

EXECUTIVE OFFICER'S REPORT

To The

Imperial Local Agency Formation Commission

TO: Commissioner Jason Jackson (City) Chair
Commissioner Michael Kelley (Supervisor) Vice-Chair
Commissioner David H. West (Public)

Commissioner Maria Nava-Froelich (City)
Commissioner Ray Castillo (Supervisor)

Alternate Commissioners

Commissioner James Predmore (City)
Commissioner Jesus E. Escobar (Supervisor)
Commissioner Ed Snively (Public)

REPORT DATE: October 1, 2020

FROM: Jurg Heuberger, Executive Officer & Paula Graf, Sr. Analyst PG

PROJECT: Imperial Irrigation District (IID) Service Area Plan (SAP)/Municipal Service Review (MSR) & Sphere of Influence (SOI)

HEARING DATE: 10/22/2020 **TIME:** 08:30 a.m.

AGENDA ITEM NO: 6

HEARING LOCATION: El Centro City Council Chambers, 1275 Main St., El Centro, CA 92243

RECOMMENDATION(S) BY THE EXECUTIVE OFFICER (In Summary & Order)

- OPTION #1:** Approve the proposed Service Area Plan/(Municipal Service Review) & the Two Sphere of Influence's (SOI's) as presented by the Executive Officer.
- OPTION #2:** Approve the proposed Service Area Plan/(Municipal Service Review) & the Two Sphere of Influence's (SOI's) 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/(Municipal Service Review) & the Two Sphere of Influence's (SOI's) and provide direction to the District and staff for corrections.

Project Data:

Project ID: IID 1-16 (Imperial Irrigation District)

Project Name: Service Area Plan(SAP)/(Municipal Service Review(MSR) & the Sphere of Influence (SOI)

Applicant/Proponent: Imperial Irrigation District

Application Type: Service Area Plan(SAP)/Municipal Service Review(MSR) & the Sphere of Influence (SOI)

Application Received: LAFCO Initiated process

Area/Size: District Boundaries +/- acres (see attached exhibits)

Location/Legal Description: Sphere of Influence/Boundary Map (Energy) (EXHIBIT A)
Sphere of Influence/Boundary Map (Water) (EXHIBIT B)

Proposed Project: Service Area Plan(SAP)/Municipal Service Review(MSR) & the Sphere of Influence (SOI) update as required under CKH

MSR/SAP: The most recent version of the SAP/MSR is 2020 (EXHIBIT C)

TAX AGREEMENT: Not Applicable

CEQA: Exempt from CEQA

ANAYLSIS

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 purpose and responsibilities for planning and shaping the logical and orderly development and coordination of local government agencies so as to advantageously provide 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 framework within which the Commission may approve the sphere of influence and the process that needs to be followed.

G.C. § 56245 (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.
5. For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, that occurs pursuant to subdivision (g) on or after July 1, 2012, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

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 but 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 year, 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) Growth and population projections for the affected area.
- 2) The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.
- 3) Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, unincorporated communities within or contiguous to the sphere of influence.
- 4) Financial ability of agencies to provide services.
- 5) Status of, and opportunities for, shared services.
- 6) Accountability for community service needs, including governmental structure and operational efficiencies.
- 7) Any other matter related to effective or efficient service delivery, as required by commission policy.

II: Executive Summary:

The Imperial Irrigation District (IID) (District) has, at the request of the Executive Officer, prepared and presented to the Staff/Commission a comprehensive Service Area Plan (SAP)/Municipal Service Review (MSR) & the Sphere of Influence (SOI) technical report. 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 at www.iclafco.com.

Irrigation Districts are formed pursuant to the California Water Code Sections 20500, et seq. They are empowered to provide irrigation and energy related services.

The Imperial Irrigation District was formed in 1911 and is governed by a five-member Board of Directors who are elected by registered voters from the geographical divisions in which they reside within the districts water service area.

Note, that one of the divisions (Energy Services) within the District provides services outside of Imperial County, which is the result of a legal settlement from 1934.

The services provided by the District are; Raw Water Delivery, Irrigation Drainage, Energy, Conservation Programs & Services, and Administrative / Support. The District does not provide storm water or drainage service aside from agricultural drainage.

The District has two primary operational divisions: The Water Department and the Energy Department. Both are overseen by the General Manager and supported by four additional service departments: General Services, Information Technology, Finance and Human Resources.

RAW WATER

The district provides irrigation water from the Colorado River via the All American Canal and numerous canals within the county, to the agricultural lands within Imperial County per Congressional authorization, and provides raw/untreated water to the City of Brawley, City of Calexico, City of El Centro, City of Holtville, City of Imperial, Golden State Water Company, and the City of Westmorland, as well as several special districts. The irrigation service area covers approximately 1,658 square miles. As of 2018, an estimated 520,307 acres are serviced by IID with raw water. (444,098 irrigated for crops, 27,584 farmable but under temporary fallowing, and 48,625 acres for rural home sites, feed lots, solar and industrial areas and municipal uses).

Water Service Area Legal Boundary/Sphere of Influence

The district's Water Service Area is defined by the limits authorized under the Boulder Canyon Act Agreement of 1932. Changes in the district's boundaries beyond the boundaries of the Water Service Area authorized under the Agreement, cannot be made unless approved by Congress, and ICLAFCO.

ENERGY

As of 2019, IID provides electric power to more than 154,465 accounts and covers an area of 6,897 square miles.

Imperial County: The district provides energy services to Bombay Beach, City of Brawley, City of Calexico, City of Calipatria, Desert Shores, City of El Centro, Heber, City of Holtville, City of Imperial, Niland, Ocotillo, Palo Verde, Salton City, Salton Sea Beach, Seeley, City of Westmorland, and Winterhaven within Imperial County along with the unincorporated areas. It is estimated that the 2018 service area population was 190,624.

Riverside County: The district provides energy services to Bermuda Dunes, City of Coachella, City of Desert Hot Springs, portion of City of Indian Wells, City of Indio, Indio Hills, City of La Quinta, Mecca, portion of City of Palm Desert, portion of City of Rancho Mirage, Sky Valley, Thermal, and Thousand Palms within Riverside County through the 1934 Compromise Agreement with Coachella Valley Water District and the US Bureau of Reclamation. This agreement is set to expire in 2033. It is estimated that the 2018 service area population was 239,120.

San Diego County: The district provides energy services to Borrego Springs, within San Diego County for emergency responses only through the 1943 Purchase and Sale Agreement with California Electric Power Company.

III: Municipal Service Review Summary/Determinations:

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:*

<p>1. Present and planned land uses in the area.</p>	<p>The District has no land use authority however it works closely with all jurisdictions to assure adequate services can be provided.</p>
<p>2. Present and probable need for public facilities and services in the area.</p>	<p>The District currently has adequate facilities to provide its designated services. The District cooperates with the various land use jurisdictions to assure that services provided by the District can meet the demands.</p>
<p>3. Present capacity and adequacy of public services that the agency provides or is authorized to provide.</p>	<p>At this time the District has adequate capacity for both its electrical and water services.</p>
<p>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.</p>	<p>There are a number of social and economic communities within Imperial County. The District works with the various jurisdictions to assure that services to these areas is available and can be provided.</p>
<p>5. For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, that occurs pursuant to subdivision (g) on or after July 1, 2012, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.</p>	<p>Not applicable to this District as it only provides raw water and electricity.</p>

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:*

<p>1. Growth and population projections for the affected area</p>	<p>The estimated 2018 service area population in Imperial County is 190, 624 and 239,120 in Riverside County (Coachella Valley communities). During the past eight years, Imperial County grew at an average rate of 1.11 percent and the Riverside County communities serviced by IID had an average annual growth of 1.38 percent.</p>
<p>2. Location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.</p>	<p>The communities of Heber, Niland and Seeley are identified as disadvantaged communities located within the district boundaries. The disadvantaged unincorporated communities of Bombay Beach, Desert Shores, Heber, Niland, Ocotillo, Palo Verde, Salton City,</p>

	<p>Salton Sea Beach, Winterhaven, Mecca, Thermal, and Thousand Palms are within the district's energy service area.</p> <p>IID offers Financial Assistance Programs through the Energy Department that are income-qualified assistance programs for economically disadvantaged households. A special rate is offered for those using critical medical equipment. A financial assistance program is offered to customers facing financial crisis that are at risk for disconnection for nonpayment. For rural residents that are enrolled in the Financial Assistance Program, eligibility for potable water services may also be arranged by the Water Department.</p> <p>Page 22 of the plan provides the most current economic statistics regarding the poverty level for these communities.</p>
<p>3. Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, unincorporated communities within or contiguous to the sphere of influence.</p>	<p>The district provides raw water, agricultural drainage, energy, conservation/efficiency programs & services, and administrative services. At this time the District has adequate capacity for both its electrical and water services.</p> <p>Administrative: 463 full-time employees</p> <p>Raw Water: Performance Standard:</p> <p>Agricultural Use IID must be able to deliver to the agricultural community raw water to irrigate approximately 475,000 acres of farm ground. The district has not adopted a performance standard for agricultural use but has identified an annual average of 5.1 AF of water per acre of farmable land.</p> <p>Non-Agricultural Use Other areas that receive raw water from IID are classified as industrial/urban uses. These uses total 49,034 acres and in 2017 had an annual demand of 92,214 AF at an average of .53 AFY/AC.</p>

	<p>IID's annual consumptive use cap: 3.1 million-acre feet (MAF) during the term of the Quantification Settlement Agreement. Agricultural Water Demand: 2.2 MAF/Year Non-Ag Water Demand: 93,000 AF/Year All Other Water Delivery: 385,000</p> <p>Energy: IID must match generation to load as a Balancing Authority. 2018 Demand: 1,125 MW Gross CP 1,067 MW Net CP Adequacy: 1,246 MW</p> <p>Conservation/Efficiency Programs: Existing Programs: On-Farm Conservation & System Water Conservation 2018 Existing Demand: 377,200 AFY 2018 Conservation: Target exceeded Future Demand: 450,200 AFY</p>
<p>4. Financial ability of agencies to provide services.</p>	<p>Energy Department Revenue: \$586 million Water Department Revenue: \$280 million</p> <p>2019 Budget Plan EXHIBIT D</p> <p>Audited Financial Statements December 31, 2017 and 2016 EXHIBIT E</p> <p>Financial reports are accessible through the District's website at www.iid.com.</p>
<p>5. Status of, and opportunities for, shared services.</p>	<p>There have been a number of studies done over the years to determine what services could be shared between jurisdictions and the District. While there are a few, none have come to fruition for various reasons.</p>
<p>6. Accountability for community service needs, including governmental structure and operational efficiencies.</p>	<p>The District has a five-member Board of Directors accountable to its residents. The Board meets on the 2nd and 4th Tuesday of each month in El Centro and on the 3rd Tuesday of each month in La Quinta. The meetings are broadcasted live, and public participation is encouraged. The District pursues public outreach efforts through various media such as social media and the district website.</p> <p>2020 Board Meeting Calendar EXHIBIT F</p> <p>Financial reports and other programs and plans are accessible through the District's website at www.iid.com.</p>

IV: District/Approvals:

Imperial Irrigation District Board approval and acceptance of any requirements set by the Commission is required once LAFCO approves the proposed plan. Specifically, LAFCO will request that the IID Board accept any conditions approved by the LAFCO as part of the SOI and MSR update.

V: CEQA:

It is argued, and it is the Executive Officers opinion that the SAP/MSR/SOI 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".

VI: Public Notice:

Public notice for the proposed project hearing before the 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. In addition, since this District provides services beyond the County boundaries, publication in the Desert Sun was also made. Furthermore, since this District provides electric services within Riverside County, notice along with specific communication was made with the Riverside LAFCO. Because this Districts services affect several cities and communities a notice to each was also made.

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 District and any party requesting a copy.

VIII: Conflict of Interest Statement:

To date (at the writing of this report), 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 District or its Board of Directors, 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; however, the Executive Officer does own property including a residence and farmland within the boundary of the district's service area.

EXECUTIVE OFFICERS 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/Municipal Service Review/Sphere of Influence is exempt from CEQA.

- II: Make the finding that this Service Area Plan/Municipal Service Review/Sphere of Influence 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 finding that pursuant to Government Code Sections § 56425 that:
 - a. The Service Area Plan/Municipal Service Review/Sphere of Influence has been reviewed by the Executive Officer and the Commission and the District has the capacity and ability to provide the services designated within the SAP/MSR/SOI, within their authorized service area.
 - b. The Service Area Plan/Municipal Service Review/Sphere of Influence will provide for logical and orderly development for the District.
 - c. The Water Service Area Sphere of Influence (SOI) boundary as well as the District's legal boundary, as proposed covers and is limited to the boundaries of and within Imperial County.
 - d. The District has the capacity and capability to provide adequate services for any projected growth within the District boundary.
 - e. The SOI as proposed, does not include any territory outside of the County of Imperial, with the following special findings:
 - 1) The District's Water Service area boundary remains limited to the areas approved by Congressional Authority. See Exhibit B.
 - 2) The Districts Electrical Energy Service division currently provides service in Riverside County as a result of a legal settlement made in 1934 which is set to expire in 2033 at which time the District has the option to terminate services or seek approval from Imperial LAFCO to (a) provide services outside of its boundary and amend its SOI boundary, (b) seek approval from Imperial LAFCO to amend its SOI and extend its service district boundary. Either of these options are however limited to Electrical Services only. See Exhibit A.

- IV: The Commission finds that the present land uses within the boundaries of the Service Area Plan/Municipal Service Review/Sphere of Influence are; agricultural, industrial, urban-suburban-rural residential. The land uses for these areas were and are planned by the cities and counties and not the IID as it does not have land use authority.

The Commission finds that the present services available to the areas within the proposed boundaries are limited to those identified in the Plan, specifically irrigation water, raw water to urbanized areas and electrical energy. Any expansion of services by the District, other than those listed herein would require ICLAFCO approval. (G.C. 56133 (a), with the following exceptions pursuant to G.C. 56133 (e).

G.C. 56133 (e) Exemptions

- (2) This section does not apply to the transfer of nonpotable or nontreated water.
- (4) An extended service that a district was providing on or before January 1, 2001.
- (6) A fire protection contract, as defined in subdivision (a) of Section 66134.

The Commission finds that there are no known social or economic communities of interest in the areas that would be affected by the approval of this SOI/SAP/MSR.

- V: The District is limited in services that it can provide to the areas currently being served, specifically (a) electrical services both wholesale and retail, (b) raw water delivery to agricultural and urban land uses within Imperial County and within the Congressional approved boundary. Any new services or extensions of existing services shall require the approval of ICLAFCO (G.C. 56133 (a).

Government Code 56133 (e) is clarified as follows:

- * The IID will not have to obtain approvals from LAFCO pursuant to G.C. 56133 (e) (2);
- * G.C. 56133 (e) (3) is clarified that where it involves surplus agricultural water to agricultural lands/facilities, the IID shall notify the LAFCO. If such water is however supplied to any project or facility or city or special district, where it has the potential to induce or support development, the IID shall obtain the approval of LAFCO.
- * G.C. 56133 (2) (e) 4 is clarified that this exemption does not apply to any area outside of Imperial County or any area that is currently served as a result of prior litigation or settlement and such litigation or settlement had a termination time.

- VI: The District shall update the SAP/MSR/SOI on or before January 2026, and/or if significant changes occur within the District that may affect its service capacity, including financial concerns. The District shall also provide an update if requested by the Executive Officer upon written notice.

- VII: With regard to the IID providing electrical service outside the County of Imperial to an area currently served under a litigation/settlement agreement, when that agreement terminates the IID shall; if the IID intends to continue to provide such service, first obtain the approval of IC LAFCO:

NOTE: The current SOI is a combination of the SOI approved by Imperial LAFCO which is limited to the County of Imperial and the SOI approved by Riverside LAFCO which covers the Energy Service Area in Riverside County, upon termination of the 1934 agreement on or about 2033, if

IID elects to continue service in Riverside, the IID shall obtain a SAP/SOI/MSR amendment from ICLAFCO to reflect a service boundary that includes the area in Riverside County.

(a) an out of District service approval by extending the current SOI/SAP/MSR, and obtaining the LAFCO approval, or

(b) by amending the current SOI and an annexation of the area to the District.

(in both cases this would include an update to the MSR/SAP)

VIII: The IID shall provide two separate boundary maps to the ICLAFCO. One map shall clearly show the "Water Service" Boundary & the "Water Service Area". The second map shall clearly show the "Energy Service" boundary. Within this map the areas being served in Riverside County shall be shown as an area being served under a special agreement but as not being within the approved district boundary. It shall also show that the IID is shown to have an SOI within Riverside County adopted by Riverside LAFCO.

IX: The IID Board of Directors shall approve a resolution accepting the ICLAFCO approved SOI's/Boundaries and MSR/SAP and agreeing to comply with the terms and conditions.

LAFCO Policy

The proposed Sphere of Influence and Service Area Plan/Municipal Service Review 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. Furthermore, the Imperial Irrigation District has (according to the Plan) the ability to supply the necessary public services 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 if so requested. Information about the project may also be found on the LAFCO web page at www.iclafco.com.

Attachments:

- EXHIBIT A: Sphere of Influence/Boundary Map (Water)
- EXHIBIT B: Sphere of Influence/Boundary Map (Energy)
- EXHIBIT C: Service Area Plan/Municipal Service Review/Sphere of Influence Report
- EXHIBIT D: 2019 Budget Plan
- EXHIBIT E: Audited Financial Statements December 31, 2017 and 2016
- EXHIBIT F: 2020 Board Meeting Calendar

CC: IID General Manager, Henry Martinez
IID Water Resources Planner, Justina Gamboa-Arce
IID Govt. Affairs & Communications Officer, Antonio Ortega
IID Water Manager, Tina Shields
Imperial County Executive Officer, Tony Rouhotas
City of Brawley, Interim City Manager, Tyler Salcido
City of Calexico, City Manager, Miguel Figueroa
City of Calipatria, City Manager, Romualdo Medina
City of Holtville City Manager, Nick Wells
City of Imperial City Manager, Dennis Morita
City of Westmorland, City Clerk, Darlene Berber
Imperial County Special Districts
Riverside LAFCO Executive Officer, Gary Thompson
Riverside LAFCO Assistant Executive Officer, Crystal Craig
Riverside County District 4
City of Coachella City Manager, William Pattison
City of Desert Hot Springs City Manager, Chuck Maynard
City of Indian Wells City Manager, Christopher Freeland
City of Indio City Manager, Mark Scott
City of La Quinta City Manager, Jon McMillen
City of Palm Desert Interim City Manager, Randy Bynder
City of Rancho Mirage City Manager, Isaiah Hagerman
Files: IID 1-16