM<sub>10</sub>, and PM<sub>2.5</sub>. Operational and construction activities would increase emissions of ROG and NO<sub>x</sub> (Ozone precursors), PM<sub>10</sub>, and PM<sub>2.5</sub>. Each individual project will require an emissions model to determine if the project-level emissions exceed the thresholds of significance established for Butte County for operational and construction emissions.

It is anticipated that development in the SOI update will incorporate BCAQMD standard mitigation measures for siting, building design, and building construction, as well as mitigation measures that are intended to minimize emissions from equipment combustion and fugitive dust. The SOI update itself will not directly result in operational or construction emissions. However, indirectly the SOI update facilitates the development of land within the SOI update area, and that development would increase

emissions of ROG and NOx (Ozone precursors), PM<sub>10</sub>, and PM<sub>2.5</sub>, all of which are pollutants for which Butte County is designated nonattainment. As such, indirectly the Project would have a cumulatively considerable impact from operational and construction emissions. See Findings for Overriding Considerations in the Approval Resolution for the project, incorporated herein by reference.

**Impact 4.2:** The proposed project has the potential to have a cumulative Impact on the conversion of farmland. This is a potentially significant impact.

Mitigation: No feasible mitigation is available to reduce this potential impact to a less than significant level.

Findings: Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities as compared to the status quo, warrant the acceptance of this significant impact. The only methods available to avoid this impact would be denial of the project.

Statement of Fact: With adoption of the Butte County General Plan, approximately 1,860 acres of farmland which surrounds the City Oroville is now designated for residential uses ranging from Foothill Residential and Rural Residential to Medium High Density Residential (1,740 acres), as well as Mixed Use (120 acres).

The General Plan 2030 includes goals and policies intended to protect farmland from urbanization and to enhance the county's agricultural industry. Agriculture Element Goal AG-2 and its supporting policies and actions seek to protect Butte County's agricultural lands from conversion to non-agricultural uses. Policy AG-P2.1 directs the County to work with the Local Agency Formation Commission (LAFCO) to create and maintain a consistent approach to the conservation of agricultural land through the designation of reasonable and logical SOI boundaries. Policy AG-P2.3 limits re-designation and rezoning of agricultural land to an urban designation. Policy AG-P2.6 directs the County to use proactive land use techniques, such as clustered development and density bonuses, to retain and protect agricultural land.

The Project itself does not affect the designated land uses or zoning, and such land uses and zoning were not established by Butte LAFCO or LOAPUD. However, implementation of the Project would facilitate development of land by removing an impediment to wastewater service on land that is planned for urban development. Some of the land designated for development has historically been agricultural land and would thus be converted in accordance with the General Plan land use designations. The Butte County General Plan EIR determined implementation of the General Plan would result in the conversion of agricultural lands. This was considered to be a significant and unavoidable consequence of the Butte County General Plan 2030. The SOI Update would contribute to this conversion of agricultural lands by providing wastewater service to these agricultural lands, which would facilitate this significant and unavoidable impact. Implementation of the Project would have a cumulatively considerable and significant and unavoidable impact. See Findings for Overriding Considerations in the Approval Resolution for the project, incorporated herein by reference.

**Impact 4.3:** The proposed project has the potential to result in a cumulative impact on climate change from greenhouse gas emissions. This is a potentially significant impact.

Mitigation: No feasible mitigation is available to reduce this potential impact to a less than significant level.

Findings: Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities as compared to the status quo, warrant the acceptance of this significant impact. The only methods available to avoid this impact would be denial of the project.

Statement of Fact: Greenhouse gas emissions from a single project will not cause global climate change; however, greenhouse gas emission from multiple projects throughout a region or state could result in a cumulative impact with respect to global climate change.

In California, there has been extensive legislation passed with the goal of reducing greenhouse gas emissions. The legislative goals are as follows: 1) 2000 levels by 2010, 2) 1990 levels by 2020 and 3) 80% below the 1990 levels by the year 2050. To achieve these goals the California Air Resources Board has developed regional greenhouse gas emission reduction targets for the automobile and light truck sectors (the largest single source of greenhouse gas emissions) for 2020 and 2035. The regional greenhouse gas emission reduction targets established for Butte County by the California Air Resources Board require no greater than a one percent increase in per capita CO<sub>2</sub> emissions in 2020 and 2035 when compared to 2005 levels.

To demonstrate the ability for the region (Butte County) to attain the regional reduction targets, a Sustainable Communities Strategy was prepared by the Butte County Association of Governments, serving as the Metropolitan Planning Organization and Regional Transportation Planning Agency in Butte County. The Butte County Association of Governments calculated the levels of greenhouse gas (GHG) emissions using the regions travel demand model and the California Emissions Factor (EMFAC) model. The GHG emissions analysis showed CO<sub>2</sub> per capita decreases by 1.98% in 2020 and by 1.91% in 2035 for the adopted growth scenario (the balanced scenario) when compared to 2005 CO<sub>2</sub> per capita. The GHG emissions for the adopted growth scenario demonstrate that the Butte County region will meet the greenhouse gas reduction targets by balancing housing and employment growth within the specified growth areas; protecting sensitive habitat and open space; and investing in a multi-modal transportation system that serves the population of Butte County. The difference between the reduction targets and the GHG emissions is approximately three percent lower in 2020 and 2035.

The Butte County Sustainable Communities Strategy is consistent with the legislative goals for reducing greenhouse gas emissions associated with the transportation sector, the California Air Resources Board reduction targets for Butte County, and the Butte County General Plan. As demonstrated in the consistency review provided in Section 3.3 Greenhouse Gases and Climate Change, the Project is consistent with the Butte County General Plan. The Project does not conflict with the General Plan policies that were adopted for the purpose of reducing the emissions of greenhouse gases, nor does it conflict with the Butte County Sustainable Communities Strategy which has demonstrates that the region will meet its reduction targets.

The SOI update itself will not directly result in operational or construction GHG emissions because it does not directly result in development. However, indirectly the SOI update facilitates the development of land within the SOI update area, and that development would increase GHG emissions which cumulatively have been determined by Butte County to be a significant and unavoidable impact.

It is anticipated that development in the SOI update will be consistent with the SCS growth scenario and land use designations for the region. Additionally, it is anticipated that development within the SOI update area will be consistent with the policies and standard mitigation measures contained in the applicable General Plan(s) that are intended to minimize greenhouse gas emissions. The SOI update

itself will not directly result in operational or construction emissions; however, indirectly the SOI update facilitates the development of land within the SOI update area, and that development would increase emissions of greenhouse gas emissions to levels that have been determined to be significant and unavoidable. As such, indirectly the Project would have a cumulatively considerable and significant and unavoidable impact from greenhouse gas emissions. See Findings for Overriding Considerations in the Approval Resolution for the project, incorporated herein by reference.

**Impact 4.6:** The proposed project has the potential to have a cumulative impact on permitted capacity of existing wastewater utilities. This is a potentially significant impact.

**Mitigation:** No feasible mitigation is available to reduce this potential impact to a less than significant level.

**Findings:** Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities as compared to the status quo, warrant the acceptance of this significant impact. The only methods available to avoid this impact would be denial of the project.

**Statement of Fact:** As described under Impact 3.5-1, the SOI update itself, would not directly result in the potential to exceed wastewater treatment requirements or capacity, or result in a determination by SC-OR that the WWTP does not have adequate capacity to serve existing commitments. However, as an indirect result of this SOI update, existing and future development has the ability to connect to the existing wastewater treatment system resulting in additional demand. This in combination with future projects within the other two member agency jurisdictions (TWSD and City of Oroville) would likely result in a deficit of capacity warranting improvements to increase treatment capacity. The only mitigation for this impact would be to expand the permitted wastewater treatment capacity which would most likely require an expansion of existing SC-OR facilities. This is not under the purview of LOAPUD. This is considered a cumulatively considerable and significant and unavoidable. See Findings for Overriding Considerations in the Approval Resolution for the project, incorporated herein by reference.

## **VIII. FINDINGS REGARDING GROWTH INDUCING IMPACTS**

### **A. Requirements Under CEQA**

CEQA Guidelines Section 15126.2(d) requires that an EIR consider the potential for a project to create growth inducing impacts. A project could have a growth inducing impact if it could:

- Foster economic or population growth, or construction of additional housing, either directly or indirectly, in the surrounding environment;
- Remove obstacles to population growth, for example, developing service areas in previously unserved areas, extending transportation routes into previously undeveloped areas, and establishing major new employment opportunities; or
- Encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively.

Section 3.4 of the Draft EIR discusses growth inducing impacts.

## **B. Direct Impacts**

### **1. Population Growth:**

The proposed project consists of the update of the SOI for LOAPUD. Update of the SOI would expand the current boundary line on the map depicting LOAPUD's potential area of service. The SOI update alone would not enable the provision of wastewater services to any areas within the SOI update area. The provision of wastewater service would need to be annexed into the LOAPUD service area, obtain an agreement for services from LOAPUD and SC-OR, pay the appropriate fees for their fair-share of the service cost, and ensure that the appropriate infrastructure is available or expanded to service the respective development. Additionally, there are various studies that would be required before an annexation or agreements for service could even be considered by LOAPUD and/or SC-OR.

No development of any land use or building that could facilitate development of additional housing is associated with the SOI update. No job-creating development will be created and no housing will be built as a part of this SOI update. Therefore, project implementation would not lead to direct population growth.

## **C. Indirect Impacts**

### **1. Elimination of Obstacles to Growth:**

Projects that do not directly induce population growth still have the potential to result in indirect population growth by removing barriers to growth, such as removing a constraint on a required public service. A project providing an increased water supply or wastewater treatment/collection in an area where this service historically limited growth could be considered indirect growth inducement.

Physical expansion of the SC-OR wastewater treatment plant and associated LOAPUD wastewater collection/transmission infrastructure is not a part of the proposed project. As such, implementation of SOI update will not immediately remove all wastewater service related obstacles to growth. However, update of the SOI is an important benchmark because it defines the primary area within which urban development is to be encouraged and is the first of several steps that would be necessary to provide wastewater service in areas that are not currently served. If the SOI update was approved, LOAPUD could then consider annexing areas into their services area as annexation requests are made by property owners. Pre-annexation studies would still need to be performed to insure that there is adequate capacity in the SC-OR wastewater treatment plant and LOAPUD collection/transmission system at the time of the annexation. Expansion of these facilities will be warranted at some point to enable full buildout of the SOI update area. Each development would be responsible for their fair-share contribution to expansion of facilities.

Land use type and development intensity within the SOI update area is ultimately required to adhere to the adopted General Plan and Zoning land use designations. The Butte County General Plan Draft EIR and Oroville General Plan Draft EIR anticipated further urbanization within their respective jurisdictions. The SOI update would facilitate implementation of the Butte County General Plan (and Oroville GP in the event of annexation) by removing an obstacle to development.

## **IX. FINDINGS REGARDING CUMULATIVE IMPACT**

### **A. Requirements Under CEQA**

**Cumulative** impacts are defined by CEQA as “two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts” (State CEQA Guidelines, Section 15355). Cumulative impacts can result from individually minor but collectively significant Projects taking place over a period of time (State CEQA Guidelines, Section 15355[b]).

Cumulative impacts are further described as follows: (1) the individual effects may be changes resulting from a single Project or a number of separate Projects; and (2) the cumulative impacts from several Projects are the change in the environment which results from the incremental impact of the Project when added to other closely related past, present, and reasonably foreseeable future Projects. Depending upon the impact and setting, cumulative impacts may occur over different geographic areas.

Pursuant to the CEQA Guidelines Section 15130(a)(1), a “cumulative impact” consists of an impact that is created as a result of the combination of the Project evaluated in the EIR together with other Projects causing related impacts. An EIR should not discuss impacts which do not result in part from the Project evaluated in the EIR.

In addition, as stated in the State CEQA Guidelines, Section 15064(i)(5): The mere existence of significant cumulative impacts caused by other Projects alone shall not constitute substantial evidence that the proposed Project’s incremental effects are cumulatively considerable.

### **B. Cumulative Impacts Evaluation**

The cumulative impact analysis is contained in Section 4.0 of the EIR. Cumulative impacts for most issue areas are not quantifiable and are therefore discussed in general terms as they pertain to development patterns in the surrounding region. In consideration of the cumulative scenario described above, the proposed project may result in the following cumulative impacts.

#### **1. Less than Cumulatively Considerable Impacts**

#### **Impact 4.4: Cumulative Impact on Communities and Local Land Uses**

Statement of Facts: Cumulative land use impacts, such as the potential for conflicts with adjacent land uses and consistency with adopted plans and regulations, are typically site- and project-specific. The SOI update adoption, in and of itself, does not conflict with adopted land use plans and regulation unless the SOI update impedes onto an SOI of the same nature. Butte LAFCo is charged with the responsibility of determining boundaries of municipal service providers. Any future SOI conflicts would be examined by Butte LAFCo and adjustments to the SOI would be made accordingly. At this time, there are no wastewater SOI conflicts with the proposed SOI Update. The proposed project has been determined to be consistent with applicable aspects of the County’s General Plan and the City of Oroville SOI and as described in this EIR, the proposed project would not be incompatible with any of the surrounding land uses. As such, the proposed project would have a less than cumulatively considerable impact relative to this topic.

#### **Impact 4.5: Cumulative Impacts on Growth Inducement**

**Statement of Facts:** As described in Section 3.4, the proposed project consists of an update to the SOI for LOAPUD. The SOI update would expand the current boundary line on the map depicting LOAPUD's potential area of service. Physical expansion of the wastewater treatment plant and associated infrastructure is not a part of this proposed project. No development of any land use or building that could facilitate development of additional housing is associated with this proposed project. No job-creating development will be created and no housing will be built as a part of this proposed project. Therefore, project implementation would not lead to direct population growth.

Projects that do not directly induce population growth still have the potential to result in indirect population growth by removing barriers to growth, such as removing a constraint on a required public service. A project providing an increased water supply or wastewater treatment/collection in an area where this service historically limited growth could be considered indirect growth inducement.

Physical expansion of the SC-OR wastewater treatment plant and associated LOAPUD wastewater collection/transmission infrastructure is not a part of the proposed project. As such, implementation of SOI update will not immediately remove all wastewater service related obstacles to growth. However, update of the SOI is an important benchmark because it defines the primary area within which urban development is to be encouraged and is the first of several steps that would be necessary to provide wastewater service in areas that are not currently served. If the SOI update was approved, LOAPUD could then consider annexing areas into their services area as annexation requests are made by property owners. Pre-annexation studies would still need to be performed to insure that there is adequate capacity in the SC-OR wastewater treatment plant and LOAPUD collection/transmission system at the time of the annexation. Expansion of these facilities will be warranted at some point to enable full buildout of the SOI update area. Each development would be responsible for their fair-share contribution to expansion of facilities.

Land use type and development intensity within the SOI update area is ultimately required to adhere to the adopted General Plan and Zoning land use designations. The Butte County General Plan Draft EIR and Oroville General Plan Draft EIR anticipated further urbanization within their respective jurisdictions. The SOI update would facilitate implementation of the Butte County General Plan (and Oroville GP in the event of annexation) by removing an obstacle to development.

Growth is ultimately controlled by the Butte County and City of Oroville General Plan(s). The LOAPUD Master Plan is consistent with the growth projections of the Butte County and City of Oroville General Plan(s). Although the proposed project has the potential to indirectly induce growth in the SOI update area, the growth that is facilitated is not beyond what is allowed under the General Plan. The LOAPUD SOI update does not facilitate growth beyond what is planned in the adopted General Plans. Therefore, this is a less than cumulatively considerable impact in terms of growth inducement.

#### **2. Cumulatively Considerable Impacts**

**Impact 4.1:** The proposed project has the potential to have a cumulative Impact on the region's air quality. This is a potentially significant impact.

**Mitigation:** No feasible mitigation is available to reduce this potential impact to a less than significant level.

Findings: Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities as compared to the status quo, warrant the acceptance of this significant impact. The only methods available to avoid this impact would be denial of the project.

Statement of Fact: The region is designated nonattainment for ROG and NOx (Ozone precursors), PM10, and PM2.5. Operational and construction activities would increase emissions of ROG and NOx (Ozone precursors), PM10, and PM2.5. Each individual project will require an emissions model to determine if the project-level emissions exceed the thresholds of significance established for Butte County for operational and construction emissions.

It is anticipated that development in the SOI update will incorporate BCAQMD standard mitigation measures for siting, building design, and building construction, as well as mitigation measures that are intended to minimize emissions from equipment combustion and fugitive dust. The SOI update itself will not directly result in operational or construction emissions. However, indirectly the SOI update facilitates the development of land within the SOI update area, and that development would increase emissions of ROG and NOx (Ozone precursors), PM10, and PM2.5, all of which are pollutants for which Butte County is designated nonattainment. As such, indirectly the Project would have a cumulatively considerable impact from operational and construction emissions. See Findings for Overriding Considerations in the Approval Resolution for the project, incorporated herein by reference.

**Impact 4.2:** The proposed project has the potential to have a cumulative Impact on the conversion of farmland. This is a potentially significant impact.

Mitigation: No feasible mitigation is available to reduce this potential impact to a less than significant level.

Findings: Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities as compared to the status quo, warrant the acceptance of this significant impact. The only methods available to avoid this impact would be denial of the project.

Statement of Fact: With adoption of the Butte County General Plan, approximately 1,860 acres of farmland which surrounds the City Oroville is now designated for residential uses ranging from Foothill Residential and Rural Residential to Medium High Density Residential (1,740 acres), as well as Mixed Use (120 acres).

The General Plan 2030 includes goals and policies intended to protect farmland from urbanization and to enhance the county's agricultural industry. Agriculture Element Goal AG-2 and its supporting policies and actions seek to protect Butte County's agricultural lands from conversion to non-agricultural uses. Policy AG-P2.1 directs the County to work with the Local Agency Formation Commission (LAFCO) to create and maintain a consistent approach to the conservation of agricultural land through the designation of reasonable and logical SOI boundaries. Policy AG-P2.3 limits re-designation and rezoning of agricultural land to an urban designation. Policy AG-P2.6 directs the County to use proactive land use techniques, such as clustered development and density bonuses, to retain and protect agricultural land.

The Project itself does not affect the designated land uses or zoning, and such land uses and zoning were not established by Butte LAFCO or LOAPUD. However, implementation of the Project would facilitate development of land by removing an impediment to wastewater service on land that is planned for urban development. Some of the land designated for development has historically been

agricultural land and would thus be converted in accordance with the General Plan land use designations. The Butte County General Plan EIR determined implementation of the General Plan would result in the conversion of agricultural lands. This was considered to be a significant and unavoidable consequence of the Butte County General Plan 2030. The SOI Update would contribute to this conversion of agricultural lands by providing wastewater service to these agricultural lands, which would facilitate this significant and unavoidable impact. Implementation of the Project would have a cumulatively considerable and significant and unavoidable impact. See Findings for Overriding Considerations in the Approval Resolution for the project, incorporated herein by reference.

**Impact 4.3:** The proposed project has the potential to result in a cumulative impact on climate change from greenhouse gas emissions. This is a potentially significant impact.

Mitigation: No feasible mitigation is available to reduce this potential impact to a less than significant level.

Findings: Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities as compared to the status quo, warrant the acceptance of this significant impact. The only methods available to avoid this impact would be denial of the project.

Statement of Fact: Greenhouse gas emissions from a single project will not cause global climate change; however, greenhouse gas emission from multiple projects throughout a region or state could result in a cumulative impact with respect to global climate change.

In California, there has been extensive legislation passed with the goal of reducing greenhouse gas emissions. The legislative goals are as follows: 1) 2000 levels by 2010, 2) 1990 levels by 2020 and 3) 80% below the 1990 levels by the year 2050. To achieve these goals the California Air Resources Board has developed regional greenhouse gas emission reduction targets for the automobile and light truck sectors (the largest single source of greenhouse gas emissions) for 2020 and 2035. The regional greenhouse gas emission reduction targets established for Butte County by the California Air Resources Board require no greater than a one percent increase in per capita CO<sub>2</sub> emissions in 2020 and 2035 when compared to 2005 levels.

To demonstrate the ability for the region (Butte County) to attain the regional reduction targets, a Sustainable Communities Strategy was prepared by the Butte County Association of Governments, serving as the Metropolitan Planning Organization and Regional Transportation Planning Agency in Butte County. The Butte County Association of Governments calculated the levels of greenhouse gas (GHG) emissions using the regions travel demand model and the California Emissions Factor (EMFAC) model. The GHG emissions analysis showed CO<sub>2</sub> per capita decreases by 1.98% in 2020 and by 1.91% in 2035 for the adopted growth scenario (the balanced scenario) when compared to 2005 CO<sub>2</sub> per capita. The GHG emissions for the adopted growth scenario demonstrate that the Butte County region will meet the greenhouse gas reduction targets by balancing housing and employment growth within the specified growth areas; protecting sensitive habitat and open space; and investing in a multi-modal transportation system that serves the population of Butte County. The difference between the reduction targets and the GHG emissions is approximately three percent lower in 2020 and 2035.

The Butte County Sustainable Communities Strategy is consistent with the legislative goals for reducing greenhouse gas emissions associated with the transportation sector, the California Air Resources Board reduction targets for Butte County, and the Butte County General Plan. As demonstrated in the

consistency review provided in Section 3.3 Greenhouse Gases and Climate Change, the Project is consistent with the Butte County General Plan. The Project does not conflict with the General Plan policies that were adopted for the purpose of reducing the emissions of greenhouse gases, nor does it conflict with the Butte County Sustainable Communities Strategy which has demonstrated that the region will meet its reduction targets.

The SOI update itself will not directly result in operational or construction GHG emissions because it does not directly result in development. However, indirectly the SOI update facilitates the development of land within the SOI update area, and that development would increase GHG emissions which cumulatively have been determined by Butte County to be a significant and unavoidable impact.

It is anticipated that development in the SOI update will be consistent with the SCS growth scenario and land use designations for the region. Additionally, it is anticipated that development within the SOI update area will be consistent with the policies and standard mitigation measures contained in the applicable General Plan(s) that are intended to minimize greenhouse gas emissions. The SOI update itself will not directly result in operational or construction emissions; however, indirectly the SOI update facilitates the development of land within the SOI update area, and that development would increase emissions of greenhouse gas emissions to levels that have been determined to be significant and unavoidable. As such, indirectly the Project would have a cumulatively considerable and significant and unavoidable impact from greenhouse gas emissions. See Findings for Overriding Considerations in the Approval Resolution for the project, incorporated herein by reference.

**Impact 4.6:** The proposed project has the potential to have a cumulative impact on permitted capacity of existing wastewater utilities. This is a potentially significant impact.

**Mitigation:** No feasible mitigation is available to reduce this potential impact to a less than significant level.

**Findings:** Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities as compared to the status quo, warrant the acceptance of this significant impact. The only methods available to avoid this impact would be denial of the project.

**Statement of Fact:** As described under Impact 3.5-1, the SOI update itself, would not directly result in the potential to exceed wastewater treatment requirements or capacity, or result in a determination by SC-OR that the WWTP does not have adequate capacity to serve existing commitments. However, as an indirect result of this SOI update, existing and future development has the ability to connect to the existing wastewater treatment system resulting in additional demand. This in combination with future projects within the other two member agency jurisdictions (TWSD and City of Oroville) would likely result in a deficit of capacity warranting improvements to increase treatment capacity. The only mitigation for this impact would be to expand the permitted wastewater treatment capacity which would most likely require an expansion of existing SC-OR facilities. This is not under the purview of LOAPUD. This is considered a cumulatively considerable and significant and unavoidable. See Findings for Overriding Considerations in the Approval Resolution for the project, incorporated herein by reference.

## **X. FINDINGS REGARDING ALTERNATIVES**

### **A. Requirements Under CEQA**

CEQA Guidelines section 15126.6 requires a discussion of a reasonable range of alternatives to the project or to the location of the project. However, an EIR need not consider an alternative whose implementation is remote or speculative. An EIR is required to describe and comparatively evaluate a range of reasonable alternatives to a project, or location of the project, that would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project. Thus, the range of alternatives evaluated in the DEIR was dictated by CEQA Guidelines and by the range of significant impacts identified in the DEIR, and evaluated alternatives were limited to those that theoretically could have reduced or eliminated identified environmental impacts. CEQA Guidelines Section 15126.6 requires a discussion of a reasonable range of alternatives to a project or to the location of the project which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project. An EIR need not consider alternatives which are infeasible. For this project, several alternatives were evaluated. These alternatives are discussed in the Draft EIR Section 5.0 Alternatives.

### **B. Alternatives Eliminated from Further Consideration**

A Notice of Preparation was circulated to the public to solicit recommendations for a reasonable range of alternatives to the proposed project. Additionally, a public scoping meeting was held during the public review period to solicit recommendations for a reasonable range of alternatives to the proposed project. No specific alternatives were recommended by commenting agencies or the general public during the NOP public review process. There were no alternatives that were eliminated from further consideration.

### **C. Alternatives to the Proposed Project**

The Draft EIR examines three project alternatives, at a level of detail consistent with the requirements of CEQA. An analysis of each alternative is provided in Section 5.0 of the Draft EIR.

**1. No Project (No Build) Alternative:** The CEQA Guidelines (Section 15126.6[e]) require consideration of a no project alternative that represents the existing conditions, as well as what would reasonably be expected to occur in the foreseeable future if the proposed project were not approved. For purposes of this analysis, under the No Project, the SOI Update would not occur, and the existing SOI would be the maximum extent of LOAPUD's service potential. Areas planned for growth under the approved General Plan(s), but not in the existing SOI would not be served by LOAPUD, which could limit future development and not be consistent with the growth plans for the region. It is noted that the No Project Alternative would fail to meet the project objectives identified by the project applicant.

**2. Reduced Size Alternative:** Under this alternative, the proposed project would be reduced by 50 percent resulting in a total acreage of approximately 5,322 acres. Theoretically, this reduction would limit the potential growth by half and decrease future demand of sewer facilities by half. This alternative would result in less greenhouse gas and air emissions and decrease impacts to the WWTP. Additionally, future demand for sewer services and wastewater disposal would be less than that of the proposed project. This alternative would not be consistent with the growth plans for the region.

**3. No Agricultural Land Alternative:** The proposed project has 17 parcels consisting of 1,589 acres with an agricultural land use designation under the Butte County General Plan. The

Butte County General Plan has policies which protect agricultural land from conversion to other types of land use designation. These policies are in place to minimize the loss of this land as an agricultural resource. Under this alternative, the proposed project would be developed as proposed with the exception of the removal of the 17 parcels from the SOI Update. This alternative would be approximately 9,056 acres in size. The following table shows the various land use designations for this alternative. This alternative would result in haphazard, illogical SOI boundaries, which is inconsistent with State law and Butte LAFCo policies. Additionally, a large number of the agriculture-designated parcels are identified in the Butte County General Plan for future development, including the Rio D’Oro Specific Plan and the future addition to the Stringtown Mountain Specific Plan. It is the County’s practice to designate a Specific Plan Overlay on areas for future development (i.e. Rio D’Oro Specific Plan and Stringtown Mountain Specific Plan expansion area), but to maintain the existing land use within the Overlay area (i.e. agricultural) as an interim use until such time that a Specific Plan application is filed.

**Butte County General Plan Land Use Designations: No Agricultural Alternative**

<i>GENERAL PLAN LAND USE DESIGNATION</i>	<i>NUMBER OF PARCELS</i>	<i>ACREAGE</i>
Very Low Density Residential (1 du/5 ac to 1 du/ac)	730	3,150
Low Density Residential (1 to 3 du/ac)	434	415
Rural Residential (5 to 10 ac/du)	336	1,935
Foothill Residential	138	1,312
Mixed Use	104	414
Industrial	83	422
Retail and Office	54	87
Public	21	178
Medium Density Residential (3 to 6 du/ac)	17	182
Resource Conservation	14	272
Medium High Density Residential (6 to 14 du/ac)	5	27
Recreation Commercial	3	49
<b>Total</b>	<b>1,939</b>	<b>9,056</b>

**D. Conclusions of Alternatives Analysis**

1. Environmentally Superior Alternative: CEQA requires that an environmentally superior alternative be identified among the alternatives that are analyzed in the EIR. If the No Project Alternative is the environmentally superior alternative, an EIR must also identify an environmentally superior alternative among the other alternatives (CEQA Guidelines Section 15126.6(e)(2)). The environmentally superior alternative is that alternative with the least adverse environmental impacts when compared to the proposed project.

The following table presents a comparison of the alternative project impacts with those of the proposed LOAPUD SOI Update. As shown in the table, the No Project Alternative is the environmentally superior alternative. However, as required by CEQA, when the No Project Alternative is the environmentally superior alternative, the environmentally superior alternative among the others must be identified. Based on table, the environmentally superior alternative is the Reduced Project Alternative. It should be noted that the table does not illustrate the environmental benefit the proposed project would bring to the area

by allowing existing and future development to connect to wastewater treatment facilities thus reducing the potential impacts to surface and groundwater quality as a result of septic failure. Additionally, this alternative does not fully meet the objectives of the proposed project, that of, providing a comprehensive update to the LOAPUD SOI to ensure that the boundary is consistent with adopted General Plan growth areas.

**Comparison of Alternative Project Impacts to the Proposed Project**

<i>ENVIRONMENTAL ISSUE</i>	<i>NO PROJECT</i>	<i>REDUCED PROJECT</i>	<i>NO AGRICULTURAL</i>
Air Quality	Less	Slightly Less	Equal
Agricultural Resources	Less	Less	Less
Greenhouse Gases and Climate Change	Less	Slightly Less	Equal
Land Use & Population	Greater	Greater	Equal
Utilities	Less	Less	Slightly less

*GREATER = GREATER IMPACT THAN THAT OF THE PROPOSED PROJECT*

*LESS = LESS IMPACT THAN THAT OF THE PROPOSED PROJECT*

*EQUAL = NO SUBSTANTIAL CHANGE IN IMPACT FROM THAT OF THE PROPOSED PROJECT*

2. Preferred Project: The Reduced Project Alternative is identified as an environmentally superior alternative in the Draft EIR, but is not recommended by staff as a preferred project. CEQA does not require Butte LAFCo (the Lead Agency) to select the environmentally superior alternative (CEQA Guidelines Section 15042-15043) as a preferred alternative to the proposed project. The Reduced Project Alternative does not meet the project objective of providing a comprehensive update to the LOAPUD SOI to ensure that the boundary is consistent with adopted General Plan growth areas. For this reason, the Reduced Project Alternative is not a preferred alternative to the Golf Resort at Lake Oroville.

**XI. FINDINGS REGARDING MITIGATION MONITORING AND REPORTING PROGRAM**

**A. Requirements Under CEQA**

1. Section 21081.6 of the California Public Resources Code and CEQA Guideline section 15097 require the adoption of a mitigation monitoring and reporting program for Mitigation Measures for mitigation measures that have been incorporated into or imposed upon the project to reduce or avoid significant effects on the environment. The Lake Oroville Public Utility District Sphere of Influence Draft EIR and Final EIR do not include any mitigation measures, rather, it cites the numerous policies, ordinances, best management practices, and permitting requirements that have been established by the local land use authorities and regulatory agencies to effectively ensure that the impacts of specific development project are reduced to the extent feasible when they are proposed. The implementation of these policies, ordinances, best management practices, and permitting requirements will be enforced by the local land use authorities as development occurs within the SOI update area. In the absence of mitigation measures, as noted above, a Mitigation Monitoring and Reporting Program is not warranted with the certification of the Final EIR.

## EXHIBIT B TO BUTTE LAFCO RESOLUTION NO. 09 2013/14

### STATEMENT OF OVERRIDING CONSIDERATIONS FOR APPROVAL OF THE LAKE OROVILLE AREA PUBLIC UTILITY DISTRICT SPHERE OF INFLUENCE UPDATE (SCH NO. 2013012036)

In approving The Lake Oroville Area Public Utility District Sphere of Influence Update (also referred to herein as "Project") which is evaluated in the Final Environmental Impact Report for The Lake Oroville Area Public Utility District Sphere of Influence Update (State Clearinghouse No 2013012036) ("Final EIR"), the Butte Local Agency Formation Commission makes the following Statement of Overriding Considerations in support of its findings on the EIR and in support of the Project. The Butte Local Agency Formation Commission has considered the information contained in the EIR, and has fully reviewed and considered the public testimony and record in this proceeding.

Pursuant to CEQA Guidelines Section 15093, the Butte Local Agency Formation Commission may find that specific economic, legal, social, technological, or other benefits of the Project outweigh its acknowledged environmental consequences. As such, a statement of overriding considerations is hereby adopted.

The Butte Local Agency Formation Commission hereby finds and declares, based upon substantial evidence in the entire record, that specific economic, legal, social, technological or other benefits of the Project outweigh the Project's acknowledged environmental impacts.

The Findings of the Butte Local Agency Formation Commission, set forth in Exhibit A to the Resolution Certifying the EIR, identify the environmental impacts of the Project.

For environmental impacts remaining significant after the imposition of standardized policies, ordinances, best management practices, and regulatory permitting, a Statement of Overriding Considerations is hereby adopted.

#### **I. SIGNIFICANT AND UNAVOIDABLE IMPACTS**

The environmental analysis of the Draft EIR and Final EIR finds certain impacts of the Project to be significant and unavoidable even after the imposition of any feasible mitigation measures.

The following nine Significant and Unavoidable (S&U) environmental impacts of the Project were identified in Section 3.0 and 4.0 of the Draft EIR.

**Impact 3.1-1:** Within the proposed SOI Update area there are 17 parcels designated Agriculture by the General Plan totaling 1,589 acres. These are primarily located in SOI Update Area 1 (northeast corner) and SOI Update Area 5 (west and east). Forty-six parcels, totaling 2,000 acres within the update area are currently used for agricultural purposes. Within the SOI Update area are lands designated as Prime Farmland, Unique Farmland and Farmland of Statewide Importance.

The Project, in and of itself, does not convert farmland and generally agricultural land does not require the use of a public sewer system. However, inclusion of agricultural land in a wastewater service area may assist in the conversion of this land to urban uses as it removes an impediment to development. Expansion of the SOI is an important benchmark because it defines the primary area within which urban

development is to be encouraged and is the first of several steps that would be necessary to provide sewer service in areas that are not currently served. A secondary result of the LOAPUD SOI update is the potential to increase urban development through provision of sewer services where none were formerly available.

The Butte County General Plan Draft EIR identified that implementation of the Butte County General Plan 2030 (new development) has the potential to have a substantial adverse effect on farmland preservation. However, the Butte County General Plan 2030 includes goals and policies intended to protect farmland from urbanization and to enhance the County's agricultural industry. Butte County Agriculture Element Goal AG-2 and its supporting policies and actions seek to protect Butte County's agricultural lands from conversion to non-agricultural uses. Policy AG-P2.1 directs the County to work with the Local Agency Formation Commission (LAFCO) to create and maintain a consistent approach to the conservation of agricultural land through the designation of reasonable and logical SOI boundaries. Policy AG-P2.3 limits re-designation and rezoning of agricultural land to an urban designation. Policy AG-P2.6 directs the County to use proactive land use techniques, such as clustered development and density bonuses, to retain and protect agricultural land. The Butte County General Plan 2030 recognized that placing or keeping an agricultural designation on parcels that are not viable for agricultural use does not promote economic opportunities. Placing or keeping an agricultural designation on parcels that are not viable for agricultural use, but are close to urban centers, would also direct development away from the urban centers, which is inconsistent with numerous Butte County General Plan 2030 policies encouraging a compact urban form. The conversion of some agricultural lands was determined to be a significant and unavoidable consequence of the Butte County General Plan 2030.

A portion of the SOI Update area is within the City of Oroville's SOI. The City also has goals and policies to protect agricultural lands. Goal OPS-6 calls for the preservation of the maximum feasible amount of agriculturally productive land while Policy P6.2 requires that the City cooperate with Butte County to retain agricultural uses on lands within the Oroville Sphere of Influence prior to their annexation to the City. This goal and policy does require that agricultural land be considered prior to any form of conversion to another land use.

The LOAPUD SOI Update, in and of itself, will not result in conversion of Important Farmlands. Agricultural uses within the SOI update area are protected by the policies of the Butte County General Plan 2030. However, the Butte County General Plan EIR determined implementation of the General Plan would result in the conversion of agricultural lands. This was considered to be a significant and unavoidable consequence of the Butte County General Plan 2030. The SOI Update would contribute to this conversion of agricultural lands by providing wastewater service to agricultural lands.

The City of Oroville General Plan EIR determined that the conversion of farmlands to non-agricultural use under the 2030 Draft General Plan would result in significant impacts to Unique Farmland and Farmland of Statewide Importance. Placing a Resource Management designation on these isolated parcels would not effectively prevent them from being converted to non-agricultural use, since the parcels are surrounded by other lands designated for nonagricultural use, which limits their viability as agricultural lands. Moreover, the City does not have an established farmland mitigation program, which could enable the City to mitigate impacts to the Farmland of Statewide Importance and the Unique Farmland within the SOI by collecting an impact fee and using those funds to help protect other farmland elsewhere. The Oroville General Plan EIR determined that since no feasible mitigation is available, this impact is significant and unavoidable.

CEQA requires that mitigation measures be incorporated into a Project, if the Project causes an environmental impact, in order to lessen the impact to a less than significant level. However, the mitigations must be feasible. Because LOAPUD has no jurisdiction over the agricultural lands, which is the responsibility of Butte County and the City of Oroville, the conversion of these lands cannot be regulated by LOAPUD and therefore a mitigation requiring the protection of these lands is not under the purview of LOAPUD and therefore infeasible. The only other mitigation would be to remove this agricultural land from the SOI Update area. This however, would not be consistent with the objectives of the Project. As a result, this impact is considered significant and unavoidable.

**Impact 3.2-3:** The region is designated nonattainment for ROG and NOx (Ozone precursors), PM<sub>10</sub>, and PM<sub>2.5</sub>. Operational and construction activities would increase emissions of ROG and NOx (Ozone precursors), PM<sub>10</sub>, and PM<sub>2.5</sub>. Each individual project will require an emissions model to determine if the project-level emissions exceed the thresholds of significance established for Butte County for operational and construction emissions.

It is anticipated that development in the SOI update area will incorporate Butte County Air Quality Management District standard mitigation measures for siting, building design, and building construction, as well as mitigation measures that are intended to minimize emissions from equipment combustion and fugitive dust. The SOI update itself will not directly result in operational or construction emissions. However, indirectly the SOI update facilitates the development of land within the SOI update area, and that development would increase emissions of ROG and NOx (Ozone precursors), PM<sub>10</sub>, and PM<sub>2.5</sub>, all of which are pollutants for which Butte County is designated nonattainment. As such, indirectly the Project would have a significant and unavoidable impact from operational and construction emissions.

**Impact 3.3-3:** The SOI update itself will not directly result in operational or construction GHG emissions because it does not directly result in development. However, indirectly the SOI update facilitates the development of land within the SOI update area, and that development would increase GHG emissions which cumulatively have been determined by Butte County to be a significant and unavoidable impact.

It is anticipated that development in the SOI update will be consistent with the SCS growth scenario and land use designations for the region. Additionally, it is anticipated that development within the SOI update area will be consistent with the policies and standard mitigation measures contained in the applicable General Plan(s) that are intended to minimize greenhouse gas emissions. The SOI update itself will not directly result in operational or construction emissions; however, indirectly the SOI update facilitates the development of land within the SOI update area, and that development would increase emissions of greenhouse gas emissions to levels that have been determined to be significant and unavoidable. As such, indirectly the Project would have a significant and unavoidable impact from greenhouse gas emissions.

**Impact 3.5-1:** Significant amounts of inflow and infiltration enter the SC-OR member entities' sewer systems, which is conveyed to the SC-OR WWTP. SC-OR must provide adequate capacity to treat all of the flows sent by the member agencies through their collection systems. Depending on the severity of a storm, some of the wet weather flows coming into the WWTP are greater than the WWTP is permitted to treat and actually exceed the hydraulic capacity of the facility.

The SC-OR WWTP has adequate capacity to handle dry weather flows from the member entities including an expansion of the LOAPUD SOI. However, because the SOI update project would in fact increase the area for which wastewater would be integrated into existing SC-OR WWTP and the fact that

AWWF has exceeded permitted capacity in the past and no expansion of facilities has occurred, it must be assumed that an increase in SOI size would increase the potential to exceed permitted wastewater flow at the SC-OR WWTP.

Project implementation by itself, an expansion of the LOAPU SOI, would not result in the potential to exceed wastewater treatment requirements or capacity, or result in a determination by SC-OR that the WWTP does not have adequate capacity to serve existing commitments. However, as an indirect result of this expansion, existing and future development has the ability to connect to the existing wastewater treatment system resulting in additional demand. This in combination with future projects within the other two member agency jurisdictions (TWSD and City of Oroville) may result in a deficit of capacity warranting improvements to increase treatment capacity. The only mitigation for this impact would be for SC-OR to seek an expansion of its permitted wastewater treatment capacity which would most likely require an expansion of existing SC-OR facilities. This is not under the purview of LOAPUD, as such this impact is considered cumulatively considerable and significant and unavoidable.

**Impact 3.5-2:** SC-OR will need improvements to its existing facilities in the coming years to accommodate projected growth. These improvements and their funding are based on growth projections provided by member agencies. All growth projections provided by LOAPUD to SC-OR are based on the existing service area and SOI. An update of the SOI would increase potential users of the SC-OR facilities not anticipated in the original growth projections for SC-OR. As such, construction of unanticipated new wastewater treatment and/or collection facilities or expansion of existing facilities may be required to accommodate the SOI update. The SOI Update area is projected to increase the wastewater flow by 3.41 mgd at full buildout under maximum density conditions.

The Butte County General Plan has a number of policies which require adequate wastewater infrastructure and treatment facilities which assist in minimizing potential environmental impacts. For example, Policy PUB-P12.3 requires that new community sewage systems demonstrate the financial viability of constructing, operating, and maintaining the proposed community sewerage system and that these systems be managed by a public County sanitation district or other County-approved methods. Policy PUB-P12.4 requires that new sewer collection and transmission systems be designed and constructed to minimize potential inflow and infiltration and thus reduce that amount of wastewater flowing to the WWTP.

Policy PUB-P13.2 requires new development projects to demonstrate the availability of a safe, sanitary and environmentally sound wastewater system. This policy requires new development to assure that any wastewater facilities can accommodate their growth in an environmentally safe manner. However, this does not address existing development in the SOI update area which may connect to LOAPUD and require the expansion of the SC-OR WWTP, which, in turn, causes a significant environmental impact.

Because future improvements to the SC-OR WWTP and infrastructure necessary to accommodate growth in the SOI update area has not been determined, specific environmental impacts cannot be identified and mitigated at this time. As such, the SOI update has the potential to significantly impact the environment as a result of construction or expansion of SC-OR wastewater facilities. Actual facility expansion is not under the jurisdiction of LOAPUD but a SC-OR responsibility. All possible environmental impacts cannot be known at this time and therefore mitigation for these impacts is infeasible at this time. As a result, this is a cumulatively considerable and significant and unavoidable impact.

**Impact 4.1:** The region is designated nonattainment for ROG and NOx (Ozone precursors), PM<sub>10</sub>, and PM<sub>2.5</sub>. Operational and construction activities would increase emissions of ROG and NOx (Ozone precursors), PM<sub>10</sub>, and PM<sub>2.5</sub>. Each individual project will require an emissions model to determine if the project-level emissions exceed the thresholds of significance established for Butte County for operational and construction emissions.

It is anticipated that development in the SOI update will incorporate BCAQMD standard mitigation measures for siting, building design, and building construction, as well as mitigation measures that are intended to minimize emissions from equipment combustion and fugitive dust. The SOI update itself will not directly result in operational or construction emissions. However, indirectly the SOI update facilitates the development of land within the SOI update area, and that development would increase emissions of ROG and NOx (Ozone precursors), PM<sub>10</sub>, and PM<sub>2.5</sub>, all of which are pollutants for which Butte County is designated nonattainment. As such, indirectly the Project would have a cumulatively considerable impact from operational and construction emissions.

**Impact 4.2:** With adoption of the Butte County General Plan, approximately 1,860 acres of farmland which surrounds the City Oroville is now designated for residential uses ranging from Foothill Residential and Rural Residential to Medium High Density Residential (1,740 acres), as well as Mixed Use (120 acres).

The General Plan 2030 includes goals and policies intended to protect farmland from urbanization and to enhance the county's agricultural industry. Agriculture Element Goal AG-2 and its supporting policies and actions seek to protect Butte County's agricultural lands from conversion to non-agricultural uses. Policy AG-P2.1 directs the County to work with the Local Agency Formation Commission (LAFCO) to create and maintain a consistent approach to the conservation of agricultural land through the designation of reasonable and logical SOI boundaries. Policy AG-P2.3 limits re-designation and rezoning of agricultural land to an urban designation. Policy AG-P2.6 directs the County to use proactive land use techniques, such as clustered development and density bonuses, to retain and protect agricultural land.

The Project itself does not affect the designated land uses or zoning, and such land uses and zoning were not established by Butte LAFCO or LOAPUD. However, implementation of the Project would facilitate development of land by removing an impediment to wastewater service on land that is planned for urban development. Some of the land designated for development has historically been agricultural land and would thus be converted in accordance with the General Plan land use designations. The Butte County General Plan EIR determined implementation of the General Plan would result in the conversion of agricultural lands. This was considered to be a significant and unavoidable consequence of the Butte County General Plan 2030. The SOI Update would contribute to this conversion of agricultural lands by providing wastewater service to these agricultural lands, which would facilitate this significant and unavoidable impact. Implementation of the Project would have a cumulatively considerable and significant and unavoidable impact.

**Impact 4.3:** Greenhouse gas emissions from a single project will not cause global climate change; however, greenhouse gas emission from multiple projects throughout a region or state could result in a cumulative impact with respect to global climate change.

In California, there has been extensive legislation passed with the goal of reducing greenhouse gas emissions. The legislative goals are as follows: 1) 2000 levels by 2010, 2) 1990 levels by 2020 and 3) 80% below the 1990 levels by the year 2050. To achieve these goals the California Air Resources Board has

developed regional greenhouse gas emission reduction targets for the automobile and light truck sectors (the largest single source of greenhouse gas emissions) for 2020 and 2035. The regional greenhouse gas emission reduction targets established for Butte County by the California Air Resources Board require no greater than a one percent increase in per capita CO<sub>2</sub> emissions in 2020 and 2035 when compared to 2005 levels.

To demonstrate the ability for the region (Butte County) to attain the regional reduction targets, a Sustainable Communities Strategy was prepared by the Butte County Association of Governments, serving as the Metropolitan Planning Organization and Regional Transportation Planning Agency in Butte County. The Butte County Association of Governments calculated the levels of greenhouse gas (GHG) emissions using the regions travel demand model and the California Emissions Factor (EMFAC) model. The GHG emissions analysis showed CO<sub>2</sub> per capita decreases by 1.98% in 2020 and by 1.91% in 2035 for the adopted growth scenario (the balanced scenario) when compared to 2005 CO<sub>2</sub> per capita. The GHG emissions for the adopted growth scenario demonstrate that the Butte County region will meet the greenhouse gas reduction targets by balancing housing and employment growth within the specified growth areas; protecting sensitive habitat and open space; and investing in a multi-modal transportation system that serves the population of Butte County. The difference between the reduction targets and the GHG emissions is approximately three percent lower in 2020 and 2035.

The Butte County Sustainable Communities Strategy is consistent with the legislative goals for reducing greenhouse gas emissions associated with the transportation sector, the California Air Resources Board reduction targets for Butte County, and the Butte County General Plan. As demonstrated in the consistency review provided in Section 3.3 Greenhouse Gases and Climate Change, the Project is consistent with the Butte County General Plan. The Project does not conflict with the General Plan policies that were adopted for the purpose of reducing the emissions of greenhouse gases, nor does it conflict with the Butte County Sustainable Communities Strategy which has demonstrates that the region will meet its reduction targets.

The SOI update itself will not directly result in operational or construction GHG emissions because it does not directly result in development. However, indirectly the SOI update facilitates the development of land within the SOI update area, and that development would increase GHG emissions which cumulatively have been determined by Butte County to be a significant and unavoidable impact.

It is anticipated that development in the SOI update will be consistent with the SCS growth scenario and land use designations for the region. Additionally, it is anticipated that development within the SOI update area will be consistent with the policies and standard mitigation measures contained in the applicable General Plan(s) that are intended to minimize greenhouse gas emissions. The SOI update itself will not directly result in operational or construction emissions; however, indirectly the SOI update facilitates the development of land within the SOI update area, and that development would increase emissions of greenhouse gas emissions to levels that have been determined to be significant and unavoidable. As such, indirectly the Project would have a cumulatively considerable and significant and unavoidable impact from greenhouse gas emissions.

**Impact 4.6:** As described under Impact 3.5-1, the SOI update itself, would not directly result in the potential to exceed wastewater treatment requirements or capacity, or result in a determination by SC-OR that the WWTP does not have adequate capacity to serve existing commitments. However, as an indirect result of this SOI update, existing and future development has the ability to connect to the existing wastewater treatment system resulting in additional demand. This in combination with future

projects within the other two member agency jurisdictions (TWSD and City of Oroville) would likely result in a deficit of capacity warranting improvements to increase treatment capacity. The only mitigation for this impact would be to expand the permitted wastewater treatment capacity which would most likely require an expansion of existing SC-OR facilities. This is not under the purview of LOAPUD. This is considered a cumulatively considerable and significant and unavoidable.

## **II. STATEMENT OF OVERRIDING CONSIDERATIONS**

The adverse effects identified above are substantive issues of concern to the Butte Local Agency Formation Commission, as well as responsible local, state, and federal agencies in the region. The Butte Local Agency Formation Commission finds that to the extent identified significant adverse impacts will be mitigated to less-than-significant levels through compliance with standardized policies, ordinances, best management practices, and regulatory permitting already in effect, the benefits of the Project, as more fully described in Section 2.0 of the Draft EIR, outweigh its acknowledged environmental consequences, and support approval of the Project.

The Butte Local Agency Formation Commission has balanced these considerations against the unavoidable and irreversible environmental consequences identified in the EIR and have concluded that those impacts are outweighed by the economic, social, environmental, and other benefits arising from the project. Upon balancing the environmental risk and countervailing environmental benefits, the Butte Local Agency Formation Commission has concluded that the environmental benefits that the citizens of the region will derive from the implementation of the Project, when combined with the other beneficial considerations discussed in this Section, outweigh those environmental consequences.

## **III. CONCLUSION**

1. The Project includes an EIR prepared pursuant to the CEQA Guidelines. The Butte Local Agency Formation Commission has independently determined that the Final EIR fully and adequately addresses the impacts and mitigations of the proposed operation.
2. The number of project alternatives identified and considered in the EIR meets the test of “reasonable” analysis and provides the Butte Local Agency Formation Commission with important information from which to make an informed decision.
3. Public noticing and involvement in the process, as demonstrated in the record, met or exceeded statutory requirements.
4. Substantial evidence in the record demonstrates various benefits and considerations including economic, social, environmental and other benefits which the citizens of the region would derive and/or face from the implementation of the Project.
5. The Butte Local Agency Formation Commission has balanced these project benefits and considerations against the unavoidable and irreversible environmental risks identified in the EIR and have concluded that those impacts are outweighed by the Project benefits. Upon balancing the environmental risk and countervailing Project benefits, the Butte Local Agency Formation Commission has concluded that the benefits that the citizens of the region will derive from the implementation of the Project, as compared to the existing and planned future conditions, outweigh those environmental risks.

6. The Butte Local Agency Formation Commission believes that the above-referenced Project benefits override the significant, unavoidable and irreversible environmental impacts identified in the EIR.

Therefore, for the reasons enumerated above, the Butte Local Agency Formation Commission finds that any remaining effects on the environment attributable to the Project, which are found to be unavoidable in the preceding Findings of Fact, are acceptable due to the overriding concerns set forth in this Statement of Overriding Considerations. Therefore, the Butte Local Agency Formation Commission hereby adopts this statement of overriding considerations, certifies the Final EIR, and approves the Project subject to appropriate conditions of approval.

## RESOLUTION NO. 10 2013/14

**RESOLUTION CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE  
LAKE OROVILLE AREA PUBLIC UTILITY DISTRICT (LAFCO FILE NO. 11-02 MS)  
(State Clearinghouse # 2013012036)**

**WHEREAS**, on June 29, 2010, the Lake Oroville Area Public Utility District (“LOAPUD” or “District”) requested that the Commission update the District’s Sphere of Influence;

**WHEREAS**, a Notice of Preparation (NOP) for an Environmental Impact Report (EIR) for the LOAPUD SOI Update was published in the *Oroville Mercury Register/Chico Enterprise Record* on January 14, 2013, which was also placed on the LAFCo webpage. A public scoping meeting was held on January 24, 2013, to present the project description to the public and interested agencies, and to receive comments from the public and interested agencies regarding the scope of the environmental analysis to be included in the Draft EIR. No concerns were raised in response to the NOP during preparation of the Draft EIR;

**WHEREAS**, a Draft EIR (State Clearinghouse # 2013012036) was prepared and circulated for a 45-day public review and comment period starting May 9, 2013, and ending on June 24, 2013. A Notice of Availability for the Draft EIR was filed with the State Clearinghouse and with the Butte County Clerk’s Office, and was published in the *Oroville Mercury Register/Chico Enterprise Record* on May 9, 2013. The Notice of Availability and the Draft EIR were placed on the LAFCo and LOAPUD web pages;

**WHEREAS**, the Commission held a noticed public meeting on June 6, 2013, to review and receive public comment on the Draft EIR. No oral comments were presented and no written comments were received. The Commission continued the public hearing on the Draft EIR open until the Commission’s July 10, 2013, meeting.

**WHEREAS**, a Final Environmental Impact Report (“Final EIR”) that incorporated the Draft EIR by reference was prepared and distributed to the Commission, and available for public review, on July 3, 2013. No written comments were received in regards to the Draft EIR, therefore, the Final EIR does not contain any written comments or responses to comments;

**WHEREAS**, the Commission discussed the Final EIR during its meeting on July 10, 2013, which was open to the public for comment on the Final EIR at that meeting.

**NOW, THEREFORE, THE BUTTE LOCAL AGENCY FORMATION COMMISSION** does hereby find, determine, resolve and order as follows:

1. The Final EIR, which is attached to this Resolution as Exhibit “A”, is hereby certified as being completed in compliance with the provisions of the California Environmental Quality Act (CEQA) and its implementing regulations and the Commission Policies. Certification of this EIR does not constitute approval of any project. (Pub. Resources Code, §§ 21000, 21001, 21002.)
2. The Final EIR was presented to members of the Commission on July 10, 2013, and the Commission discussed the contents of the Final EIR during its meeting on July 10, 2013.

3. The Commission has reviewed and considered the information contained in the Final EIR prior to taking any action to approve or disapprove the District's SOI Update.
4. The Commission hereby ratifies and adopts the conclusions of the Final EIR. The Final EIR represents the independent judgment and analysis of the Commission. The Commission has held public meetings on the SOI Update process and has considered the information provided to it during the SOI Update process.

**PASSED AND ADOPTED** by this Local Agency Formation Commission of the County of Butte, on the 10<sup>th</sup> day of July 2013 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAINS:**

**ATTEST:**

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Clerk of the Commission

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**CARL LEVERENZ**, Chair  
Butte Local Agency Formation Commission

FINAL

# ENVIRONMENTAL IMPACT REPORT

FOR THE

## LAKE OROVILLE AREA PUBLIC UTILITY DISTRICT SPHERE OF INFLUENCE UPDATE

(SCH: 2013012036)

JUNE 2013

*Prepared for:*

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D e N o v o P l a n n i n g G r o u p

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A Land Use Planning, Design, and Environmental Firm



FINAL  
ENVIRONMENTAL IMPACT REPORT

FOR THE  
LAKE OROVILLE AREA PUBLIC UTILITY DISTRICT  
SPHERE OF INFLUENCE UPDATE

JUNE 2013

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## INTRODUCTION

Butte LAFCO, as lead agency, determined that the proposed LOAPUD SOI Update is a "project" within the definition of CEQA. CEQA requires the preparation of an environmental impact report prior to approving any project, which may have a significant impact on the environment. For the purposes of CEQA, the term "project" refers to the whole of an action, which has the potential for resulting in a direct physical change or a reasonably foreseeable indirect physical change in the environment (CEQA Guidelines Section 15378[a]).

Butte LAFCO circulated a Notice of Preparation (NOP) of an EIR for the proposed project on January 14, 2013 to responsible agencies, trustee agencies, the State Clearinghouse, and the public. A public scoping meeting was held on January 24, 2013 to present the project description to the public and interested agencies, and to receive comments from the public and interested agencies regarding the scope of the environmental analysis to be included in the Draft EIR. No concerns were raised in response to the NOP during preparation of the Draft EIR.

Butte LAFCO released the Draft EIR and circulated a public Notice of Availability (NOA) for the Draft EIR on May 9, 2013, inviting comment from the general public, agencies, organizations, and other interested parties. The NOA was filed with the State Clearinghouse (SCH # 2013102036) and the County Clerk, a newspaper of regional circulation pursuant to the public noticing requirements of CEQA. The Draft EIR was available for public review from May 9, 2013 through June 24, 2013. A public meeting to accept comments on the Draft EIR was held on June 6, 2013 for the proposed project. The Draft EIR contains a description of the project, description of the environmental setting, identification of project impacts, and mitigation measures for impacts found to be significant, as well as an analysis of project alternatives, identification of significant irreversible environmental changes, growth-inducing impacts, and cumulative impacts. The Draft EIR identifies issues determined to have no impact or a less than significant impact, and provides detailed analysis of potentially significant and significant impacts.

Butte LAFCO did not receive any comment letters or oral comments regarding the Draft EIR. This Final EIR was prepared to comply with the requirements of State CEQA Guidelines Section 15132, which requires that an FEIR consist of the following:

- the Draft Environmental Impact Report (Draft EIR) or a revision of the draft;
- comments and recommendations received on the Draft EIR, either verbatim or in summary;
- a list of persons, organizations, and public agencies commenting on the Draft EIR;
- the responses of the lead agency to significant environmental concerns raised in the review and consultation process; and
- any other information added by the lead agency.

In the absence of comments, this Final EIR is limited to statements that no comments were received and that no revisions to the Draft EIR are warranted.

## PROJECT DESCRIPTION

The Lake Oroville Area Public Utility District (LOAPUD) proposes an update to their existing SOI to add 1,956 parcels totaling approximately 10,643 acres, which represents a doubling of the LOAPUD's current SOI. The SOI addition areas are generally to the west, south, and east of the current LOAPUD SOI and include the proposed Rio D' Oro Specific Plan area along SR 70 south of Oroville, the Power House Hill Road/Lone Tree Road area, the future South Ophir Specific Plan area, the unincorporated community of Palermo and surrounding area, the Miners Ranch Road area, and the Stringtown Mountain Specific Plan area.

As shown in Table ES-1, the vast majority (85 percent) of the parcels in the SOI addition areas are designated by the Butte County General Plan for residential uses at various densities. The parcels designated for residential purposes range in size from 0.2 to 484 acres, with an average parcel size of 4.2 acres and a median parcel size of 1.7 acres. The Butte County General Plan envisions a significant amount of new development in the areas proposed to be added to LOAPUD's SOI.

**TABLE ES-1: BUTTE COUNTY GENERAL PLAN LAND USE DESIGNATIONS WITHIN SOI UPDATE AREAS**

General Plan Land Use Designation	Number of Parcels	Acreage
Very Low Density Residential (1 du/5 ac to 1 du/ac)	730	3,150
Low Density Residential (1 to 3 du/ac)	434	415
Rural Residential (5 to 10 ac/du)	336	1,935
Foothill Residential	138	1,312
Mixed Use	104	414
Industrial	83	422
Retail and Office	54	87
Public	21	178
Agricultural	17	1,589
Medium Density Residential (3 to 6 du/ac)	17	182
Resource Conservation	14	272
Medium High Density Residential (6 to 14 du/ac)	5	27
Recreation Commercial	3	49
<b>Total</b>	<b>1,956</b>	<b>10,645</b>

SOURCE: BUTTE LAFCO, BUTTE COUNTY GIS

As shown in Table ES-2, existing major land uses within the SOI update area mostly reflect the General Plan land use designations for the areas. Within the SOI update areas, 1,394 (72%) of the parcels are developed with residential uses. The SOI update area contains 373 parcels that are identified by the Butte County Assessor's Office as residential vacant.

**TABLE ES-2: MAJOR LAND USES WITHIN PROPOSED LOAPUD SOI UPDATE AREAS**

Land Use	Number of Parcels	Acreage
Residential	1,394	4,039
Residential Undeveloped	373	3,144
Commercial	57	315
Agricultural	46	2,000
Industrial Vacant	18	181
Public	16	189
Commercial Undeveloped	15	21
Industrial	15	85

SOURCE: BUTTE LAFCO, BUTTE COUNTY ASSESSOR'S OFFICE

## ALTERNATIVES TO THE PROPOSED PROJECT

The CEQA Guidelines require an EIR to describe a reasonable range of alternatives to the project or to the location of the project which would reduce or avoid significant impacts, and which could feasibly accomplish the basic objectives of the proposed project. Three alternatives to the proposed project were developed based on input from Butte LAFCo and LOAPUD staff and the technical analysis performed to identify the environmental effects of the proposed project. The alternatives analyzed in this EIR include the following three alternatives in addition to the proposed project.

- **No Project Alternative:** Under this alternative, the SOI Update would not occur, and the existing SOI would be the maximum extent of LOAPUD's service potential. Areas planned for growth under the approved General Plan(s), but not in the existing SOI would not be served by LOAPUD.
- **Reduced Size Alternative:** Under this alternative, the SOI Update area would be reduced by 50 percent when compared to the proposed project. Some areas planned for growth under the approved General Plan(s) would not be within the SOI Update area and would not be served by LOAPUD.
- **No Agricultural Alternative:** Under this alternative, the SOI Update would exclude all agricultural designated/zoned parcels from the SOI Update that are not planned for development under the existing General Plan(s).

Alternatives are described in detail in Chapter 5. Table ES-3 provides a comparison of the alternatives using a qualitative matrix that compares each alternative relative to the other proposed project.

The No Project Alternative is the environmentally superior alternative. However, as required by CEQA, when the No Project Alternative is the environmentally superior alternative, the environmentally superior alternative among the others must be identified. The environmentally superior alternative is the Reduced Project Alternative. It should be noted that the table does not illustrate the environmental benefit the proposed project would bring to the area by allowing existing and future development to connect to wastewater treatment facilities, thus reducing the

potential impacts to surface and groundwater quality as a result of septic failure. Additionally, this alternative does not fully meet the objectives of the proposed project, that of, providing a comprehensive update to the LOAPUD SOI to ensure that the boundary is consistent with adopted General Plan growth areas.

**TABLE ES-3 COMPARISON SUMMARY OF ALTERNATIVES TO THE PROPOSED PROJECT**

ENVIRONMENTAL ISSUE	NO PROJECT	REDUCED PROJECT	NO AGRICULTURAL
Air Quality	Less	Slightly Less	Equal
Agricultural Resources	Less	Less	Less
Greenhouse Gases and Climate Change	Less	Slightly Less	Equal
Land Use & Population	Greater	Greater	Equal
Utilities	Less	Less	Slightly less

*GREATER = GREATER IMPACT THAN THAT OF THE PROPOSED PROJECT*

*LESS = LESS IMPACT THAN THAT OF THE PROPOSED PROJECT*

*EQUAL = NO SUBSTANTIAL CHANGE IN IMPACT FROM THAT OF THE PROPOSED PROJECT*

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The Lake Oroville Area Public Utility District (LOAPUD) proposes an update to their existing SOI to add 1,956 parcels totaling approximately 10,643 acres, which represents a doubling of the LOAPUD's current SOI. The SOI addition areas are generally to the west, south, and east of the current LOAPUD SOI and include the proposed Rio D' Oro Specific Plan area along SR 70 south of Oroville, the Power House Hill Road/Lone Tree Road area, the future South Ophir Specific Plan area, the unincorporated community of Palermo and surrounding area, the Miners Ranch Road area, and the Stringtown Mountain Specific Plan area.

As shown in Table 1.0-1, the vast majority (85 percent) of the parcels in the SOI addition areas are designated by the Butte County General Plan for residential uses at various densities. The parcels designated for residential purposes range in size from 0.2 to 484 acres, with an average parcel size of 4.2 acres and a median parcel size of 1.7 acres. The Butte County General Plan envisions a significant amount of new development in the areas proposed to be added to LOAPUD's SOI.

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SOURCE: BUTTE LAFCO, BUTTE COUNTY GIS

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Commercial Undeveloped	15	21
Industrial	15	85

SOURCE: BUTTE LAFCO, BUTTE COUNTY ASSESSOR'S OFFICE

Butte LAFCo is the CEQA lead agency for the environmental review of the proposed project, and LOAPUD is the project applicant and a responsible agency.

## 1.1 PURPOSE AND INTENDED USES OF THE EIR

### CEQA REQUIREMENTS FOR A FINAL EIR

This Final Environmental Impact Report (FEIR) for the proposed project has been prepared in accordance with the California Environmental Quality Act (CEQA) and State CEQA Guidelines. State CEQA Guidelines Section 15132 requires that an FEIR consist of the following:

- the Draft Environmental Impact Report (Draft EIR) or a revision of the draft;
- comments and recommendations received on the Draft EIR, either verbatim or in summary;
- a list of persons, organizations, and public agencies commenting on the Draft EIR;
- the responses of the lead agency to significant environmental concerns raised in the review and consultation process; and
- any other information added by the lead agency.

In accordance with State CEQA Guidelines Section 15132(a), the Draft EIR is incorporated by reference into this Final EIR. An EIR must disclose the expected environmental impacts, including impacts that cannot be avoided, growth-inducing effects, impacts found not to be significant, and significant cumulative impacts, as well as identify mitigation measures and alternatives to the proposed project that could reduce or avoid its adverse environmental impacts. CEQA requires government agencies to consider and, where feasible, minimize environmental impacts of proposed development, and an obligation to balance a variety of public objectives, including economic, environmental, and social factors.

### PURPOSE AND USE

Butte LAFCO, as the lead agency, has prepared the Draft EIR and this Final EIR to disclose the expected environmental impacts, including impacts that cannot be avoided, growth-inducing effects, impacts found not to be significant, and significant cumulative impacts, as well as identify mitigation measures and alternatives to the proposed project that could reduce or avoid its adverse environmental impacts. CEQA requires government agencies to consider and, where feasible, minimize environmental impacts of proposed projects, and confers an obligation to balance a variety of public objectives, including economic, environmental, and social factors.

This document and the Draft EIR constitute the Final EIR, which will be used by Butte LAFCO to determine whether to approve, modify, or deny the proposed project in light of the project's environmental effects. The EIR will be used as the primary environmental document to evaluate full development, all associated infrastructure improvements, and permitting actions associated

with proposed project. All of the actions and components of the proposed project are described in detail in Section 2.0 of the Draft EIR.

## 1.2 ENVIRONMENTAL REVIEW PROCESS

The review and certification process for the EIR has involved, or will involve, the following general procedural steps:

### NOTICE OF PREPARATION AND INITIAL STUDY

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Butte LAFCO circulated a Notice of Preparation (NOP) of an EIR for the proposed project on January 14, 2013 to responsible agencies, trustee agencies, the State Clearinghouse, and the public. A public scoping meeting was held on January 24, 2013 to present the project description to the public and interested agencies, and to receive comments from the public and interested agencies regarding the scope of the environmental analysis to be included in the Draft EIR. No concerns were raised in response to the NOP during preparation of the Draft EIR.

### NOTICE OF AVAILABILITY AND DRAFT EIR

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Butte LAFCO released the Draft EIR and circulated a public Notice of Availability (NOA) for the Draft EIR on May 9, 2013, inviting comment from the general public, agencies, organizations, and other interested parties. The NOA was filed with the State Clearinghouse (SCH # 2013102036) and the County Clerk, a newspaper of regional circulation pursuant to the public noticing requirements of CEQA. The Draft EIR was available for public review from May 9, 2013 through June 24, 2013. A public meeting to accept comments on the Draft EIR was held on June 6, 2013 for the proposed project. The Draft EIR contains a description of the project, description of the environmental setting, identification of project impacts, and mitigation measures for impacts found to be significant, as well as an analysis of project alternatives, identification of significant irreversible environmental changes, growth-inducing impacts, and cumulative impacts. The Draft EIR identifies issues determined to have no impact or a less than significant impact, and provides detailed analysis of potentially significant and significant impacts.

### RESPONSE TO COMMENTS/ERRATA

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Butte LAFCO did not receive any comments, verbal or written, regarding the Draft EIR during the forty-five (45) day public review period. In addition, there is no other information that the lead agency proposes to add to the Draft EIR that would need to be reflected in a Response to Comments and/or Errata.

### CERTIFICATION OF THE EIR/PROJECT CONSIDERATION

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Butte LAFCO will independently review and consider the Final EIR. If Butte LAFCO finds that the Final EIR is "adequate and complete", the Butte LAFCO Commission may certify the Final EIR in accordance with CEQA. The rule of adequacy generally holds that an EIR can be certified if:

- 1) The EIR shows a good faith effort at full disclosure of environmental information; and

## 1.0 INTRODUCTION

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- 2) The EIR provides sufficient analysis to allow decisions to be made regarding the proposed project in contemplation of environmental considerations.

Upon certification of the Final EIR, the Butte LAFCO Commission may take action to approve, revise, or reject the project. A decision to approve the proposed project, for which this EIR identifies significant environmental effects, must be accompanied by written findings in accordance with State CEQA Guidelines Sections 15091 and 15093. Typically, a Mitigation Monitoring and Reporting Program would also be adopted in accordance with Public Resources Code Section 21081.6(a) and CEQA Guidelines Section 15097 for mitigation measures that have been incorporated into or imposed upon the project to reduce or avoid significant effects on the environment. However, the Draft EIR does not include any specific mitigation measures, rather, it cites the numerous policies, ordinances, best management practices, and permitting requirements that have been established by the local land use authorities and regulatory agencies to effectively ensure that the impacts are reduced to the extent feasible. The implementation of these policies, ordinances, best management practices, and permitting requirements will be enforced by the local land use authorities as development occurs within the SOI update area. Because there are no specific mitigation measures within the Draft EIR, a Mitigation Monitoring and Reporting Program is not warranted.

### 1.3 ORGANIZATION OF THE FINAL EIR

This Final EIR has been prepared consistent with Section 15132 of the State CEQA Guidelines, which identifies the content requirements for Final EIRs. This Final EIR is organized in the following manner:

#### CHAPTER 1.0 – INTRODUCTION

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Chapter 1.0 briefly describes the purpose of the environmental evaluation, identifies the lead, agency, summarizes the process associated with preparation and certification of an EIR, and identifies the content requirements and organization of the Final EIR.

#### CHAPTER 2.0 – COMMENTS ON THE DRAFT EIR AND RESPONSES

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In accordance with CEQA Guidelines Section 15132, Chapter 2.0 is intended to provide a list of commentors, copies of written comments made on the Draft EIR, and responses to those written comments. However, it should be noted that Butte LAFCO did not receive any comments, verbal or written, regarding the Draft EIR during the forty-five (45) day public review period; therefore, Chapter 2.0 is limited to statements that there were no comments received and no responses are warranted.

#### CHAPTER 3.0 - ERRATA

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In accordance with CEQA Guidelines Section 15132, Chapter 3.0 is intended to provide minor revisions to the Draft EIR in response to comments on the Draft EIR. However, as noted above, it Butte LAFCO did not receive any comments, verbal or written, regarding the Draft EIR during the

forty-five (45) day public review period; therefore, Chapter 3.0 is limited to statements that there were no comments received and no revisions to the Draft EIR are warranted.

## CHAPTER 4.0 – FINAL MMRP

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In accordance with CEQA Guidelines Section 15097, Chapter 4.0 is intended to provide a Mitigation Monitoring and Reporting Program (MMRP). However, the Draft EIR does not include any specific mitigation measures, rather, it cites the numerous policies, ordinances, best management practices, and permitting requirements that have been established by the local land use authorities and regulatory agencies to effectively ensure that the impacts are reduced to the extent feasible. The implementation of these policies, ordinances, best management practices, and permitting requirements will be enforced by the local land use authorities as development occurs within the SOI update area. Because there are no specific mitigation measures within the Draft EIR, Chapter 3.0 is limited to statements that there are no mitigation measure contained in the Draft EIR; therefore, a Mitigation Monitoring and Reporting Program is not warranted.

## CHAPTER 5.0 – REPORT PREPARERS

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Chapter 5.0 lists all authors and agencies that assisted in the preparation of the EIR, by name, title, and company or agency affiliation.

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## 2.1 INTRODUCTION

### REQUIREMENTS FOR RESPONDING TO COMMENTS ON A DRAFT EIR

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CEQA Guidelines Section 15088 requires that lead agencies evaluate and respond to all comments on the Draft EIR that regard an environmental issue. The written response must address the significant environmental issue raised and provide a detailed response, especially when specific comments or suggestions (e.g., additional mitigation measures) are not accepted. In addition, the written response must be a good faith and reasoned analysis. However, lead agencies need only to respond to significant environmental issues associated with the project and do not need to provide all the information requested by the commentor, as long as a good faith effort at full disclosure is made in the EIR (CEQA Guidelines Section 15204).

CEQA Guidelines Section 15204 recommends that commentors provide detailed comments that focus on the sufficiency of the Draft EIR in identifying and analyzing the possible environmental impacts of the project and ways to avoid or mitigate the significant effects of the project, and that commentors provide evidence supporting their comments. Pursuant to CEQA Guidelines Section 15064, an effect shall not be considered significant in the absence of substantial evidence.

## 2.2 LIST OF COMMENTS/COMMENTORS

Butte LAFCo did not receive any comment letters or oral comments regarding the Draft EIR. This section of the Final EIR is intended to comply with the requirements of State CEQA Guidelines Section 15132, which requires that an FEIR include a list of persons, organizations, and public agencies commenting on the Draft EIR. In the absence of comments, a list of comments/commentors is not warranted.

## 2.3 RESPONSES TO COMMENT

The Butte LAFCo did not receive any comment letters or oral comments regarding the Draft EIR. This section of the Final EIR is intended to comply with the requirements of State CEQA Guidelines Section 15132, which requires that an FEIR include the responses of the lead agency to significant environmental concerns raised in the review and consultation process. In the absence of comments, responses of the lead agency are not warranted.

## 2.4 OTHER INFORMATION ADDED BY LEAD AGENCY

The Butte LAFCo has not proposed to add any other information to the Draft EIR. This section of the Final EIR is intended to comply with the requirements of State CEQA Guidelines Section 15132, which requires that an FEIR include any other information added by the lead agency. In the absence of any other information added by the lead agency, this section is limited to the above statements.

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### 3.1 REVISIONS TO THE DRAFT EIR

This section of the Final EIR is intended to comply with the requirements of State CEQA Guidelines Section 15132, which requires that an FEIR include the Draft Environmental Impact Report (Draft EIR) or a revision of the draft. CEQA Guidelines Section 15088 further recommends that revisions to the Draft EIR be noted as a revision in the Draft EIR or as a separate section of the Final EIR. In the absence of comments or additional information from the lead agency, as noted in Chapter 2.0, revisions to the Draft EIR are not warranted.

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## 4.1 MITIGATION MONITORING AND REPORTING PROGRAM

Typically, a Mitigation Monitoring and Reporting Program would be adopted in accordance with Public Resources Code Section 21081.6(a) and CEQA Guidelines Section 15097 for mitigation measures that have been incorporated into or imposed upon the project to reduce or avoid significant effects on the environment. However, the Draft EIR does not include any specific mitigation measures, rather, it cites the numerous policies, ordinances, best management practices, and permitting requirements that have been established by the local land use authorities and regulatory agencies to effectively ensure that the impacts are reduced to the extent feasible. The implementation of these policies, ordinances, best management practices, and permitting requirements will be enforced by the local land use authorities as development occurs within the SOI update area.

This section of the Final EIR is intended to comply with the requirements of CEQA Guidelines Section 15097, which requires the adoption of a Mitigation Monitoring and Reporting Program. However, in the absence of mitigation measure, as noted above, a Mitigation Monitoring and Reporting Program is not warranted.

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REPORT PREPARERS

**Butte Local Agency Formation Commission**

*Stephen Lucas ..... Executive Officer*

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REPORT CONTRIBUTORS

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## RESOLUTION NO. 11 2013/14

**RESOLUTION MAKING DETERMINATIONS FOR MUNICIPAL SERVICE REVIEW UPDATE  
AND APPROVING A SPHERE OF INFLUENCE PLAN/UPDATE FOR THE LAKE OROVILLE  
AREA PUBLIC UTILITY DISTRICT (LAFCO FILE NO. 11-02 MS)  
(State Clearinghouse # 2013012036)**

**WHEREAS**, the Butte Local Agency Formation Commission (“Commission” or “LAFCo”) is the sole entity authorized to approve a Sphere of Influence Update pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000: and

**WHEREAS**, pursuant to Government Code section 56425(a), in order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities, the Commission shall develop and determine the Sphere of Influence of each local governmental agency within the county;

**WHEREAS**, the Commission is required to review and update as necessary the Sphere of Influence for each local government agency within the county every five years;

**WHEREAS**, in determining the Sphere of Influence of each local governmental agency, the Commission shall consider and prepare a written statement of its determinations with respect to its approval of the Sphere of Influence;

**WHEREAS**, on June 29, 2010, the Lake Oroville Area Public Utility District (“LOAPUD” or “District”) submitted an application to the Commission for an update to its Sphere of Influence (“SOI Update”);

**WHEREAS**, a Notice of Preparation (NOP) for an Environmental Impact Report (EIR) for the LOAPUD SOI Update was published in the *Oroville Mercury Register/Chico Enterprise Record* on January 14, 2013, which was also placed on the LAFCo webpage. A public scoping meeting was held on January 24, 2013, to present the project description to the public and interested agencies, and to receive comments from the public and interested agencies regarding the scope of the environmental analysis to be included in the Draft EIR. No concerns were raised in response to the NOP during preparation of the Draft EIR;

**WHEREAS**, a Draft EIR (State Clearinghouse # 2013012036) was prepared and circulated for a 45-day public review and comment period starting May 9, 2013, and ending on June 24, 2013. A Notice of Availability for the Draft EIR was filed with the State Clearinghouse and with the Butte County Clerk’s Office, and was published in the *Oroville Mercury Register/Chico Enterprise Record* on May 9, 2013. The Notice of Availability and the Draft EIR were placed on the LAFCo and LOAPUD web pages;

**WHEREAS**, the Municipal Service Review for LOAPUD (Section 5.0 of the Service Providers-Oroville Region Municipal Service Review, adopted by LAFCo on November 5, 2009) was updated to provide current and accurate data to support the LOAPUD SOI Update;

**WHEREAS**, the Commission held a noticed public meeting on June 6, 2013, to review, and receive public comments on, the Draft EIR, the Draft LOAPUD SOI Plan, and on the Draft MSR Update. No oral comments were presented and no written comments were received. The Commission continued the public hearing on these documents open until the Commission's July 10, 2013, meeting.

**WHEREAS**, a Final Environmental Impact Report ("Final EIR") that incorporated the Draft EIR by reference was prepared and distributed to the Commission, and available for public review, on July 3, 2013. No written comments were received in regards to the Draft EIR; therefore, the Final EIR does not contain any written comments or responses to comments;

**WHEREAS**, the Commission reviewed the Final EIR during its meeting on July 10, 2013, which was open to the public for comment on the Final EIR at that meeting;

**WHEREAS**, the Commission reviewed the Municipal Service Review Update, SOI Plan, Draft EIR, and the Final EIR during its meeting on July 10, 2013, and heard public comments on these documents;

**WHEREAS**, the Commission has, by means of Resolution No. No. 09 2013/14 approved the Findings of Fact and a Statement of Overriding Considerations;

**WHEREAS**, the Commission has, by means of Resolution No. 10 2013/14, concurrently certified that the Final EIR has been prepared in full compliance with the terms of the California Environmental Quality Act ("CEQA");

**WHEREAS**, the Commission has undertaken a comprehensive analysis of LOAPUD's SOI Update;

**WHEREAS**, the SOI Update evaluation and review process involved public participation and public hearings at which no written or oral comments were received;

**WHEREAS**, local jurisdictions, community groups, businesses, and other interested parties were provided the opportunity to provide testimony throughout the planning and evaluation process;

**NOW, THEREFORE, THE BUTTE LOCAL AGENCY FORMATION COMMISSION** does hereby find, determine, resolve and order as follows:

1. Notice as required by law has been given.
2. The boundaries of the SOI Update area are represented in Exhibit "A" attached hereto and incorporated herein.
3. The LOAPUD SOI Update will add approximately 9,700 acres, consisting of approximately 1,826 parcels to LOAPUD's current SOI boundary. Most of the area proposed to be added to the LOAPUD SOI are identified for residential uses on parcels of one acre or less in size by the Butte County General Plan 2030.
4. The Commission, through its Executive Officer, caused a Final EIR to be prepared, which was certified by the Commission as complying with CEQA, pursuant to Resolution No. 10 2013/14.

5. The Commission concurrently adopts Resolution No. 09 2013/14, adopting Findings of Fact and a Statement of Overriding Considerations, consistent with the requirements of CEQA.
6. The Commission determines that the proposed LOAPUD SOI Update is consistent with the Commission's purpose and responsibility for planning, shaping and coordinating the logical and orderly development of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities. In making this determination, the Commission has considered:
  - a. The Executive Officer's report;
  - b. The LOAPUD MSR Update, which the Commission determines is consistent with Commission policies and is adequate;
  - c. The LOAPUD SOI Plan, which the Commission determines is consistent with Commission policies and is adequate;
  - d. The Draft EIR;
  - e. The Final EIR;
  - f. All oral and written public comments; and
  - g. Public agency comments, staff reports and other pertinent information in the Commission's Record of Proceedings, as defined in the Findings of Fact and Statement of Overriding Considerations adopted concurrently herewith.
7. The Commission has considered the policies set forth in Government Code section 56430. Pursuant to Government Code Section 56430, the Commission finds and determines that:

**PRESENT AND PLANNED CAPACITY OF PUBLIC FACILITIES AND ADEQUACY OF PUBLIC SERVICES, INCLUDING INFRASTRUCTURE NEEDS OR DEFICIENCIES**

**Determination 5-1: Sewer Lateral Program**

The sewer lateral inspection program is a fundamental component of the District's overall efforts to increase system efficiency and reduce I&I levels. It is recognized that the inspection program may not yield significant results for many years considering the number of laterals and the criteria for conducting the inspections.

**Determination 5-2: Sanitary Sewer Collection and Conveyance System**

The District's sanitary sewer system, most of which has been constructed in the last 35 years, is generally in good condition. LOAPUD's collection system currently has no significant capacity issues. However, large development project may be required to upgrade the existing collection system downstream if additional capacity is required.

Determination 5-3: Sanitary Sewer Overflows

LOAPUD has had two minor sanitary sewer system overflows since mandatory reporting of SSOs began in 2007. This low number of SSOs is an indication that LOAPUD's sewer system is being adequately operated and maintained.

Determination 5-4: Sanitary Sewer Management Plan

LOAPUD has adopted all elements of its Sanitary Sewer Management Plan as required by the State Water Quality Control Board.

Determination 5-5: Sanitary Sewer System Capacities

Based on a system-wide average dry weather flow of 0.81 mgd, LOAPUD's sewer system has adequate capacity to handle existing and future wastewater flows. The District adds new lines and upgrades existing lines as needed.

Determination 5-6: SC-OR East Interceptor Sewer Trunk Line Capacity

The SC-OR East Interceptor trunk sewer line, which serves only LOAPUD's sanitary sewer system, has a current capacity of 15 mgd which is greater than LOAPUD's peak flow of 14 mgd projected for the year 2030.

Determination 5-7: SC-OR Main Interceptor Sewer Trunk Line Capacity

Data provided by SC-OR shows that the Main Interceptor trunk sewer line may experience surcharge conditions during peak weather flows due to limitations on the influent pumping capacity at the WWTF. Due to this limited influent pumping capacity, the Main Interceptor has reached 92% of capacity during storm events. To address this concern, SC-OR is proposing to both increase the capacity of the Main Interceptor and increase the WWTF influent pumping capacity to 30 mgd, which will reduce the chance of surcharging and SSOs on the Main Interceptor. Additionally, SC-OR anticipates that I&I reduction programs recently implemented by the member entities is expected to reduce I&I flows into the WWTF.

Determination 5-8: Inflow and Infiltration Flows

During 2008, LOAPUD had an average dry weather flow of 0.81 mgd, but an average wet weather flow of 4.8 mgd, with a wet weather peaking factor of 9.0, all of which indicate that LOAPUD has excessive inflow and infiltration entering their sewage collection system.

Determination 5-9: Sanitary Sewer System Inspection

LOAPUD utilizes smoke testing, CCTV equipment, flow meters, and manhole inspections to help identify the locations of I&I which have resulted in numerous repairs to their collection system. LOAPUD should continue to use this approach to solving I&I in their collection system.

Determination 5-10: Sanitary Sewer System Inspection

LOAPUD currently cleans and inspects approximately 15 miles (21 percent) of their sewer system each year and should consider enhancing this program each year in a greater effort to reduce I&I and prevent sanitary sewer overflows. The clean and inspect program has been enhanced through the SC-OR pipe patching program.

Determination 5-11: Sewer Lateral Testing Program

LOAPUD recently adopted a comprehensive sewer lateral testing program that will help reduce I&I entering private sewer laterals and should consider assistance and outreach programs to landowners to encourage greater participation in this program.

**FINANCIAL ABILITY OF AGENCY TO PROVIDE SERVICES**

Determination 5-12: Financial Ability of Agencies to Provide Services

LOAPUD's primary source of revenue is service fees (85%) with additional revenue from connection charges, property taxes, and earned interest.

Determination 5-13: Financial Ability of Agencies to Provide Services

Current sewer service and connection charges, combined with income from other sources, are adequate to cover the costs of providing services; however, the District should continue to review and revise their sewer service and connection charges to recover operational and maintenance costs, build a capital reserve and reduce its reliance on revenue from property taxes. The District implemented a rate increase on July 1, 2011, which includes a \$1.00/month/EDU annual increase to sewer service rates for 5 years beginning July 1, 2012.

As the implementation of the new SSMP/SSO requirements proceed, it is likely that all of the SC-OR member entities will require rate increases to cover increased SSMP-related operating expenses (systematic sewer collection system cleaning, inspection, repair, and reporting costs).

The District submits its annual budget to the County Auditor in compliance with California Government Code Section 53901.

**STATUS OF, AND OPPORTUNITIES FOR, COST AVOIDANCE AND SHARED FACILITIES**

Determination 5-14: Opportunities for Cost Avoidance and Shared Facilities

While the District appears to utilize internal cost avoidance opportunities, facilities sharing efforts are not actively pursued. LOAPUD and the other SC-OR member entities should consider establishing a program to 1) share equipment, materials, personnel, expertise, and training and 2) consider purchasing supplies and materials in bulk.

The SC-OR-sponsored pipe patching program is a good example of the cooperation that has recently occurred between the SC-OR member entities, resulting in significant cost savings.

**ACCOUNTABILITY FOR COMMUNITY SERVICE NEEDS, INCLUDING GOVERNMENTAL STRUCTURE AND OPERATIONAL EFFICIENCIES**

Determination 5-15: Governmental Structure

LOAPUD is governed by a five-member Board of Directors elected at large by voters within the District. LOAPUD holds meetings which are open and accessible to the public. LOAPUD maintains accountability and

compliance in its governance, and public meetings appear to be held in compliance with Brown Act requirements.

Determination 5-16: Management Efficiencies

The Lake Oroville Area Public Utility District operates with minimal staff, and contracts for some services such as engineering consulting. The overall management structure of LOAPUD is sufficient to account for necessary services and to maintain operations in an efficient and effective manner. LOAPUD is adequately staffed at this time.

Determination 5-17: Website

LOAPUD maintains a website that contains useful public information. The District's website includes Board of Directors' meeting agendas, LOAPUD rules and regulations, fee schedules, improvement standards, budget, financial audit, the District's Master Plan, and the District's Sanitary Sewer Management Program. LOAPUD should also consider placing information on I&I and the District's sewer lateral testing program on their website.

8. The Commission makes the following determinations and findings in approving the LOAPUD SOI Update. The Commission considered the policies set forth in Government Code section 56425. Pursuant to Government Code section 56425, and based upon the entire record, the Commission makes the following determinations:

**Factor No. 1: The Present and Planned Land Uses in the Area, Including Agricultural and Open-Space Lands**

*The Lake Oroville Area Public Utility District serves an important role by providing wastewater collection and conveyance services to the mostly unincorporated territory south and east of Oroville. Uses within LOAPUDs existing and proposed SOI consists primarily of residential uses, along with public recreation uses, commercial uses, and industrial uses. LOAPUD's existing and proposed SOI is primarily designated by Butte County for relatively high levels of development, which may require connection to public sanitary sewer services to fully implement the County General Plan. Considering the existing and planned land uses in the area, LOAPUD is the logical sewer service provider to accommodate the planned growth.*

**Factor No. 2: The Present and Probable Need for Public Facilities and Services in the Area**

*LOAPUD provides sanitary sewer collection and conveyance services to parcels within its existing jurisdictional boundaries. LOAPUD will provide sewer services to parcels within its existing SOI upon annexation of those parcels to LOAPUD.*

*As identified in the County of Butte and the City of Oroville's General Plans, future residential, commercial, and industrial development within LOAPUD's SOI, including the Rio D'Oro Specific Plan area, the South Ophir Specific Plan area, and the Stringtown Mountain Specific Plan area, will require connection to a sanitary sewer system to develop at the*

*densities allowed by the General Plans. Absent other large scale alternatives, LOAPUD is the most logical sewer service provider to serve the unincorporated south and east Oroville area in a traditional collection and treatment wastewater system.*

*The unincorporated community of Palermo has numerous poorly performing or failing septic systems due to poor soils and high groundwater levels in the area. Parcels within the Palermo area will need the opportunity to utilize another method of wastewater treatment and the connection to a public sanitary sewer system would be an appropriate option to ensure the health and safety of area residents and to prevent surface and groundwater contamination. At present, LOAPUD represents a viable and logical option to serve the Palermo area.*

**Factor No. 3: The Present Capacity of Public Facilities and Adequacy of Public Services that the Agency Provides or is Authorized to Provide**

*A detailed review of the adequacy and capacity of LOAPUD's sewer services was performed in the 2009 Wastewater Service Providers-Oroville Region Municipal Service Review. The municipal service review indicates the District will have the capacity to provide sanitary sewer service to the District's updated SOI. As identified in the District's Sewer System Master Plan, the District will need to install new sewer infrastructure, such as sewer pipes and pump stations, in order to provide service to the updated SOI. Infrastructure improvements needed as a result of new development will be funded by the development.*

*The SC-OR wastewater treatment facility currently does not have the reserve capacity to provide service for a full build-out scenario of LOAPUD's updated SOI, however, SC-OR has identified the infrastructure improvements needed to provide adequate wastewater treatment services for the three SC-OR member entities in the coming years. These infrastructure improvements needed as a result of new development will be identified as development is proposed in a Capacity Study and be funded by the new development.*

**Factor No. 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.**

*The social and economic communities within the District include a small portion of the City of Oroville, and the unincorporated communities/neighborhoods of South Oroville, the Mooretown Rancheria, the Feather Falls Rancheria, and Kelly Ridge.*

*The areas proposed to be added to the District's SOI include the proposed Rio D' Oro Specific Plan area along SR 70 south of Oroville, the Power House Hill Road/Lone Tree Road area, the unincorporated community of Palermo, the Miners Ranch Road area, portions of the Stringtown Mountain Specific Plan area, and the proposed Whisper Ridge Golf Resort, located on a portion of the Stringtown Mountain Specific Plan area.*

*The proposed sphere has established substantive social and economic ties with the Oroville region given that is where the majority of residents of the updated SOI work and shop.*

**Factor No. 5: The Present and Probable Need for those Public Facilities and Services of any Disadvantaged Unincorporated Communities Within the Existing Sphere of Influence.**

*Large portions of LOAPUD's updated SOI are identified as disadvantaged unincorporated communities, including the unincorporated community of Palermo. The disadvantaged unincorporated communities within LOAPUD's SOI will require District sanitary sewer services in the future to replace poorly performing or failing septic systems, or to facilitate new development. Therefore, there is a present and probable need for public sanitary sewer services within the areas designated as disadvantaged unincorporated communities in LOAPUD's updated SOI.*

**FURTHERMORE**, the Commission makes the following determinations, findings, and conditions in approving the SOI Update. The Commission considered its own Policies and based upon the entire record, the Commission makes the following determinations:

1. The Updated MSR for LOAPUD identifies types and adequacy of municipal services to be provided and identified existing and proposed facilities.
2. The LOAPUD SOI Plan identifies existing land uses and reasonable projection of land uses that may occur.
3. The District's projected population growth and development patterns indicate that the SOI Update will facilitate future residential, commercial, and industrial uses as identified by the Butte County General Plan 2030.
4. The SOI Update area to be added is in the logical path of urban development and adjacent to developed land, which promotes orderly growth and discourages sprawl.
5. The LOAPUD SOI Update shall be subject to the following conditions:
  - a. All Commission fees must be paid in full prior to the new sphere of influence becoming effective.
  - b. No annexation to the District shall be approved which proposes urban development that will be adjacent to active agricultural production unless the proposal includes a buffer between the urban development and the agricultural uses. The buffer shall be substantially consistent with Butte County agricultural buffer requirements. The buffer condition may provide for elimination of the buffer at such time as the adjacent farmland is converted to non-agricultural use.
  - c. The Commission finds that the Final Environmental Impact Report for the Butte County General Plan 2030 and the Final Environmental Impact Report for the LOAPUD SOI Update are general policy level

actions intended to provide a broad discussion of growth boundaries and potential impacts. The District and the County should not expect to solely rely on these two documents to support or mitigate all project specific impacts identified during any future annexations to LOAPUD.

**WHEREAS**, having reviewed and considered the findings as outlined above, the Commission determines to expand the Lake Oroville Area Public Utility District's existing sphere of influence by approximately 9,700 acres as shown in "Exhibit A" to this Resolution.

**BE IT FURTHER RESOLVED** that the Local Agency Formation Commission of the County of Butte, State of California, does hereby determine that the Lake Oroville Area Public Utility District shall indemnify, defend, and hold harmless the Local Agency Formation Commission of the County of Butte from any legal expense, legal action, or judgment arising out of the Commission's designation of the modified sphere of influence, including any reimbursement of legal fees and costs incurred by the Commission.

**PASSED AND ADOPTED** by this Local Agency Formation Commission of the County of Butte, on the 10<sup>th</sup> day of July 2013 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAINS:**

**ATTEST:**

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Clerk of the Commission

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**CARL LEVERENZ**, Chair  
Butte Local Agency Formation Commission

