

EXECUTIVE OFFICER'S REPORT

To The

Local Agency Formation Commission

TO:

Commissioner **DAVID WEST** (Chair)

[Public]

Commissioner **MICHAEL KELLEY** [Supervisor]

Commissioner **JASON JACKSON**

[City]

Commissioner **RAY CASTILLO** [Supervisor]

Commissioner **MARIA NAVA-FROELICH**
(Vice-Chair)

[City]

Alternate Commissioner **LUIS PLANCARTE**

[Supervisor]

Alternate Commissioner **JAMES PREDMORE**

[City]

Alternate Commissioner **RALPH MENVIELLE**

[Public]

REPORT DATE:

January 1, 2018

FROM:

Jurg Heuberger, Executive Officer



PROJECT:

**Seeley County Water District (SCWD 1-15) Service Area Plan (SAP) /
Municipal Service Review (MSR)**

HEARING DATE:

January 25, 2018

TIME: 08:40 A.M.

AGENDA ITEM NO:

13

HEARING LOCATION:

El Centro City Council Chambers, 1275 Main Street, El Centro, CA

RECOMMENDATION(S) BY THE EXECUTIVE OFFICER

(In Summary & Order)

- OPTION #1:** Approve the proposed Service Area Plan/MSR update as presented by the Executive Officer.
- OPTION #2:** Approve the proposed Service Area Plan/MSR update as requested with modifications, following the hearing by the Commission.
- OPTION #3:** Continue the hearing for not to exceed 70 days.
- OPTION #4:** Deny the Service Area Plan/MSR update, and provide direction to the District for corrections.

Project Data:

DATA & FACTS:

Project ID	SCWD 1-15
Project Name:	Service Area Plan Update (SAP)/MSR
Applicant/Proponent:	Seeley County Water District
Application Type:	Petition
Application Filed:	August 28, 2017
Certificate of Filing:	N/A
Area/Size:	1, 520 +/- acres
Location/Legal:	Sphere of Influence Map EXHIBIT "A"
Population:	Current service population is about 2,140 with an estimated growth for 2035 to about 3,111.
Proposed Project:	Service Area Plan (SAP) / Municipal Services Review (MSR) Update.
MSR/SAP:	The most recent version of the MSR/SAP is July 2003.

TAX AGREEMENT:

Board of Supervisors Action:	N/A
City Resolution:	N/A
Tax Split:	N/A

CEQA:

Lead Agency:	LAFCO
Documentation:	Exempt

ANALYSIS

I: Legal Requirements (Historical information):

Cortese-Knox-Hertzberg Reorganization Act of 2000 (CKH), also referred to as Government Code 56000 et Seq., provides the legal basis for the requirement of the Sphere of Influence and the Service Area Plan being considered within the scope of this hearing.

G.C. § 56425 (a) states in part; *"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 with the county and enact policies designed to promote the logical and orderly development of areas within the sphere."*

G.C. § 56425 (b - i) provide the frame work within which the Commission may approve the sphere of influence and the process that needs to be followed.

G.C. § 56425 (e) states in part; *"In determining the sphere of influence of each local agency, the commission shall consider and prepare a written statement of its determination with respect to each of the following:*

- (1) The present and planned land uses in the area.*
- (2) The present and probable need for public facilities and services in the area.*
- (3) The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.*
- (4) The existence of any social or economic communities' of interest in the area if the commission determines that they are relevant to the agency.*

G.C. § 56425 (f) is a critical new section that changed the parameters of the prior review insofar that this section now requires that; *" Upon determination of a sphere of influence, the commission shall adopt that sphere, and shall review and update, as necessary, the adopted sphere not less than once every five years."*

There appears to be a misconception that the agencies will have to prepare a full new plan every five years, however the intent here is to "review" the prior plan and to amend it if necessary. If there have been significant changes, or if there has been explosive growth, then certainly the amendment will be much more comprehensive.

G.C. § 56428 (a) provides the mechanism for anyone to file a request with the executive officer for an amendment to the sphere of influence. It states in part; *"Any person or local agency may file a written request with the Executive Officer requesting amendments to a sphere of influence or urban service area adopted by the commission..."*

Again there may be some confusion in this area as there have been numerous questions about the "limitations" of the sphere and the process to amend.

It appears clear that the mandate is to review the plan at least every five years but there is no apparent restriction on the number of times that it may be amended nor is there a restriction on who can request such an amendment, there is only a process that needs to be followed. It goes without saying however that for an amendment to work it needs the consensus of the City/District, the County and the Commission.

Just as there are provisions for the addition of areas to a sphere of influence there are provisions for a process to remove an area from an approved sphere boundary. This is found in G.C. 56429.

In addition to the SOI process G.C. § 56430 (a - d) now addresses the requirement for the review of municipal services which in our case has been referred to for nearly a decade as the Service Area Plan (SAP).

G.C. § 56430 (a) states; *"In order to prepare and to update spheres of influence in accordance with Section 56425, the Commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission. The commission shall include in the area designated for service review the county, the region, the sub region, or any other geographic area as its appropriate for an analysis of the service or service to be reviewed and shall prepare a written statement of its determination with respect to each of the following:*

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

G.C. § 56430 (d) also required that the Office of Planning and Research of the State, in consultation with the commissions, and the California Association of LAFCO's and other governmental agencies, SHALL prepare a comprehensive set of guidelines for service reviews by July 1, 2001. Unfortunately there has not been a final set of guidelines adopted by the state at this time, although a very complete and "almost" final version has been distributed by the State. Since these guidelines are voluminous a full text copy is not attached to the report however there is a PDF copy on the CD rom that has been provided to each commissioner and every interested party. Furthermore, the Executive Officer has urged the various entities to utilize the "draft final" version as a guide to preparing the SOI and SAP.

II: The PLAN as submitted:

The Holt Group, on behalf and under direction by the District, has prepared and has presented to the Commission a comprehensive Service Area Plan (SAP). The full plan (hard copy) is not attached to all recipients of this report, only to the Commissioners; however, a copy of the full plan is available on the website.

NOTE: This review and approval by LAFCO does not change the sphere of influence (SOI) boundaries.

III: District Approvals:

Pending and required upon adoption by the LAFCO. The District to provide a resolution to approve the SAP/MSR.

IV: CEQA:

It is argued and it is the Executive Officers opinion that the Service Area Plan fit within one or more "exemptions" under the provisions of CEQA, not the least of which is the possible determination that this process is "not a project".

V: Analysis by the Executive Officer / Determinations by the COMMISSION:

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- (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.*

Proposed findings by the Commission:

- 1) The present land use within the boundaries of the proposed SAP includes residential, general commercial, government/special public, and light industrial.**
- 2) The present services provided by the District are administration, wastewater treatment and distribution and parks and recreation. The County of Imperial provides fire, law enforcement, library, transportation and storm water & drainage facilities/services.**
- 3) Currently some of the services/functions provided by the District are at capacity or near capacity.**

a. ADMINISTRATION

- I. Capacity – The County of Imperial requires administrative facilities in unincorporated areas to be 1,030 square feet per 1,000 people. The current 1,059 square feet of space is inadequate for the population of 2,140 and unable to accommodate operations and staff for the population growth over the planning period.**
- II. Findings – The administrative building is fifty-five years old and in need of various repairs including an immediate need to upgrade an electrical panel. The restroom facilities do not comply with the American with Disability Act standards. The District is in the preliminary stages of discussing alternatives for improvement and relocation to accommodate demand and future growth. Recommendations on page 37 should be followed.**

b. PARKS & RECREATION

- I. Capacity – Existing parkland totals 70.13 acres which includes 3.58 acres owned by the District and 66.55 acres owned by the County of Imperial. The performance standard is 5 acres per 1,000 population. The existing demand is 10 acres based on 2,140 in population and is adequate.**
- II. Findings – The County of Imperial operates and maintains two parks in Seeley totaling 70.13 acres. According to the updated report, the existing acreage is supported through the year 2035. The Robert Bates Memorial park received \$150,000 in grant funding for park improvements as shown on pages 62-63.**

Improvements to the Sunbeam Lake Park will be met by the Sunbeam Lake Estates developers if the project is realized. The timing of the improvements are to be determined at the time of residential development.

c. WASTEWATER

I. Capacity:

- a. Existing Facilities: Treatment capacity 0.25MGD
- b. Existing Demand: Average annual demand up to 0.11MGD
- c. Peak Flow Demand: 0.38GPD
- d. Adequacy: Demand at 45% of Capacity of 0.11MGD

II. Findings – The wastewater treatment plant was constructed in 1965, with the most recent improvements completed in 2014 and 2016. Wastewater facilities are found to be generally adequate but would require capital investment via facility expansion to address future demand.

d. WATER

I. Capacity – The existing water distribution system has a treatment capacity of 1.08 MGD, and a storage capacity of 1 MG. The average daily demand is 0.214 MGD with a peak demand of 0.39 MGD.

II. Findings – The current plant meets the demands of the users but would require mitigation to address future demand during the planning period by 2030. Capital investment via facility expansion to address the projected future demand that may be generated by the planned development Sunbeam Lake Estates, Phase I would be necessary. Recommendations on pages 110-112 would need to be implemented.

4) There are no known social or economic communities of interest in the area.

VI: Public Notice:

Public notice for the proposed project hearing before the Imperial County Local Agency Formation Commission has been given, according to Section § 56427. Notice was issued in the form of a publication in the Imperial Valley Press at least twenty-one (21) days prior to said hearing, and posted on our webpage.

VII: Report:

In accordance with Section § 56665, the Executive Officer has prepared a report, and presented said report to your Commission and to any public member requesting such report. In addition, a copy of said report has been issued to the Seeley County Water District and any party requesting a copy.

VIII: Conflict of Interest Statement:

To date (January 1, 2018) no Commissioner has indicated that there is any conflict of interest with regard to this project, nor has any Commissioner reported any communications with the Applicant, Proponent or Opponent. The Commissioners will be asked to declare that during and prior to the public hearing.

The Executive Officer does not have any type of known conflict of interest or financial gain as a result of this project and owns no property in the vicinity.

EXECUTIVE OFFICERS RECOMMENDATION

RECOMMENDATION:

It is the recommendation of the Executive Officer that LAFCO conduct a public hearing and consider all information presented in both written and oral form. The Executive Officer then recommends, assuming no significant public input warrants to the contrary, that LAFCO take the following action;

- I: Certify that the Service Area Plan(SAP)/Municipal Service Review(MSR) is exempt from CEQA.
- II: Make the finding that this Service Area Plan/Municipal Service Review is in substantial compliance with the provisions of the Cortese-Knox-Hertzberg Reorganization Act of 2000 and the Imperial LAFCO Policy and Procedures.
- III: Make the findings pursuant to Government Code Section § 56425 that:
 - a. The Service Area Plan/Municipal Service Review has been reviewed by the Executive Officer and the Commission and the District has the capacity and ability to provide services within the area.
 - b. The Service Area Plan/Municipal Service Review will provide for logical and orderly development for the District.
 - c. The Sphere of Influence currently adopted remains adequate for any projected growth of the District, **and remains the same.**
- IV: The Commission finds that, the present land uses within the boundaries of the Service Area Plan/Municipal Service Review includes residential, general commercial, government/special public, and light industrial. The land uses intended for these areas were planned by the County of Imperial to be within the framework of the County of Imperial's General Plan guidelines estimating build out both within the District limits and the Sphere of Influence.
- V. The Commission finds that, the present services available to the areas within the proposed boundaries are limited to those identified in the attached. Any expansion of services by the District, other than those listed herein would require LAFCO approval.
- VI. The Commission finds that the Service Area Plan/Municipal Service Review as provided by the District has the ability to provide services within its current and proposed boundary limits and the document provided indicates that the District has a plan whereby it can provide these services. The District must however make every effort to implement the recommended actions and any other actions to continue viability.
- VII. The Commission finds that, there are no known social or economic communities of interest in the areas.
- VIII: Since there have been no protests received, the Commission adopts and approves the revised Service Area Plan (SAP/MSR) as attached, and re-adopts the current Sphere of Influence.

LAFCO Policy:

The proposed Sphere of Influence and Service Area Plan appears to be consistent with the Cortese-Knox-Hertzberg Reorganization Act of 2000, the Imperial LAFCO Policies and Procedures and the County of Imperial General Plan (Chapter IV. B. of LAFCO's Policies, Standards and Procedures). Furthermore, the District has (according to the Service Area Plan) the ability to supply the necessary public service, and has assured LAFCO that it has the capacity to service the areas.

NOTE: All "cc" submittals are the Executive Officer's Report only. Attachments are generally too voluminous and are only supplied on CD. Information about the project may also be found on the LAFCO web page at www.iclafco.com.

CC: Seeley County Water District, General Manager
The Holt Group, Justina Arce

ATTACHMENTS:

EXHIBIT A: Sphere of Influence Map
EXHIBIT B: Service Area Plan/Municipal Service Review