
**BUTTE LOCAL AGENCY FORMATION COMMISSION (LAFCo)
EXECUTIVE OFFICER’S REPORT**

TO: Local Agency Formation Commission
FROM: Stephen Lucas, Executive Officer
SUBJECT: **LAFCo File 21-06 – Formation of the Tuscan Water District**
(Continued Open from December 2, 2021 Commission Meeting)
DATE: January 27, 2022, for the February 3, 2022 LAFCo meeting

Summary

Proposed is the formation of a California Water District to be called the Tuscan Water District. The 102,237 acre district is to be located in the primarily agricultural area of northwest Butte County and is desired to provide representation for primarily agricultural users/landowners who wish to partner with other County agencies to address groundwater sustainability issues within the Vina Subbasin.

1. General Information

Proposal: Formation of Tuscan Water District
Proponents: Richard McGowan, Ed McLaughlin, Darren Rice
Location: Tehama County line on the north, SR99 and Chico city limits on the east, Ord Ferry Road/ Western Canal Water District/Grainland Road on the south and the Sacramento River on the west. (**Attachment A**).
Notice to Circulate Petition: September 2, 2020
Petition Submitted: February 22, 2021
Petition Certified: April 8, 2021
Application Submitted: June 22, 2021
Notice to Subject Agencies: June 30, 2021
Request for Affected Agency Comments: June 30, 2021
Application Deemed Complete: October 1, 2021
100% Landowner Consent: No
Notice, Hearing and Election Required: Yes

Requested Action: Adopt Resolution 11 2021/22 (Exhibit H) Approving the Formation.

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Physical Features:

1. **GIS Surveyed Boundary Acreage:** 102,327 acres
2. **Applicant/Petition Total Acreage:** 58,120 acres
3. **Non-Applicant Total Acreage:** 41,894 acres
4. **District Acreage Breakdown:**
 - 0 to 10 acres 5,956 acres (5.82%)
 - 10.01 to 20 acres 5,946 acres (5.81%)
 - 20.01 to 40 acres 10,605 acres (10.36%)
 - 40.01 to 2761.54 acres 77,506 acres (75.74%)
 - Non-APN acreage 2,313 acres (2.26%)
5. **Acreage without an APN:** 2,313 acres
6. **Approximate size of District:** 160 square miles
7. **Topography:** From the east, flat to gently rolling hills with elevation decreasing from 198 feet above sea level to 120 feet above sea level to west at the Sacramento River. There are over 85,000 acres of agricultural and open space lands.
8. **Physical and natural features:** Rock Creek, Butte Creek, Big Chico Creek, Pine Creek, Mud Creek, Angel Slough, Hamlin Slough, Keefer Slough, and the Sacramento River
9. **Major highways/railways:** Highway 99, Highway 32 and Union Pacific Railroad

Population & Related Matters:

1. **Estimated Population of District:** 6,500
2. **Population density:** 40-45 persons per square mile
3. **Number of registered voters:** Not applicable, Estimated by County Clerk to be 8,000
4. **Number of landowner-voters:** County Assessor 3,136 landowner parcels.

Land Values:

1. **TWD, land only, assessed valuation:** Approximately \$1,459,397,597
2. **Total unincorporated land only assessed valuation:** \$3,873,529,965
3. **Butte County Unincorporated Assessed Value:** \$8,768,975,574

Land Uses:

1. **Types:** Predominantly agricultural and open space lands consisting of ranches and farms varying in size from small to large, all dependent on groundwater.
2. **General Plan land use designations:** agriculture, agricultural residential, open space
3. **Total Agricultural Acreage in the TWD Service Area:** 88,951 acres (*Source: California Department of Conservation Farmland Mapping and Monitoring Program*)
4. **Federal, state owned land/permanent open space:** 2,358 acres
5. **Prime Agricultural Land in District:** 71,566 acres
6. **Williamson Contract Land in District:** 50,316 acres
7. **Gross value of agricultural production:** estimated at \$289,369,469 (2019)
8. **Key crops:** almonds, walnuts, pistachios, prunes, plums, and rice.

Wells:

1. **Domestic wells in District:** Est. 3,121
2. **Domestic well acreage:** Parcels with a size of 10.0 acres or less and with a domestic well only: 5,956 acres (5.8% of the proposed District)

2. Introduction - Procedural Process

Public Hearings

This is a continuation of a public hearing of the Butte LAFCo (LAFCo) regarding the formation of the proposed Tuscan Water District (TWD). In an effort to provide clear and accurate information concerning the proposed formation of the proposed TWD, LAFCo separated the hearings into two parts:

- Part A – The informational meeting held on December 2, 2021, was intended to provide the Commission and the public key information necessary to understand the broader framework under which the proposal was initiated and will be evaluated by the Commission, contextual relationships between California laws governing special districts and specifically, how it relates to the California Water District law (Division 13 of the Water Code) and LAFCo Law (Cortese Knox Hertzberg Act). [Part A](#) is a part of the public record and available on the LAFCo website [here](#). Part A is summarized in this Part B staff report for continuity of review by the public and Commission.
- Part B – Consideration and Action that builds on Part A by providing proposal specific analysis, considerations, terms and conditions, environmental review and a draft resolution to approve the proposal if LAFCo should choose that path.
- LAFCo first considered this item at its duly noticed public hearing on December 2, 2021, at which, Part A of this process which was a comprehensive informational presentation from Staff concerning the special district formation process. Approximately three hours of public testimony from approximately 28 speakers and 14 written comments were received. LAFCo took no action and continued the item open to its January 6, 2022.
- The project was a listed a noticed public hearing on the January 6, 2022, meeting agenda (Agenda Item 3.1). LAFCo took no action and continued the item open to the February 3, 2022 meeting agenda for further consideration.

Notice

Notice was provided pursuant to state law which directs that if the total number of notices required to be mailed exceeds 1,000, then notice may instead be provided by publishing a display advertisement of at least one-eighth page in a newspaper, as specified in Section 56153, at least 21 days prior to the hearing. The proposal exceeded 1,000 notices and a newspaper notice was published in the Chico Enterprise Record, on Thursday November 11, 2021. Butte LAFCo has taken additional noticing measures, including: providing notices on the LAFCo website, direct email noticing to affected local agencies and direct postal mailings to approximately 3200 landowners within the proposed district.

Public Comments

Public comments are organized into categories based on date received. The first grouping are comments received prior to the close of the December 2, 2021 meeting. These comments have been considered by the Commission and are a part of the public record. The second grouping are comments received from December 3, 2021, through mail out of the staff report on January 27, 2022, for the February 3, 2022, meeting. Comments received into the record prior to the close of the public hearing on February 3, 2022, will be included on the second grouping.

All public comments received are duly reviewed by the Commission and its staff throughout the process. Comments provide important public context into the decision making process and are useful for better organizing public concerns and questions by content type to ensure consistency.

2. Part A Components Summary

1. SUMMARY OVERVIEW

Petition/Application

1. The Butte Local Agency Formation Commission (LAFCo) received an application for the formation of a California Water District entitled the Tuscan Water District (TWD). The application was initiated by a landowner petition pursuant to GC56700 and was submitted by Chief Petitioners Richard McGowan, Darren Rice, and Edward McLaughlin.
2. The California Water Code (34153) provides that holders of title to a majority in an area of land which is capable of using water beneficially for irrigation, domestic, industrial or municipal purposes and which can be serviced from common sources of supply and by the same system of works, may petition for the formation of a district. The petition was signed by landowners owning 57,092 acres, a majority of the 102,327 acres in the proposed TWD area.

Stated Purpose of the Proposed TWD

1. Form a California Water District (WC34000) which is a landowner voter district, initiated through a landowner petition.
2. The proposed TWD is to be approximately 97,000 acres (now 102,237 acres) in size and contains 3,122 (now 3,136 parcels) individual parcels that are located in northwest Butte County bordered by the Sacramento River on the west, the Tehama County line to the north, SR 99 to the east and extending south to the northern border of the Western Canal Water District or roughly the location of the community of Durham. (*Note: the acreage and parcels grew slightly as additional landowners wished to be included*)
3. The purpose of the TWD is to organize the landowners into a public agency with the overarching purpose of working cooperatively with the County of Butte, Butte County Water Commission, Vina, Butte and Rock Creek Reclamation District Groundwater Sustainability Agencies (GSA's) and other state and local agencies in the development of Groundwater Sustainability Plans (GSP) for the Vina and Butte sub-basins that will ensure adequate water is available to continue the existing, historical agricultural uses of the affected land.
4. The proposed TWD is initially focused on developing its organizational/administrative capacity.
5. The proponents have presented no plans to develop or implement any particular projects, facilities or infrastructure as any such ideas are far too speculative and will require consultation with the Vina GSA for consistency with the Vina Basin GSP.
6. Potential sources of water for the proposed district include, but are not limited to, groundwater, surplus surface water allocations from neighboring water districts, the County of Butte entitlements in Lake Oroville or other yet to be identified sources.

Role of LAFCo

Under the CKH Act, the Butte Local Agency Formation Commission (Butte LAFCo) has the discretion to approve (with or without conditions), modify, or deny the application for forming such a district. LAFCO may also adopt conditions of approval that would apply to the District. (GC56375)

2. What is a Special District / California Water District?

- The proposed TWD **WILL BE:** a local government agency, specifically, a California Water District formed pursuant to Water Code Section 34000.
- The proposed TWD **WILL NOT** be a private, corporate, or non-profit entity.
- “Water districts in California provide a diverse range of services—using a variety of financing means and governance structures. While some individual districts have pursued controversial policies, **our analysis indicates no evidence of a statewide structural governance problem.** Districts must make difficult tradeoffs in making their decisions. In those districts which have produced unpopular results, local remedies may be sought. For instance, residents have the opportunity to access the public participation process and propose changes. Local elections also provide the opportunity to change the character and policies of a governing board. If these approaches are not effective in dictating public opinion, residents also have the ability to approach their LAFCO about changing the structure of their special district.” *Water Special Districts: A Look at Governance and Public Participation, 2002, Legislative Analyst’s Office (LAO)*

3. Governance Oversight/Public Participation

- Subject to **Brown Act** - Public notices, agendas, public participation
- Subject to **Public Records Act** – All records and actions of TWD are public records
- Subject to **LAFCo Oversight** - Boundary changes, MSR-SOI Plans, reorganizations
- Subject to **CEQA** – All future projects must be consistent with CEQA Guidelines
- Subject to the **SGMA** – All future projects and actions affecting groundwater sustainability

4. Principal Act

- The proposed TWD has been initiated locally through Butte LAFCo as a California Water District (WC 34000).
- The TWD proponents could have sought special act legislation to form the district as other districts have and bypass local control but elected to be accountable locally to the Butte LAFCo and other affected local agencies.

5. Governance Types

The proposed TWD will be:

- An independent special district with its own elected board of directors
- A California Water District (WC34000).
- A landowner voter district for which landowners' votes are weighted based on assessed land values they own.
- Subject to an annual review of its assessable area within the district to determine if 50 percent or more of the assessable area within the district is devoted to and developed for residential, industrial, or nonagricultural commercial use, or any combination thereof and if so, registered voters residing within the district may petition for a change in the voting procedure from a landowner voting district to a resident voting district. (WC35040-35060)

6. District Directors

- A California Water District (WC34708) allows district boards to be 5,7,9 or 11 members.
- The TWD proponents have requested the proposed TWD be established with a 9 member board of directors.
- The California Water District statute (WC34025-34027) allows a district to be divided into as many geographic divisions as there are directors of the district based on acres.
- The TWD proponents have agreed that the proposed TWD be divided into divisions to allow for broader representation on the District Board and to greatly minimize the influence of large landowners.

7. Boundaries

- A California Water District can have either contiguous or non-contiguous boundaries.
- The proposed TWD boundaries as presented in the application are contiguous.
- Parcels can be added or removed without consideration of contiguity.
- A California Water District (WC34157) can overlap with other distinctive district agencies of the State, including other water districts having different plans and purposes.
- The proposed TWD boundaries overlap with the Rock Creek Reclamation District (RCRD), Western Canal Water District (WCWD) Sphere of Influence and the Durham Irrigation District (DID) Sphere of Influence which is permitted under the Water Code.
- The RCRD, WCWD and DID have all provided letters of support for the TWD formation and have no concerns about any overlap.

8. Funding

- A special district can be an enterprise (fees) or non-enterprise district (property taxes).
- The proposed TWD will be an enterprise special district with revenue generated exclusively by landowner assessments based on the assessed value of the land. This is one of the fundamental benefits of a landowner district, those who own the most land and benefit the most from services, pay the most for improvements.
- The proponents have provided a proposed five year budget that indicates the initial budget will be \$445,600/year and funded by a maximum \$10/acre parcel assessment.

9. Services/Functions/Powers

- The proposed TWD is a limited purpose local government.
- The proposed TWD will not have any land use powers and they can only be granted service authority consistent with their enabling act and with the consent of LAFCo at formation and thereafter.
- The proposed TWD would have many of the same governing powers as other special districts, cities, and counties. They can enter into contracts, employ workers, acquire real property through purchase or eminent domain, issue debt, levy assessments, charge fees for their services and can sue and be sued.
- Butte LAFCo has the authority to determine the powers granted to the TWD at formation and thereafter. All powers allowed under the principal act not initially granted by LAFCo, become latent powers. Districts can apply to LAFCo to activate latent powers or divest themselves of existing powers if warranted and at LAFCo's discretion.
- Primary California Water District Powers (WC35400) include:
 - Acquisition and operation of water works for the production, storage, transmission, and distribution of water for irrigation, domestic, industrial and municipal purposes, and any drainage or reclamation works connected with such undertaking
 - Acquire and operate facilities and services for the collection, treatment, and disposal of sewage, waste, and storm waters.
- The proponents of the TWD have requested the powers of a California Water District pursuant to Water Code Section 34000, with certain specific restrictions.

10. Intergovernmental Coordination

- The TWD application states that the purpose of the TWD is to organize the landowners into a public agency with the overarching purpose of working cooperatively with the County of Butte, Butte County Water Commission, Vina, Butte and Rock Creek Reclamation District Groundwater Sustainability Agencies (GSA's) and other state and local agencies in the development of Groundwater Sustainability Plans (GSP) for the Vina and Butte sub-basins that will ensure adequate water is available to continue the existing agricultural uses of the affected land.
- Agencies in Support of TWD include:
 - Butte County Board of Supervisors
 - Butte County Water Commission
 - Western Canal Water District
 - Rock Creek Reclamation District (GSA)
 - Paradise Irrigation District
 - Glenn Groundwater Authority
 - Northern California Water Association
 - Monroeville Water District

Sustainable Groundwater Management Act

- The TWD proposal has a direct relationship to the implementation of the Sustainable Groundwater Management Act (SGMA) which was signed into law by Governor Brown in 2014.
- The State Department of Water Resources divided the state into separate groundwater basins and subbasin which placed western Butte County within the large Sacramento Valley Basin, which is further broken down into three subbasins; Vina, Butte, and Wyandotte Creek.
- The proposed TWD is primarily located within Vina Subbasin in an area that currently has no locally-governed, subbasin-wide special district that can evaluate, fund, implement, and oversee projects to implement the GSP.
- SGMA requires groundwater sustainability agencies to manage groundwater at the local level through the development of a 20 year groundwater sustainability plan (GSP) which was adopted by the Vina-Rock Creek GSA's on December 15, 2021.
- If formed, the proposed TWD WILL NOT be a GSA, but would be required to enter into a Memorandum of Understanding with the Vina and Rock Creek Groundwater Sustainability Agencies (GSAs) that will guide their relationship and roles with respect to helping to stabilize the Vina Groundwater Sub-basin through the implementation of the project and management actions identified in the GSAs GSP.
- Through the MOU with the GSA's, the proposed TWD would consider projects that are identified in the Vina GSP Projects and Management Actions chapter and shown below.

7 Management Actions	4 Planned Projects	11 Potential Projects
<ul style="list-style-type: none"> ➤ General Plan Updates ➤ Domestic Well Mitigation ➤ Well Permitting Ordinance ➤ Landscape Ordinance ➤ Prohibition of Groundwater use for Ski Lakes ➤ Expansion of Water Purveyors Service Areas ➤ Groundwater Allocation 	<ul style="list-style-type: none"> ➤ Agricultural Irrigation Efficiency ➤ Residential Conservation ➤ Streamflow Augmentation Utilize high flow waters to increase stream flow for use in-lieu of ground water ➤ Flood MAR Utilize high flow water for direct recharge 	<ul style="list-style-type: none"> ➤ Paradise Irrigation District Intertie ➤ Agricultural Surface Water Supplies ➤ Extend Orchard Replacement ➤ Miocene Canal Recharge ➤ Community Monitoring Program ➤ Wastewater Recycling ➤ Community Water Education Initiative ➤ Rangeland Management and Water Retention ➤ Fuel Management for Watershed Health ➤ Removal of invasive Species ➤ Surface Supply and Recharge
<ul style="list-style-type: none"> • The varied PMA choices range from water supply projects to recharge projects to water conservation to groundwater regulation. • These choices involve a wide array and very different types of potential environmental impacts. At this planning stage, neither the GSA nor the district formation petitioners have identified any particular preferred, intended, or proposed PMA. • If formed, the TWD and would evaluate the GSP and its menu of PMA options and it would develop a plan to determine, fund, and implement appropriate PMAs to achieve sustainability in consultation with the area residents, landowners, farmers, and other interested parties 		

11. California Water District Formation Process

- Formation begins when a group of citizens or a local government agency determine that there is a particular issue of importance that needs attention, cannot be met by an existing local government agency and that a specific type of governmental entity can address the issue. These are most often special districts.
- The citizens or affected local government agency then consider the 29 different categories of special districts available in California or determine that a new “special act” district is necessary and seek a legislative fix.
- The proponents of the TWD determined that the formation of a California Water District was the appropriate path forward based on guidance provided by the Butte County Board of Supervisors (BOS) and the Department of Water and Resource Conservation.
- Early consultation with County representatives determined that: 1) the County was not interested in initiating the formation and 2) the County would support the citizens’ initiative to initiate the formation via a petition of landowners directly to Butte LAFCo.

The following is an excerpt from the staff report provided to the Butte County Water Commission meeting on August 4, 2021, that offers a more detailed explanation:

“For many years, **Butte County has encouraged agricultural groundwater users to organize**. In contrast to the “white areas” of the county that are groundwater dependent, local water districts provide an organizational structure for surface water irrigated areas. The primary reason to promote groundwater users to organize was to improve drought coordination and groundwater management.

Discussions to organize intensified during the last drought before SGMA was enacted. With the passage of SGMA, the agricultural community began to put a concerted effort towards more formal organization. The two primary drivers of the agricultural community organizing and pursuing the concept of forming a water district were to be part of SGMA governance structures and to be “part of the solution” to achieve groundwater sustainability. Under SGMA, GSAs will need to impose regulatory and non-regulatory actions to achieve groundwater sustainability. Since agriculture has the largest demand on groundwater use, the agricultural community is concerned that without developing options, GSAs would be left with the only option to cut agricultural groundwater pumping.

The agricultural community took the initial step to organize through the formation of the Agricultural Groundwater Users of Butte County (AGUBC) in 2017. The AGUBC is a private, non-profit corporation comprised of agricultural groundwater users. The AGUBC was formed to create an organization to coordinate SGMA activities. The Butte County Board of Supervisors adopted the Resolution in Support of the Agricultural Groundwater Users of Butte County Involvement in the Sustainable Groundwater Management Act Process (Resolution 17-170). The resolution is included with the meeting agenda packet materials. The resolution states in part, **“If, and when, the AGUBC desire to move forward with creation of a new California Water District or other type or eligible local agency with the dual purpose of: a) SGMA responsibility, and b) exercising powers and duties as a special district as authorized by the Water Code for water purveyance and ancillary activities, Butte County will work constructively, cooperatively and collaboratively with landowners on the formation process of a new eligible local agency for involvement in SGMA issues”**. The AGUBC continued to work with Butte County staff on SGMA implementation and agricultural landowners explored forming a water district.”

The remainder of the Part A presentation related to the application processing to include how the project relates to Butte LAFCo policies, applicable state laws and future steps, all of which are discussed in Part B below.

4. Part B - Analysis

Part B builds on Part A by providing proposal-specific analysis that includes the formation process, boundaries, powers, budgets, governance issues, Commission options and recommendations. These discussions are supported by the attachments which evaluate individual components of the project and include:

- A. Proposed Boundary Map
- B. Plan for Services
- C. Fiscal Review
- D. Factors for Consideration
- E. Water District Powers
- F. Conditions of Approval
- G. CEQA/NOE
- H. Draft Resolution
- I. Public Agency Comments
- J. Public Comment Response
- K. Maps and Legal Descriptions

5. Formation Process Step by Step

Petition/ Application	LAFCO Public Hearing(s)	Protest Process	Vote
<p>Petition based on acreage-holders of title to a majority of the land.</p> <p>Landowners on the petition are checked. Application is submitted to LAFCO for review.</p>	<p>Staff Report is prepared. Analyzes various issues and factors regarding formation.</p> <p>Noticed public hearings are conducted. LAFCO decision to approve, modify, or deny.</p>	<p>Allows the property owners to protest LAFCO's approval. Requires protest of more than 50% of acreage in the area to terminate. Otherwise action goes to a vote.</p>	<p>Formation Based on Acreage 1 ac.= 1 vote</p> <p>Funding Vote (218) –Must for District to be formed.</p> <p>Vote on Board of Directors based on acreage 1 ac. =1 vote</p>

6. Boundaries – Attachment A and K

Service Area. The service area is the boundary where the proposed Tuscan Water District would have jurisdiction and authority. LAFCO determines the service area and sphere of influence boundaries of a proposed district. At the writing of this report, the service area boundary proposed by the applicants is approximately 102,327 acres (88,951 farmed) and contains approximately 3,136 parcels. The proposed TWD service area is contiguous and without islands of unserved territory. To the extent feasible, the proposed boundary followed the hydrologic boundary of the Vina Basin while taking into consideration physical features such as roads and creeks. The boundary also utilized the City of Chico Sphere of Influence boundary and the service areas and spheres of the Durham Irrigation District and Western Canal Water District. The boundary conforms to existing parcel lines. Landowners may also wish to join or be removed from the Water District during the LAFCO process. LAFCO may consider any additions or subtractions during the hearing process. At present, approximately 56% of the landowners within the proposed Tuscan Water District would be in favor of forming and funding the Water District. As proposed, the Water District would serve an area of about 102,327 acres of the approximately 180,000 acre Vina Groundwater Basin.

Service Area Recommendation. Staff recommends that the service area boundary be approved as proposed minus any dissenting landowners who request LAFCo to remove their parcels or landowners requesting to be included in the District.

Sphere of Influence. A Sphere of Influence (SOI) is a planning boundary for a jurisdiction that is established by LAFCO and identifies areas that might be annexed in the future. The SOI areas would not be under the authority or regulation of the proposed Water District. It provides the landowner, the jurisdiction, and the public information about what areas could be annexed in the future. The Commission has the flexibility to delay the sphere of influence determination until after the formation is approved for up to one year. This would give the TWD time to develop its administrative and operational structure which may inform its requested sphere boundary. The delay will also provide the Commission time to gather more information about the SOI and prepare a new municipal service review (MSR) for the District. The MSR process will also allow the Commission to address any deficiencies with the start-up District and/or direct additional actions to improve TWD services or governance functions.

Sphere of Influence Recommendation. Staff recommends the Commission approve Condition No. 6 as identified in the Conditions of Approval in Attachment F as follows:

“Within 6 months of the recording of the Certificate of Completion for the formation of the Tuscan Water District, the Board of Directors of the Tuscan Water District shall submit an application to LAFCo to conduct a municipal service review (MSR) and determine the sphere of influence for the new district to LAFCo and that all fees and costs associated with the application shall be borne by the applicant (TWD), including an initial deposit in an amount deemed appropriate by the Executive Officer. The failure to execute this condition will result in the Commission applying a zero sphere of influence and initiating corrective actions up to and including, dissolution of the District.”

7. Powers – Attachment E

Powers. LAFCO has the authority to determine powers for Special Districts. A District can only use powers that are identified in the Principal Act (State Law) that governs a District. Powers that are not in the Principal Act cannot be implemented by the District. LAFCO cannot eliminate a power from the Principal Act, but it can restrict the use of a power using a condition of approval, or by identifying active and inactive powers of a proposed District. Cortese Knox Hertzberg Act (CKH) authorizes LAFCo’s to determine a power as active or inactive through the formation process in 56425(i). The LAFCO procedure for reviewing and approving powers and authorities is the latent powers activation process. For example when a District is formed, certain powers are activated with others being determined as inactive. The active powers are identified and the inactive powers are defined as “latent”. These powers can be activated through the LAFCo activation process as described in GC Section 56824.10. This process requires that the District submit a resolution of application, plan for services and a budget to LAFCO for consideration. LAFCo has discretion to approve, modify or deny the application to activate a power.

Powers Analysis-Attachment E. The powers and functions that the proposed District’s Board of Directors may exercise are listed in the Water Code 34000 et al - California Water District. Attachment D has the powers listed along with staff analysis regarding activation of each power or function. At its discretion, LAFCO may activate some or all of these powers. It is recommended that all powers be activated with the exception of the District’s capability to provide sewer services, transfer/move/export

water outside of the District boundaries, and restrict the District from providing municipal (domestic) and industrial water services. A condition of approval prohibiting the transfer/movement/export is also proposed in the Staff Report.

The issue of exporting groundwater outside the Vina Basin to other areas has been raised by numerous individuals and organizations. The purpose of the proposed District is to balance and stabilize the groundwater resources in the Basin consistent with SGMA and the adopted GSP's. It is recommended that a condition of formation be approved stating that any transfer, export, or movement of the water (any water) outside of the Basin be strictly prohibited. Also, Butte County Chapter 33 (Groundwater Conservation) requires a discretionary permit to move water outside of Butte County. Further, the District will be part of the overall effort to monitor, manage and regulate groundwater with other agencies and oversight from the GSA's.

The proposed District would be prohibited from moving "any water" outside the basin, any water that is moved into the District service area would have to remain in the basin. This effectively prohibits the District from storing water for resale outside of the Basin's boundaries. The water would only be used for the general benefit of all landowners overlying the Vina Basin.

Powers Recommendation. To ensure that the Tuscan Water District is able to complete its duties and responsibilities, the powers of the Water District should be activated as described in Attachment D with the exception of the Conditions of Approval addressing specific services and functions as shown below:

Conditions of Approval (Attachment F) - Section 3

14. Tuscan Water District shall submit any proposals, plans or projects regarding any extraction, use, or transfer of groundwater as defined in Butte County Chapter 33 (Groundwater Conservation), to the Butte County Department of Water and Resource Conservation for review and such proposals cannot be implemented or initiated until and unless, the Butte County Board of Supervisors or the Director of Butte County Department of Water and Resource Conservation determines in writing that the proposed activities, actions and proposals are consistent with the Butte County Code Chapter 33 (Groundwater Conservation). Requests not deemed consistent with the Butte County Chapter 33 are prohibited. The Tuscan Water District shall adhere to all the laws of the County of Butte.
15. The Tuscan Water District shall not have the power to acquire, plan, construct, maintain, improve, operate, and keep in repair the necessary works for any drainage or reclamation works within the jurisdictional boundaries or sphere of influence of the Rock Creek Reclamation District without the written consent of the Rock Creek Reclamation District Board of Directors.

16. That pursuant to the applicable Water Code Sections the Tuscan Water District is authorized to exercise all powers and authorities subject to the following restrictions in a-g below:
- a. The Tuscan Water District's shall not have the powers to export, transfer, or move water underlying the Tuscan Water District (including groundwater pumped into an above ground storage facility) outside the Vina or Butte Subbasins. For purposes of this Condition "groundwater" shall have the meaning set forth in Water Code Section 10721(g) as follows: "Groundwater" means water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water, but does not include water that flows in known and definite channels unless included pursuant to Section 10722.5.
 - b. The Tuscan Water District shall not have the power to acquire, plan, construct, maintain, improve, operate, and keep in repair the necessary works for the production, storage, transmission, distribution and sale of water for domestic, industrial, and municipal purposes (WC35401). These powers under the California Water Code shall be deemed inactive or latent.
 - e. The Tuscan Water District shall not have the power to acquire, construct, operate, and furnish facilities and services, within or without the district, for the collection, treatment, and disposal of sewage, waste, and storm water nor contract with any persons, firms, public or private corporations or public agencies or other users concerning facilities and services for said purpose. (WC35500). The District could request that LAFCO activate these powers in the future. These powers under the California Water Code shall be deemed inactive or latent.
 - f. The Tuscan Water District shall receive approval for any groundwater recharge projects within the Districts' boundaries from the appropriate GSA under Conditions No.12 and 13, and the reclaimed or recharge water shall be maintained and used for the general public good in sustaining the Vina groundwater basin and the District and its landowners are restricted from ownership of reclaimed or recharged water.
 - g. If the District approves and implements a project involving the delivery and/or importation of surface water into the District, then the District shall not thereafter transfer that surface water for use outside the District boundaries.

8. Budget and Financing – Attachment C

The Tuscan Water District's financial plan is documented in Attachment C. LAFCO requires that both the funding and formation of the Water District be approved by the landowners for the District to be formed. The financing discussion is broken into two parts; 1) the proposed Water District Budget proposed by the applicant and 2) the proposed funding mechanism for the Water District.

Proposed Water District Budget

The proposed Water District Budget is found in Attachment C. The proposed Water District's Budget covers a five-year period. The CKH Act does not require a specific number of years to be covered by a budget. In past formations LAFCo has formed a district using one and three year budgets based on the financing being approved at the same time as formation consideration. The five-year budget represents the best estimate of costs at this point in time.

The five-year budget proposed by the applicants assumes that staff would be hired on a contractual basis using consultants and other contractors. The budget ranges from \$445,600.00 in the first year to \$527,372 in the fifth year. The major expenses include:

General Manager/District Engineer (salary and benefits)	\$120,000.00
Legal Counsel (under contract/hourly)	\$ 50,000.00
Office Manager (salary and benefits (full-time)	\$ 60,000.00
Contract administrative, computer, tech support	\$ 25,000.00
Rent/office space	\$ 18,000.00
Office furniture (desks, chairs, tables, file cabinets, computers phone lines, and other support material)	\$ 15,000.00
Sub-total	\$288,000.00
Contingency (20%)	\$ 57,600.00
General Reserve	\$100,000.00

The initial budget submitted by the applicant represents a practical approach to the initial set-up of the District and implementation of SGMA and the GSP's. The costs appear rational and consistent with other small districts in Butte County. The proposed District budget is actually somewhat greater than a number of special districts, some of which have little to no budget at all. The initial five-year budget provides an adequate financial plan which can be used by the new District, public and the Commission in making formation and funding decisions.

The new Board of Directors would have discretion over how funds are allocated and future spending. The new Board would be responsible for hiring staff, or any consultants. The proposed District would make decisions about future projects and programs and would be subject to Proposition 218 and other state laws. The initial budget is for the set up and day-to-day operations of the District for the purpose of compliance with SGMA and appears adequate.

Financing

Applicants for District formation have agreed to, and are proposing, with approval of District formation, that landowners of the proposed District agree and stipulate to, notwithstanding any other provisions of law (California Water Code, Proposition 218, California Article XIII D/Proposition 13), their consent to the initial Board of Directors levying assessments on all District lands and to authorize Butte County to

collect such assessments along with county taxes as follows: Initial assessments will not exceed ten dollars per acre (\$10.00/acre) for all District lands.

If the District is approved, and the assessment is created, it will be billed on the property tax bills each year. It is recommended that a condition of approval require the formation proposal to have a successful vote for the District to be formed. If the funding vote is not approved, the District would be subject to dissolution.

Budget Recommendation. The Fiscal Analysis in Attachment C provides the reasonable rationale for the budget and the formula for the revenues. It provides adequate information for LAFCo and landowner decision-making with regard to the formation of the Water District. Ultimately the landowners within the proposed Water District boundary would be deciding if they believe the funding formula to be fair, equitable, and reasonable.

Conditions of Approval (Attachment F) - Section 3

2. That formation of the Tuscan Water District shall be contingent upon a successful landowner vote, based on one (1) vote for every one (1) acre of land owned, on the following:
 - a. Approve the formation of the 102,327 acre Tuscan Water District
 - b. Approve parcel assessment of a maximum of ten dollars per acre (\$10.00/acre) to fund the initial administrative/organizational needs and activities of the Tuscan Water District.
 - c. Selection of an initial nine (9) members of the Board of Directors

If any of the above matter on the ballot are not successful, the District will not be formed.

9. Governance Issues

One of the challenges in implementing the Sustainable Management Groundwater Act (SGMA) is the potential for dividing a region or area into divisions that might make cooperation a challenge. Inter-Agency cooperation is needed for the Basin to be managed in a sustainable manner and for the agencies to meet the SGMA requirements.

The current governing situation for the Vina Basin includes a number of local government agencies including the City of Chico, County of Butte, Durham Irrigation District, Rock Creek Reclamation District, Sacramento River Reclamation District, and the Butte County Resource Conservation District. The Butte County Department of Water and Resource Conservation, has taken the lead conducting and organizing the implementation of the Sustainable Groundwater Management Act (SGMA).

The local agencies may want to take separate and possibly conflicting actions in implementing the GSP. This could lead to disagreement among the agencies with regard to how best to prioritize, fund or otherwise move forward with project and management actions in the Vina Basin.

Due to SGMA, the local agencies will likely come to agreement with regard to the management of the Vina Basin. Additionally, by having more willing landowners represented by a local government body who in turn can bring additional financial resources would be very helpful in managing the Vina Basin. If the TWD is formed, they could bring an estimated \$425,000 to perhaps \$1,000,000 in funding for

district operational costs that will assist in the implementation of the GSP within the District service areas. This reduces the overall cost of the surrounding unmanaged areas to the County. If the TWD is approved, almost the entire Vina Basin would be managed by local water districts giving those landowners a voice at the SGMA table and reducing the overall acreage that needs to be managed by the County. The local agencies may, as part of the memorandum of understanding, identify a procedure for addressing these situations. The GSAs could work together to prevent actions adverse to the Basin, with each jurisdiction agreeing to consult with the other about various water resource proposals.

All GSP(s) are subject to DWR review. If a GSP, or part of a GSP, is found to be inadequate, the Basin (or parts of a basin) can be subject to state intervention or probation. GSAs will not be allowed to overlap one another. An individual GSA could be placed on probation if a portion of a GSP is not adequate. There are three likely scenarios (maybe more): 1) The GSP is corrected by the GSA and local management continues; 2) The State intervenes on a portion of the Basin and compliance is achieved, 3) The entire Basin is placed in probationary status. Under SGMA any jurisdiction taking an action that is adverse to the Basin is taking the risk of violating SGMA's key principles of improving the condition of the Basin. This violation could lead to enforcement action by the State Water Resources Board.

Examples of regional/local agencies that have come together to manage resources include: Council of Governments (Transportation), Air Pollution Control Districts (Air Quality) and Integrated Waste Management Agencies (Solid Waste). All of these agencies are administered under a Joint Power Authority or other agreement. They have all been organized under a State Law calling for management of a particular resource or to address the allocation of resources (COGs). Over the years, many of these organizations have pulled together the interests of individual jurisdictions into a more cohesive plan for managing a particular resource or issue.

10. LAFCO Role and Options

The following section discusses LAFCo's role and options with regard to the formation of the proposed Tuscan Water District.

LAFCo's Role. When LAFCo's were created, the State Legislature gave LAFCo's the authority to form districts, incorporate cities, and complete other "changes of organization". LAFCo's role when forming a district is to determine if the District should be formed, what the boundaries should be, and what services and functions should the District have based on a plan for services, budget and other information submitted by the applicant. The Cortese-Knox-Hertzberg Act gives the Commission "broad discretion in light of the record" in making these determinations. It is incumbent on each Commissioner to use her/his independent judgement in making these decisions. The Staff Report and attachments are prepared for consideration by the Commission, the public and the applicant. The record includes reports and documentation submitted, oral and written public testimony provided and any other information provided to the Commission. The Commission's decision is legislative, meaning that each Commissioner has broad discretion in considering her/his decision and that LAFCo is performing a legislative task as delegated to it by the State of California.

Approve or Modify. LAFCo has discretion to modify a proposal with regard to its boundaries, services and functions or approve the proposal as submitted. Several conditions of approval are recommended and can be considered modifying the proposal. For example; the Water District must complete a successful assessment vote to be formed, the District shall not have the authority to move or transport water outside the basin, and the District cannot provide domestic water or sewage services. These

modifications are within LAFCo's legislative discretion and help the proposal to be consistent with local circumstances and conditions.

Approval. Special Districts are a form of local government created by a local community to meet a specific need or provide a particular service. Inadequate tax bases and competing demands for existing taxes make it difficult for cities and counties to provide all the services their citizen's desire. When residents or landowners want new services or higher levels of existing services, they can petition LAFCO to form a district. The Cortese-Knox-Hertzberg Act also calls for LAFCO to provide a rationale for the formation of a new government structure. In this case, the following determinations provide a rationale for consistency with LAFCO policies and the CKH Act:

- **Management of local groundwater resources.** The proposed TWD would have a landowner voter Board of Directors that would be focused on making decisions about the groundwater resources in the unincorporated service area of the Vina Basin. The proposed Board of Directors would include nine landowners or their representatives. The District is required to enter into a memorandum of understanding with the GSA's in order to integrate efforts and assist other stakeholders in the Basin in managing the groundwater resources under SGMA. It would provide the landowners in this District with a seat at the groundwater sustainability table.
- **Focus on Groundwater Management.** The proposed TWD offers the opportunity for landowners to manage the groundwater resource. The GSP shows that the Vina Groundwater Basin is in decline and is in need of a more focused management effort. It is in the best interests of all users of the Basin to better manage the groundwater resources.
- **Landowner Resources.** The landowners proposing the TWD are willing to fund and form the District to sustainably manage the groundwater resources. This brings more resources to the management of the Basin. The County would not be responsible for the entire Basin. The District would assist in complying with SGMA. The TWD could bring in an estimated \$425,000 to perhaps \$1,000,000 annually to help implement the Vina GSP and comply with SGMA. This is money that the County would not have to spend on SGMA compliance activities and areas that will not have to be managed by the County.
- **Local agency.** The TWD would establish a local public agency of voluntary landowners that would sustainably manage the groundwater resource under its area. The District would work within the State Law with other agencies to provide for the reasonable use of water, pursue supply solutions, and to raise funds for planning and projects that comply with the GSP's.
- **Voice at the table.** The proposed TWD would establish a local agency to work within the State's legal framework on behalf of its landowners for the sustainable management of the Basin's groundwater resources. This voice would assist in the management of local groundwater resources.

The Cortese-Knox-Hertzberg Act calls for LAFCo's to make decisions based on local conditions and circumstances. The TWD, if created, would be based on local conditions, and provides for a governing structure that, if formed by the landowners, can help manage their portion of the groundwater in the Vina Groundwater Basin.

Denial. The Commission has broad discretion in making its decisions and could consider denying the formation. Below are some considerations for denial:

- Fragmented and duplicative management of the Basin. Creating the Tuscan Water District could contribute to a more fragmented governing situation for the Basin. The County, Cities and Special Districts already exist and could manage the Basin. Adding another district could be perceived as duplicative to the management of the resources. *(No local agencies have shown reasonable interest in serving the proposed TWD landowners)*
- The County of Butte could continue to manage the white areas of the Vina Basin. The County has a Water Resources Department that could undertake the management of the white areas. *(Butte County has shown no reasonable interest in serving the proposed TWD landowners with groundwater management or irrigation services)*
- It has been suggested that the landowners proposing the Water District should not be allowed to manage the Basin because of their links to corporations and other special interests. *(There is no evidence to support this claim and to act on such concerns would be prejudicial for the Commission to consider such.)*
- It has been suggested that the proposed TWD will be used to take the groundwater and export it outside of the Basin to other areas for a profit. *(The County requires a permit for such an action, and the District is prohibited from moving water outside the Basin by conditions, and the GSA/GSP would also be involved.)*

These are some of the potential points opponents suggested as justification for denial, however, the Staff Report and its attachments all suggest that alternative actions are either unsupported by the County or cannot reasonably address the needs of the affected landowners. The Commission can choose to explore these and other reasons for denial. (LAFCO has broad discretion in light of the record to make its decision. If the Commission denies the application, Staff would recommend returning with a resolution and determinations supporting that direction.)

11. Next Steps

Requests for Exclusion. The Commission would consider requests for exclusion from the property owners within the proposed District who may request that they not be included within the District Boundary. The Commission has discretion in granting or denying this request. The evaluation of each exclusion request shall be based on its location, impact on the District's operations, forming a logical and orderly boundary, and any other factors presented to the Commission. The applicants have indicated that they only want to include landowners who desire to be within the District.

Hearing and Notice. A hearing is scheduled and noticing is completed pursuant to GC 56150-56160. The Commission may continue the item from time to time not to exceed 70 days from the date specified in the original notice. The area is likely to include over 1,000 landowners, in which case the code allows for a 1/8 page advertisement in the paper of General Distribution rather than direct mailed notice of the landowners.

Reconsideration. If LAFCO approves, modifies, or denies the formation of the District a 30-day reconsideration period follows. This allows for any party to file a written request with the Executive

Officer that LAFCo reconsider its decision based on new information. The party must request that the resolution approved by LAFCo be amended based on new or different facts that could not have been previously presented to the Commission. The person or party shall file the written request within 30 days of the adoption of the initial resolution approved by the Commission. The Executive Officer shall place the request on the agenda of the next meeting of the Commission that can be legally noticed pursuant to the CKH Act (in this case at least a 21 day notice). The Executive Officer shall give the same notice as required in the original proposal. At the meeting the Commission shall consider the request and any oral or written testimony. The consideration may be continued, but cannot exceed 35 days from the date specified in the Notice. The person or party that filed the reconsideration may withdraw it at any time. The Commission may approve with or without amendment, wholly, partially, or conditionally or disapprove the request. If the Commission disapproves the request the prior resolution is used as it was originally approved. If the Commission approves or modifies the request, a resolution with new determinations shall be adopted. The Commission's reconsideration decision shall be final and conclusive.

Protest Hearing Process

If LAFCO has approved the application and the reconsideration period is over, the LAFCO Executive Officer conducts the Protest Hearing for the formation of the District. As allowed by the Cortese-Knox-Hertzberg Act, the Commission has delegated the completion of the Protest Process to the Executive Officer. The following steps and procedures are followed:

1. The Executive Officer sets the proposal for protest hearing within 35 days of the Commission's resolution date and gives notice.
2. The date of the hearing shall not be less than 21 days nor more than 60 days after the date the notice is given and shall be:
 - a. Published in a newspaper of general circulation;
 - b. Posted near the hearing room door; and
 - c. Mailed to each affected agency which contains territory within the proposal, the Executive Officers of other affected LAFCOs, chief petitioners if any, persons requesting notice, and landowners within territory to be formed into or annexed to or detached (GC57001, 57002 and 57025).
3. The Executive Officer hears the proposal at the noticed time and date. The hearing may be continued for up to 60 days. Any written protests must be filed with the Executive Officer or Commission prior to the conclusion of the hearing and must be signed, have the signature date, and address or location of the property. The value of written protests must be determined and action taken by LAFCO resolution to order the change subject to election, or terminate proceedings.
4. The Executive Officer shall perform all Conducting Authority Proceedings in accordance with the provisions of the CKH Act. Only written protests with the required information submitted prior to the close of the Protest Hearing shall be considered valid.
5. The Commission delegates to the Executive Officer the authority to act on matters related to the implementation of the Conducting Authority responsibilities as applicable and appropriate. The outcome of the protest hearing process is termination of the proposal if 50% or more of landowners who have 50% of the voting power (own 50% of the acreage in the area) files a valid written protest with the EO. Any number protests below this threshold and the question of formation will be forwarded to a vote of the landowners in the area per the election process.

Election. If the formation of the District makes it through all of the above steps an election would be conducted by the County Clerk with assistance from the Assessor's office. The election would be completed based on the property owners and the acreage they own. Three questions would likely be voted on:

1. The formation of the District. The formation of the District would be determined on a 1 vote per acre vote pursuant to Water Code section 35003.
2. The Board Members to be elected based on a 1 vote per acre formula, and
3. The funding of the District. The assessment vote would need to pass for the district to be formed because a funding source is needed to operate the District. LAFCO typically requires this condition as part of its approval.

The election results would determine the formation of the District.

12. Recommendation

The Commission has the discretion to approve, modify or deny the proposed application. It is respectfully recommended that the Commission consider the following recommendation for approval:

1. Approve the Statutory Exemption as the environmental determination pursuant to the California Environmental Quality Act (CEQA).
2. Conditionally approve, by resolution, the formation of the Tuscan Water District subject to: a vote of the landowners as described by Water Code 34000 et al and a successful assessment vote to fund the Water District.
3. Conditionally approve, by resolution, the Formation of the Tuscan Water District with the attached conditions of approval found in staff report Section 3 Conditions of Approval (Attachment F) and included in the attached resolution.

ALTERNATIVES FOR COMMISSION ACTION

After reviewing this report and any testimony or materials that are presented, the Commission can take one of the following actions:

OPTION 1 – APPROVE the proposal as submitted:

- A. Adopt environmental findings as shown in the draft resolution
- B. Move to adopt Resolution No. 21 2021/22 approving the Formation of the Tuscan Water District for the purpose of implementing the Vina Groundwater Sustainability Plan.

OPTION 2 - DENY the proposal without prejudice.

OPTION 3 - CONTINUE this proposal to a future meeting for additional information

REQUESTED ACTION:

Approve OPTION 1.

Respectfully submitted,

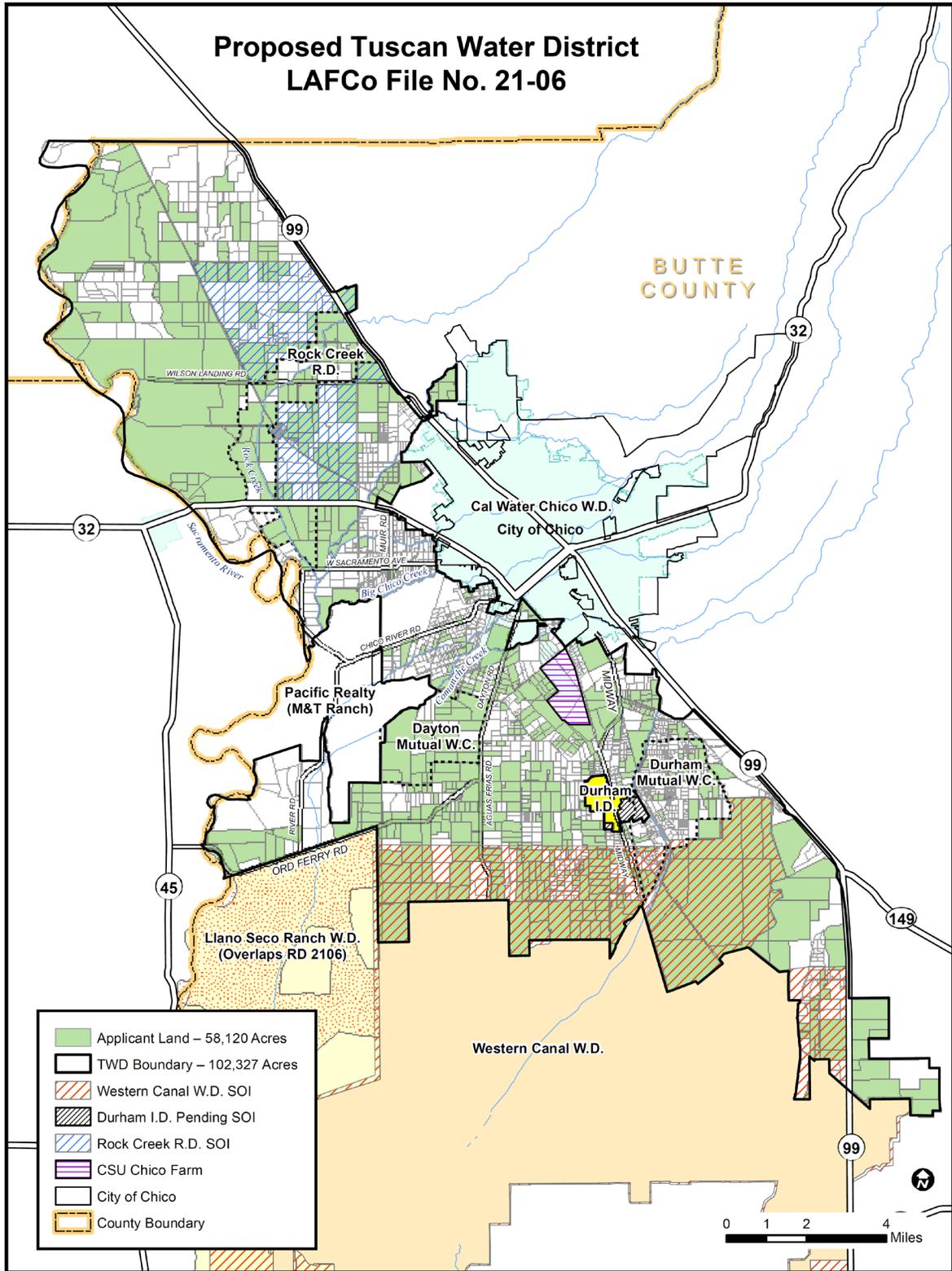
Steve Lucas

Stephen Lucas
Executive Officer

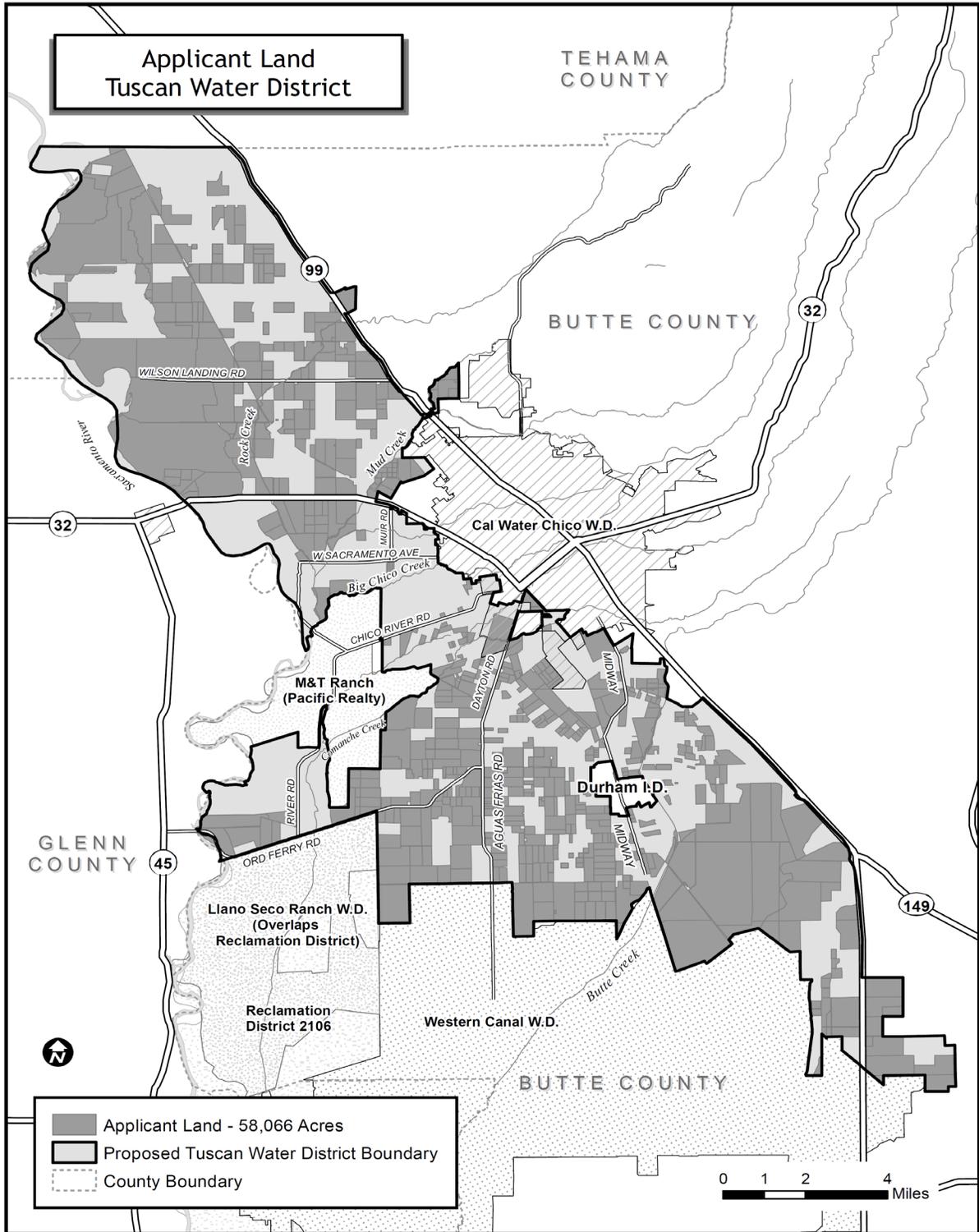
Attachments:

- A. Proposed Boundary Map
- B. Plan for Services
- C. Fiscal Review
- D. Factors for Consideration
- E. Water District Powers
- F. Conditions of Approval
- G. Environmental Review/NOE
- H. Draft Resolution
- I. Public Agency Comments
- J. Public Comment Response
- K. Maps - Legal Description

Proposed Boundary Map



Proposed Boundary Map – Applicant Lands



Plan for Services

Government Code Section 56653 states: (a) If a proposal for a change of organization or reorganization is submitted pursuant to this part, the applicant shall submit a plan for providing services within the affected territory. (b) The plan for providing services shall include all of the following information required by the Local Agency Formation Commission or the Executive Officer:

(1) An enumeration and description of the services currently provided or to be extended to the affected territory.

In the subject territory, there is a need for a basin-wide water district that can manage and provide water service, such as the California Water District that is proposed (Tuscan Water District), to serve the 102,327-acre District service area. There are three existing special districts, Durham Irrigation District, Rock Creek Reclamation District and Western Canal Water District, and two private water companies, Durham and Dayton Mutual Water Companies, and a portion of an Investor -Owned Utility, Cal Water, Chico, located within the proposed Tuscan Water District (District) service area. None of these agencies is large enough, has the capacity, or primary authority to serve the entire sub-basin. For full enumeration of California Water District power and authority, see Water Code Sections 35300-35455.

(2) The level and range of those services.

Once the District has been formed, it will evaluate and determine the appropriate level of service to be provided to district lands. Landowners will receive the appropriate level of service with respect to groundwater monitoring, management, and the protection of groundwater resources. Once the Vina Groundwater Sustainability Agency (GSA) and the Rock Creek Reclamation District GSA have adopted a Groundwater Sustainability Plan (GSP) for the Vina sub-basin, the Tuscan Water District will evaluate the possible GSP implementation actions and projects and prepare a Capital Improvement Plan consistent with projects and management actions identified in the GSP, as well as any necessary elements to comply with the law, such as compliance with Proposition 218 and preparation of an Engineer's Report(s) which will evaluate the timing and cost-benefit analysis of district sustainability needs. At that time, the Board of Directors may designate specific areas as "zones of benefit" for surface water delivery and/or recharge, or both. It is anticipated that the lands within these special zones would be assessed based upon the benefit received to pay for the service.

(3) When can service be feasibly extended?

The basic, uniform level of service for District operation and oversight by staff and directors will occur once the District has been formed and the Board of Directors has taken the "oath of office". With respect to capital projects, consistent with the Vina GSP, as described above, the District will first need to identify projects of immediate concern,

comply with Proposition 218 requirements, and conduct environmental impact studies of the physical effects of the project on the environment as may be needed in compliance with the California Environmental Quality Act. With respect to the environmental assessment, a determination must be made as to the level and extent of the project's physical impact on the environment and subsequent mitigation required after the District has identified the proposed GSP implementation action(s). The formation of a new local special district, in and of itself, does not create a physical effect on the environment. Future projects where the "earth will be disturbed" or plants and animals jeopardized because of water lines, pumping stations, and diversion of water will certainly require a much higher level of review and environmental analysis. Factors such as proximity to a surface water source, cost of service extension, and available funding will be important considerations dictating where, how, and when projects will be undertaken and the degree of environmental review the project(s) is subject to.

(4) An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.

There is no need to upgrade roads or sewer systems; an adequate transportation via the state highways and local surface streets is more than adequate. There will be no required improvement or upgrading of the noted facilities just because of District formation.

(5) Information with respect to how the services will be financed.

For the most part, new service not currently available will be financed by landowner approved assessments as follows: an initial assessment not to exceed ten dollars per acre (\$10.00/acre) for all District lands. Subsequent assessments will also be required as major projects are identified. Other sources of funding might include state approved water bond monies, bonded debt, and short and long terms loans.

Fiscal Analysis – Hypothetical Five Year Budget

Once formed, the Tuscan Water District (“District”), as prescribed by the Water Code on the date specified, will develop, and adopt a calendar-year budget with estimated expenditures and anticipated revenue for District administration and operation. The District will have the authority to derive necessary funding from various sources. Those sources include: (1) the Sustainable Groundwater Management Act (SGMA); (2) California Water District statutes; (3) Revenue and Taxation codes; (4) assessment law; (5) grants and loans; and (6) bond measures approved by California statewide electorate for water quality, conservation, and programs for new surface and groundwater development for domestic and agricultural uses.

Formation of the District is contingent upon a successful formation election by a majority of holders of interest and, among other things, approval of a revenue proposal capable of funding activities for the District. The action shall also establish a provisional appropriations limit for the first year of operation. Applicants for District formation have agreed to, and are proposing, with approval of District formation, that landowners of the proposed District agree and stipulate to, notwithstanding any other provisions of law (California Water Code, Proposition 218, California Article XIII D/Proposition 13), their consent to the initial Board of Directors levying assessments on all District lands and to authorize Butte County to collect such assessments along with county taxes as follows: Initial assessments will not exceed ten dollars per acre (\$10.00/acre) for all District lands.

Proposed District Revenue Structure

Once formed, the District Board of Directors will adopt an annual budget as described above. They will determine first year priorities for the District including staffing, level of participation in SGMA, and initial projects to be undertaken. The first year is anticipated to be dedicated to development of operating procedures, bylaws, Board organization and other start up activities.

The proposed initial per acre assessment the District Board of Directors may impose on District lands will not exceed ten dollars per acre (\$10.00/acre).

The land use of the parcels within the District includes irrigated farmland, domestic well user residential, range land for cattle and other livestock, and permanent open space in the form of state and federal preserve and habitat. The District Board of Directors will need to weigh the benefit each of these parcels will receive from District services and assess appropriately.

Funding from the initial assessment may also be used to reimburse District proponents for costs of District formation and start-up activities of the District, including involvement in the planning and implementation of the SGMA.

Total year one operating revenue, approximately \$400,000.00 to a maximum of ten dollars per acre (\$10.00/acre) depending on the level of assessment imposed by the District Board of Directors.

Gap financing (operating revenue needed between assessment collection and distribution, and District formation). Potential sources of revenue include, but are not limited to, bank loans; grants; and state water bond money.

Full Calendar Year, Year 1 Projected Expenditures

Staffing:

General Manager/District Engineer (salary and benefits)	\$120,000.00
Legal Counsel (under contract/hourly)	\$ 50,000.00
Office Manager (salary and benefits (full-time)	\$ 60,000.00
Contract administrative, computer, tech support	\$ 25,000.00
Rent/office space	\$ 18,000.00
Office furniture (desks, chairs, tables, file cabinets, computers phone lines, and other support material)	\$ 15,000.00
Sub-total	\$288,000.00
Contingency (20%)	\$ 57,600.00
General Reserve	\$100,000.00
Total Operating, Contingency and Reserve	\$445,600.00*

**Total for Year 1 projected expenditures may increase to account for reimbursement for District formation costs, but will not exceed a maximum of ten dollars per acre (\$10.00/acre).*

Long-term Funding Strategies, 2-5 years

On an ongoing basis, annual assessments, future Proposition 218 property-based assessments, and charges for surface water delivery will be the backbone revenue stream for financing District administration and operations. The initial years after District formation will be dedicated to dealing with SGMA issues and working with Butte County and the Butte County GSAs on sustainability planning and implementation, including project identification and financing for both the importation of surface water and strategic recharge in the most impacted areas of declining groundwater in the District.

A ten dollar per acre (\$10.00/acre) assessment on all groundwater dependent District lands could potentially generate more than \$800,000.00 annually. The District Board of Directors will develop a short and long-term capital improvement plan for the District service area, as well as financing options and strategies moving forward. Strategies should be consistent with measures and recommendations contained in the Vina sub-basin Groundwater Sustainability Plan (GSP) and/or the Butte sub-basin GSP.

Recommended measures may include assessments higher than ten dollars per acre (\$10.00/acre) to purchase and distribute surface water to District lands. Should those measures be considered, all of the studies and processes consistent with Proposition 218 will be followed.

Future budgets for the District will depend on a variety of factors not entirely predictable, such as changes in the local, national, and international markets, demand for certain agricultural products, environmental factors, unpredictable weather (both droughts and excessive rainfall), availability of labor, and so on. The main objective of the District will be to achieve groundwater sustainability within the District boundaries and the Vina sub-basin.

Projected Budgets for years 2-5 (with annual 5% cost of living adjustment)

Budget Line	Year 2	Year 3	Year 4	Year 5
General Manager/District Engineer (salary and benefits)	132,300	138,915	145,861	153,154
Legal Counsel (under contract/hourly)	52,500	55,125	57,881	60,775
Office Manager (salary and benefits (full-time)	63,000	66,150	69,458	72,930
Contract administrative, computer, tech support	26,250	27,563	28,941	30,388
Rent/office space	18,900	19,845	20,837	21,879
Office furniture (desks, chairs, tables, file cabinets, computers, phone lines, and other support material)	15,750	16,538	17,364	18,233
Reimbursement for District formation expenses	TBD	TBD	TBD	TBD
Contingency (20%)	60,480	63,504	66,679	70,013
General Reserve	100,000	100,000	100,000	100,000
Total Operating, Contingency and Reserve	484,930	487,640	507,021	527,372

Factors for Consideration

The TWD Formation proposal has been reviewed by the Butte LAFCo through multiple lenses:

- Cortese Knox Hertzberg Local Government Reorganization Act of 2000 (CKH)
- California Water Code Section 34000 (WC)
- Sustainable Groundwater Management Act (SGMA)
- Butte LAFCo Policies
- Local Agency Comments
- Public Comments

I. Cortese Knox Hertzberg Local Government Reorganization Act of 2000 (CKH)

The Butte LAFCo derives its authority from the state legislature, specifically, from the Cortese Knox Hertzberg Local Government Reorganization Act of 2000(CKH)(GC56000). The Legislature has given broad discretion and responsibility to LAFCo’s in light of local circumstances within their limited jurisdiction.

It is important to note that while LAFCo considers all of the resources above, no individual variable is supreme, all decisions are based on conformance with the overall context and objectives of its guiding lenses.

LAFCO CORE OBJECTIVES (GC56001,GC56301)

- **Preserving open-space and agricultural lands**
- **Discouraging urban sprawl**
- **Encouraging the efficient provision of government services**
- **Encouraging the orderly formation of local agencies based upon local conditions and circumstances.**

Preserving Open-Space and Agricultural Lands.

Preserving agricultural lands in Butte County is rooted in two factors, **land use** and **water and economics**.

Land Use

The area proposed for the TWD is unincorporated and under the land use authority of the Butte County Board of Supervisors, Approximately 92% of the TWD area is identified in the Butte County General Plan Land Use Element and Zoning Ordinance for agricultural uses. Furthermore, of the proposed TWD’s 102,237 acres, 88,951 acres (87%) are agriculturally productive lands. The County has a strong history of protecting its agricultural lands through the adoption of the Agricultural Element of General Plan, the continuing support for the Greenline on Chico’s western edge, and the adoption of Chapter 33 (Groundwater Conservation) of the Butte County Code of Ordinances forbidding groundwater exports or the substitution of groundwater in-

lieu of surface water transfers. The proposed TWD formation will result in no changes or amendments to existing land uses or Butte County General Plan land use categories. Given there are no requested or resulting land use changes, there are no corresponding effects or impacts on

Determination: No changes to existing agricultural land use status, patterns or zoning will result from the proposal.

planned, orderly, efficient patterns of urban development for LAFCo to consider.

Water

The second factor in agricultural viability is water. Butte County agricultural production is dependent on irrigation (surface/ground water) and the 100,000 plus acres of the proposed Tuscan Water District are entirely dependent on groundwater for both agricultural production and domestic use. The TWD formation proposal is built upon the landowners desire to continue a long history of agricultural productivity which is solidly linked to irrigation and groundwater sustainability.

The stated purpose of the TWD is to organize the landowners into a public agency with the overarching purpose of working cooperatively with the County of Butte, Butte County Water Commission, Vina, Butte and Rock Creek Reclamation District Groundwater Sustainability Agencies (GSA's) and other state and local agencies in the development and implementation of the Groundwater Sustainability Plans (GSP) for the Vina and Butte sub-basins that will ensure adequate water is available to continue the existing, historical agricultural uses of the affected land. Given the purpose of the TWD is to support groundwater sustainability, which in turn supports the continued economic viability, the formation is consistent with LAFCo's core mission of agricultural protection.

Determination: The proposed TWD formation will support and contribute to the groundwater sustainability effort within the Vina Basin which will sustain agricultural production and by extension, the preservation of agricultural lands as directed by state law.

Economics

Agricultural uses in Butte County are a major contributor our local economy and can remain so only with a consistent available supply of irrigation water to sustain their continued productivity and economic viability. It is this economic viability that will result in less pressure to convert marginal agricultural lands to urban development proposals. The TWD would represent a strong community of interest in that it is predominantly populated with agricultural landowners who share the common interest of being involved in agricultural pursuits and heavily invested in the issue of groundwater management.

From an economic perspective, the proposed TWD area generates an estimated \$289,369,469 in gross value of agricultural production with an assessed valuation of approximately \$1,459,397,597. These values are highly dependent on the continued and consistent availability of irrigation water. This is fundamentally why this community of interest feels that its active representation as a local special district, in the groundwater sustainability management of the Vina Basin, is critical to its continued economic viability. It is not only economically important to

the individual landowners to maintain crop values, but County property taxes are directly related to the value of the land, which is much less without a consistent irrigation water supply. The Commission must consider agriculture viability in its protection, if agriculture becomes less economically viable that encourages farmers to look for a higher better use for their land. In far too many circumstances in California, the primary threat to agriculture is a conversion to urban uses.

Determination: As protection of agricultural land is at the core of LAFCo's role, the formation of the TWD will contribute to the groundwater sustainability in the Vina Basin and this in turn will help maintain agricultural as a valued economic driver in Butte County.

Discouraging Urban Sprawl

As this proposal is not related to any new development and does not request or require land use changes or entitlements, urban sprawl is not an issue of importance. In this case, the question is more about how urban sprawl comes from a variety of factors, one of which is continued economic viability of agricultural lands.

The proposed TWD formation goal is to ensure a healthy and sustainable ground water basin that in turn supports vibrant agricultural production in Butte County. As discussed above, it is LAFCo's charge to preserve agricultural lands from conversion to other uses, which in turn minimizes urban sprawl.

Determination: By securing and sustaining irrigation water supplies, agricultural uses remain productive and reduces the pressure for conversions to urban land uses.

Encouraging the efficient provision of government services

The stated purpose of the TWD is to organize the landowners into a public agency with the overarching purpose of working cooperatively with the County of Butte, Butte County Water Commission, Vina, Butte and Rock Creek Reclamation District Groundwater Sustainability Agencies (GSA's) and other state and local agencies in the development and implementation of the Groundwater Sustainability Plans (GSP) for the Vina and Butte sub-basins that will ensure adequate water is available to continue the existing, historical agricultural uses of the affected land.

Similar to new startup companies, single-purpose, highly focused local special districts are quicker to adjust to market forces than large, established companies and local agencies who provide many functions. As indicated in LAFCo's legislative directives concerning the efficient delivery of services, single purpose special districts are one of the best ways to pinpoint focused effort on a particular issue and develop efficient methods to deliver the desired services. Smaller focused special districts can hire experts and develop the expertise without the administrative or bureaucratic constraints much larger organizations experience. This a key concern and reason why Butte County strongly encouraged the proponents to form a new district.

The use of focused single purpose special districts is not only common, but they are incredibly useful in bringing specific services to their constituents with a high level of accountability. In

response to a legislative directive (*AB 38- Chapter 107, Statutes of 2001*), the Legislative Analyst's Office (LAO) published a report titled "Water Special Districts: A Look at Governance and Public Participation" that provided an overall review of water special districts. This report concluded:

"Water districts in California provide a diverse range of services—using a variety of financing means and governance structures. While some individual districts have pursued controversial policies, **our analysis indicates no evidence of a statewide structural governance problem.** Districts must make difficult tradeoffs in making their decisions. In those districts which have produced unpopular results, local remedies may be sought. For instance, residents have the opportunity to access the public participation process and propose changes. Local elections also provide the opportunity to change the character and policies of a governing board. If these approaches are not effective in dictating public opinion, residents also have the ability to approach their LAFCO about changing the structure of their special district."

Determination: With the complicated and contentious nature of water and groundwater management, a highly focused, single purpose special district, such as the proposed TWD, is a useful and effective manner to provide the affected landowners with an active government to government voice during the implementation of the Vina and Butte Basin GSP's.

LAFCO Proposal Review Factors - Government Code 56668 and 56886.5

The Cortese-Knox Hertzberg Act requires that the following factors be considered by LAFCO in its decision making process. No one factor is to be considered more highly than another; however, one factor may be more important depending on the circumstances of a proposal. These factors are to be "considered" by the Commission and weighed and balanced in the decision-making process.

Factor (a) Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.

Response.

- The TWD boundary has an estimated population of 6,500 persons at population density of 40-45 persons per square mile. Given that the territory is primarily zoned for agricultural land uses on large parcels, there is very little expected population growth in the area. The community of Durham and the City of Chico are not included within the District boundaries.
- Existing land use is predominantly agricultural and open space lands consisting of ranches and farms varying in size from small to large, all dependent on groundwater. General Plan land use designations are agriculture, agricultural residential, open space.
- Total agricultural acreage in the TWD service area is 88,951 acres (Source: California Department of Conservation Farmland Mapping and Monitoring Program) with prime

agricultural land in the District at 71,566 acres and Williamson Act Contract Land at 50,316 acres. Federal and state owned land/permanent open space lands are 2,358 acres.

- Gross value of agricultural production is estimated at \$289,369,469 (2019) with TWD applicant lands having an assessed valuation of approximately \$1,459,397,597 with total unincorporated lands within the District assessed valuation: \$3,873,529,965
- Topography is highest in the east with flat to gently rolling hills to flat valley lands with elevation decreasing from 198 feet above sea level to 120 feet above sea level to west at the Sacramento River.
- The areas major physical and natural features include: Rock Creek, Butte Creek, Big Chico Creek, Pine Creek, Mud Creek, Angel Slough, Hamlin Slough, Keefer Slough, and the Sacramento River
- Major highways/railway include: Highway 99, Highway 32 and Union Pacific Railroad

Factor (b) The need for organized community services, the present cost and adequacy of governmental services and controls in the area, probable future needs for those services and controls, probable effect of the proposed incorporation, formation, annexation, or exclusion and alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.

Response. The TWD proposal directly relates to the implementation of the Sustainable Groundwater Management Act (SGMA). The State Department of Water Resources divided the state into separate groundwater basins and subbasin which placed western Butte County within the large Sacramento Valley Basin, which is further broken down into three subbasins; Vina, Butte, and Wyandotte Creek. The proposed TWD is primarily located within Vina Subbasin in an area that currently has no locally governed, subbasin-wide special district that can evaluate, fund, implement, and oversee projects to implement the GSP. These areas are commonly referred to as “white areas”.

The 2015 Sustainable Groundwater Management Act (SGMA) initiated the creation of the Vina and Rock Creek Sustainability Agencies (GSA’s) who in turn, jointly prepared the Vina Basin Groundwater Sustainability Plan (GSP) that will guide the management of the Vina Basin groundwater resources (GSP Approved 12/15/21 for submittal to DWR).

The Vina Basin is overlaid by several special districts (Rock Creek Reclamation District, Durham Irrigation District, Sacramento River Reclamation District, Butte County Resource Conservation District) and the County underlies all territory by default and generally represents the “white areas”, or areas with no other local agency representation. A large portion of the Vina Basin is white area under County jurisdiction and dependent on the County Board of Supervisors for representation rather than a locally elected governing body specific to their needs.

The proponents of the TWD determined that the formation of a California Water District was the appropriate path forward based on guidance provided by the Butte County Board of Supervisors (BOS) and the Department of Water and Resource Conservation. At the early phases of the SGMA implementation process in 2017, the BOS adopted Resolution No. 17-170 stating:

“If, and when, the AGUBC desire to move forward with creation of a new California Water District or other type or eligible local agency with the dual purpose of: a) SGMA responsibility, and b) exercising powers and duties as a special district as authorized by the Water Code for water purveyance and ancillary activities, Butte County will work

constructively, cooperatively and collaboratively with landowners on the formation process of a new eligible local agency for involvement in SGMA issues”.

Additionally, the Butte County Water Commission (WC) staff prepared a report for the WC meeting of August 4, 2021, that states:

“For many years, Butte County has encouraged agricultural groundwater users to organize. In contrast to the “white areas” of the county that are groundwater dependent, local water districts provide an organizational structure for surface water irrigated areas. The primary reason to promote groundwater users to organize was to improve drought coordination and groundwater management.

It was clear to the TWD proponents from early consultation with County representatives that: 1) the County did not desire to become an active participant in or fund the implementation of identified GSP projects or provide or manage irrigation water distribution projects; 2) the County was not interested in initiating the formation of a special district; and 3) the County would support the citizens’ initiative to initiate the formation via a petition of landowners directly to Butte LAFCo.

The other local agencies underlying the Vina Basin (Rock Creek Reclamation District, Durham Irrigation District, Sacramento River Reclamation District, Butte County Resource Conservation District) demonstrated no interest, through written letters to Butte LAFCo, in expanding their service territory and assuming the responsibility to manage, fund and implement the GSP in the white areas. While there has been minimal discussion of the potential to form some other type of countywide special district that could address SGMA and water related issues, this concept gained little to no support from existing local agencies, most notably the County. The concept would require considerable research and development and would need to be coordinated with a dozen local water related agencies as well as private, Public Utility Commission (PUC) regulated water providers. None of these stakeholders has shared any interest in an alternative countywide strategy to address SGMA related issues.

For the very clear above reasons, the purpose of the TWD is to organize the landowners into a public agency with the overarching purpose of working cooperatively with the County of Butte, Butte County Water Commission, Vina, Butte and Rock Creek Reclamation District Groundwater Sustainability Agencies (GSA’s) and other state and local agencies in the development, implementation, and funding the Vina Basin GSP to ensure adequate water is available to continue the existing, historical agricultural uses of the affected land.

Factor (c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.

Response. The stated purpose of the TWD is to organize the landowners into a public agency with the overarching purpose of working cooperatively with the County of Butte, Butte County Water Commission, Vina, Butte and Rock Creek Reclamation District Groundwater Sustainability Agencies (GSA’s) and other state and local agencies in the development and implementation of the Groundwater Sustainability Plans (GSP) for the Vina and Butte sub-basins that will ensure adequate water is available to continue the existing, historical agricultural uses of the affected land.

Under the Sustainable Groundwater Management Act (SGMA) the governmental entities that regulate water resources would need to work together and coordinate the implementation of the

Vina Groundwater Sustainability Plan (GSP) locally and to coordinate basin wide goals with related agencies. Forming the Tuscan Water District would add an additional local public agency to coordinate and fund groundwater sustainability plan projects, with goal of reaching a sustainable groundwater basin. As discussed above, if the new District is not formed, a significant gap would remain in local agency representation given the lack of other interested local agencies to assume the responsibility for funding groundwater management implementation in the white area.

The TWD, if formed, would have jurisdictional authority only in its territory and only for the purposes, functions and services permitted by LAFCo and the California Water Code. The TWD would represent a strong community of interest in that it is predominantly populated with agricultural landowners who share the common interest of being involved in agricultural pursuits and heavily invested in the issue of groundwater management. Furthermore, of the proposed TWD's 102,237 acres, 88,951 acres in agricultural uses. From an economic perspective, the TWD area generates an estimated \$289,369,469 in gross value of agricultural production with an assessed valuation of approximately \$1,459,397,597. These values are highly dependent on the continued and consistent availability of irrigation water. This is fundamentally why this community of interest feels that its active representation, as a local special district, in the groundwater sustainability management of the Vina Basin, is critical to its continued economic viability. It is not only economically important to the individual landowners to maintain crop values, but County property taxes are directly related to the value of the land, for which a consistent irrigation water supply is a relevant factor as to value.

Factor (d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in Section 56377 (Open Space).

Response. The proposed TWD formation will result in no changes or amendments to existing land uses or Butte County General Plan land use categories. Given there are no resulting land use changes, there are no corresponding effects or impacts on planned, orderly, efficient patterns of urban development for LAFCo to consider. To the contrary, the continued and consistent availability of irrigation water to agricultural lands will encourage their continued productivity and economic viability resulting in far less pressure to convert marginal agricultural lands to urban development proposals. As agricultural land protection is at the core of LAFCo's role, the formation of the TWD will do no harm to current land use patterns and arguably help maintain agricultural as a valued economic driver in Butte County.

Factor (e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.

Response. The proposed TWD formation will result in no changes or amendments to existing land uses or Butte County General Plan land use categories. Given there are no resulting land use changes, there are no corresponding effects or impacts on planned, orderly, efficient patterns of urban development for LAFCo to consider. To the contrary, the continued and consistent availability of irrigation water to agricultural lands will encourage their continued productivity and economic viability resulting in far less pressure to convert marginal agricultural lands to urban development proposals. As agricultural land protection is at the core of LAFCo's role, the formation of the TWD will do no harm to current land use patterns and arguably help maintain agricultural as a valued economic driver in Butte County.

Factor (f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.

Response. The proposed TWD formation has defined boundaries that conform to lines of assessment. Although the Principle Act allows for non-contiguous boundaries, the proposed District has district boundary areas that are contiguous and without islands.

Factor (g) A regional transportation plan adopted pursuant to Section 65080

Response: The proposed TWD formation will result in no changes or amendments to existing types of land uses or Butte County General Plan land use or zoning categories therefore resulting in no new developments that would have an impact on current transportation planning infrastructure.

Factor (h) Consistency with City or County General and Specific Plans.

Response. The proposed TWD formation will result in no changes or amendments to existing land uses or Butte County General Plan land use categories. Given there are no resulting land use changes, there are no corresponding effects or impacts on planned, orderly, efficient patterns of urban development for LAFCo to consider. The water district would include unincorporated land under the County's jurisdiction. The land use designations would not change and the formation of a water district would be consistent with City and County General Plans.

Factor (i) The sphere of influence (SOI) of any local agency that may be applicable to the proposal being reviewed.

Response: The proposed TWD territory will overlap portions of the Western Canal Water District SOI and overlays the Rock Creek Reclamation District, Sacramento River Reclamation District and the Butte County Resource Conservation District. As the mission, services, and functions of the TWD are not in direct conflict or competition with existing agencies, the overlap is of no significance. Additionally, none of the agencies have expressed opposition to the District and most have provided letters of support. Proposed Condition of Approval would restrict the TWD from providing drainage, flood control or reclamation services within the RCRD without the consent of its Board.

Factor (j) The comments of any affected local agency or other public agency.

Response: On June 30, 2021, LAFCo staff circulated copies of the application materials for review and comment from local public agencies. The substantive public agency comments are described and responded to in Attachment I to this staff report.

Factor (k) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.

Response. The services to be provided by the proposed TWD will be funded by the landowners of the parcels within the territory. The fiscal plan for the District as found in this staff report (Attachment B) describes an initial operating budget of \$446,000 funded through a maximum parcel assessment of \$10/acre. Pursuant to Proposition 218, the District assessment must be approved by the landowner voters which is a part of the formation election process

Factor (l) Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.

Response. The purpose of the proposed TWD is to organize the landowners into a public agency with the overarching purpose of working cooperatively with the County of Butte, Butte County

Water Commission, Vina, Butte and Rock Creek Reclamation District Groundwater Sustainability Agencies (GSA's) and other state and local agencies in the development and implementation of Groundwater Sustainability Plans (GSP) for the Vina and Butte sub-basins that will ensure adequate water is available to continue the existing agricultural uses of the affected land. The formation of the District in itself proposes no changes in land uses nor result in increased demands on water supplies or impact water resource management.

Factor (m) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.

Response. The proposed TWD formation will result in no changes or amendments to existing types of land uses or Butte County General Plan land use or zoning categories therefore having no impact on any entity from achieving their fair share of regional housing needs. The County will continue to exercise its land use authority for issuing residential permits. The new Water District would be put in place to continue monitoring and reporting on the basins health and adopt rules for various ways to manage the basin. The new District would not affect achieving the fair share of regional housing needs.

Factor (n) Any information or comments from the landowner or owners.

Response. All landowners within the proposed TWD have been individually notified of the project and hearing per § 56157(f). Very limited comments (6) were received from landowners and were related to the landowner voting structure, the proposed District allowing water to be transferred out of the Vina Basin/County and the concern that recharged water would become a private water bank. These concerns have been addressed in the staff report and/or condition of approval have been recommended to mitigate the concerns. Additionally, the protest and final voting process allows for the landowners to vote on the formation of the new District and the funding plan.

Factor (o) Any information relating to existing land use designations.

Response. The proposed TWD formation will result in no changes or amendments to existing types of land uses or Butte County General Plan land use or zoning categories. Given there are no resulting land use changes, there are no corresponding effects or impacts on planned, orderly, efficient patterns of urban development for LAFCo to consider

Factor (p) The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.

Response. The formation of the TWD would not treat individuals differently. The services provided by the new District would be to the benefit of all landowners and residents within the districts boundary.

Factor (q) Information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and any maps that identify land as a very high fire hazard zone pursuant to Section 51178 or maps that identify land determined to be in a state responsibility area pursuant to Section 4102 of the Public Resources Code, if it is determined that such information is relevant to the area that is the subject of the proposal.

Response: The TWD formation proposal is for the creation of a local agency to address the issues of groundwater sustainability within the Vina Basin. The agricultural functions and services of the proposed TWD will not be hazard sensitive nor create any changes in land uses and therefore unaffected by any particular natural hazards

Government Code **§56886.5(a)** directs the Commission to determine whether

1. Existing agencies can feasibly provide the needed service or services in a more efficient and accountable manner.

Response: The TWD proposal directly relates to the implementation of the Sustainable Groundwater Management Act (SGMA). The State Department of Water Resources divided the state into separate groundwater basins and subbasin which placed western Butte County within the large Sacramento Valley Basin, which is further broken down into three subbasins; Vina, Butte, and Wyandotte Creek. The proposed TWD is primarily located within Vina Subbasin in an area that currently has no locally governed, subbasin-wide special district that can evaluate, fund, implement, and oversee projects to implement the GSP. These areas are commonly referred to as “white areas”.

The 2015 Sustainable Groundwater Management Act (SGMA) initiated the creation of the Vina and Rock Creek Sustainability Agencies (GSA’s) who in turn, jointly prepared the Vina Basin Groundwater Sustainability Plan (GSP) that will guide the management of the Vina Basin groundwater resources (GSP Approved 12/15/21 for submittal to DWR).

The Vina Basin is overlaid by several special districts (Rock Creek Reclamation District, Durham Irrigation District, Sacramento River Reclamation District, Butte County Resource Conservation District) and the County underlies all territory by default and generally represents the “white areas”, or areas with no other local agency representation. A large portion of the Vina Basin is white area under County jurisdiction and dependent on the County Board of Supervisors for representation rather than a locally elected governing body specific to their needs.

The proponents of the TWD determined that the formation of a California Water District was the appropriate path forward based on guidance provided by the Butte County Board of Supervisors (BOS) and the Department of Water and Resource Conservation. At the early phases of the SGMA implementation process in 2017, the BOS adopted Resolution No. 17-170 stating:

“If, and when, the AGUBC desire to move forward with creation of a new California Water District or other type or eligible local agency with the dual purpose of: a) SGMA responsibility, and b) exercising powers and duties as a special district as authorized by the Water Code for water purveyance and ancillary activities, Butte County will work constructively, cooperatively and collaboratively with landowners on the formation process of a new eligible local agency for involvement in SGMA issues”.

Additionally, the Butte County Water Commission (WC) staff prepared a report for the WC meeting of August 4, 2021, that states:

“For many years, Butte County has encouraged agricultural groundwater users to organize. In contrast to the “white areas” of the county that are groundwater dependent, local water districts provide an organizational structure for surface water irrigated areas. The primary reason to promote groundwater users to organize was to improve drought coordination and groundwater management.

It was clear to the TWD proponents from early consultation with County representatives that: 1) the County did not desire to become an active participant in or fund the implementation of identified GSP projects or provide or manage irrigation water distribution projects; 2) the County

was not interested in initiating the formation of a special district; and 3) the County would support the citizens' initiative to initiate the formation via a petition of landowners directly to Butte LAFCo.

The other local agencies underlying the Vina Basin (Rock Creek Reclamation District, Durham Irrigation District, Sacramento River Reclamation District, Butte County Resource Conservation District) demonstrated no interest, through written letters to Butte LAFCo, in expanding their service territory and assuming the responsibility to manage, fund and implement the GSP in the white areas. While there has been minimal discussion of the potential to form some other type of countywide special district that could address SGMA and water related issues, this concept gained little to no support from existing local agencies, most notably the County. The concept would require considerable research and development and would need to be coordinated with a dozen local water related agencies as well as private, Public Utility Commission (PUC) regulated water providers. None of these stakeholders has shared any interest in an alternative countywide strategy to address SGMA related issues.

For the very clear above reasons, the purpose of the TWD is to organize the landowners into a public agency with the overarching purpose of working cooperatively with the County of Butte, Butte County Water Commission, Vina, Butte and Rock Creek Reclamation District Groundwater Sustainability Agencies (GSA's) and other state and local agencies in the development, implementation, and funding the Vina Basin GSP to ensure adequate water is available to continue the existing, historical agricultural uses of the affected land.

2. If a new single-purpose local agency is deemed necessary, the commission shall consider reorganization with other single-purpose local agencies that provide related services.

Response: Answered above.

II. Butte LAFCo Policies

Section 2. LAFCO GENERAL POLICIES

2.4 Environmental Consequences (CEQA).

Response: The Commission finds the proposal to be exempt from the California Environmental Quality Act. A full discussion and determinations are found in Attachment "G" to the report.

- 2.7 Adequate Services. LAFCO will consider the ability of an agency to deliver adequate, reliable and sustainable services, and will not approve a proposal that has significant potential to diminish the level of service in the agency's current jurisdiction. The agency must provide satisfactory documentation of capacity to provide service within a reasonable amount of time.

Response: This particular policy is intended to address an existing agency that is requesting to expand its service territory and is not entirely applicable to this proposal. The TWD proposal is a formation of new agency so existing service levels are not applicable. However, as discussed in the staff report and responses above to GC Section 56668 factors, the proposed TWD has proposed an annual budget (Attachment C) of

\$446,000 which is similar to other local special districts and is adequate to initiate the creation, organization and administrative functions of the District.

- 2.8 Efficient Services. Community needs are normally met most efficiently and effectively by proposals that utilize existing public agencies rather than create new ones; encourage collaboration between public agencies in order to obtain the greatest level of public support for the provision of consolidated services; consolidate services and service providers if such consolidations enhance the efficiency and quality of service; and restructure agency boundaries and service areas to provide more logical, effective, and efficient local government services.

Response: It was clear to the TWD proponents from early consultation with County representatives that: 1) the County did not desire to become an active participant or funder for the implementation of identified GSP projects or provide or manage irrigation water distribution projects; 2) the County was not interested in initiating the formation of a special district; and 3) the County would support the citizens' initiative to initiate the formation via a petition of landowners directly to Butte LAFCo.

The other local agencies underlying the Vina Basin (Rock Creek Reclamation District, Durham Irrigation District, Sacramento River Reclamation District, Butte County Resource Conservation District) demonstrated no interest in expanding their service territory and assuming the responsibility to manage, fund and implement the GSP in the white areas. While there has been minimal discussion of the potential to form some other type of countywide special district that could address SGMA and water related issues, this concept gained little to no support from existing local agencies, most notably the County. The concept would require considerable research and development and would need to be coordinated with a dozen local water related agencies as well as private, PUC regulated water providers. None of these stakeholders has shared any interest in an alternative countywide strategy to address SGMA related issues.

For the very clear above reasons, the purpose of the TWD is to organize the landowners into a public agency with the overarching purpose of working cooperatively with the County of Butte, Butte County Water Commission, Vina, Butte and Rock Creek Reclamation District Groundwater Sustainability Agencies (GSA's) and other state and local agencies in the development, implementation, and funding the Vina Basin GSP to ensure adequate water is available to continue the existing, historical agricultural uses of the affected land.

The proposed TWD territory will overlap portions of the Western Canal Water District SOI and overlays the Rock Creek Reclamation District, Sacramento River Reclamation District and the Butte County Resource Conservation District. As the mission, services and functions of the TWD are not in direct conflict or competition with existing agencies, the overlap is of no significance. Additionally, none of the agencies have expressed opposition to the District and all but one have provided letters of support. There will be a condition of approval that restricts the TWD from providing drainage, flood control or reclamation services within the RCRD without the consent of its Board.

- 2.9 Community Impacts. LAFCO will consider the impacts of a proposal and any alternative proposals on adjacent areas, on mutual, social and economic interests, and on the local government structure. The Commission may deny a proposal if adverse impacts are not mitigated to an acceptable level, as determined by the Commission.

Response The stated purpose of the TWD is to organize the landowners into a public agency with the overarching purpose of working cooperatively with the County of Butte, Butte County Water Commission, Vina, Butte and Rock Creek Reclamation District Groundwater Sustainability Agencies (GSA's) and other state and local agencies in the development and implementation of the Groundwater Sustainability Plans (GSP) for the Vina and Butte sub-basins that will ensure adequate water is available to continue the existing, historical agricultural uses of the affected land.

Under the Sustainable Groundwater Management Act (SGMA) the governmental entities that regulate water resources would need to work together and coordinate the implementation of the Vina Groundwater Sustainability Plan (GSP) locally and to coordinate basin wide goals with related agencies. Forming the Tuscan Water District would add an additional local public agency to coordinate and fund groundwater sustainability plan projects with goal of reaching a sustainable groundwater basin. As discussed above, if the new District is not formed, a significant gap would remain in local agency representation given the lack of other interested local agencies to assume the responsibility for funding groundwater management implementation in the white area.

The TWD, if formed, would have jurisdictional authority only in its territory and only for the purposes, functions and services permitted by LAFCo and the Water Code. The TWD would represent a strong community of interest in that it is predominantly populated with agricultural landowners who share the common interest of being involved in agricultural pursuits and heavily invested in the issue of groundwater management. Furthermore, of the proposed TWD's 102,237 acres, 88,951 acres are under agricultural uses. From an economic perspective, the TWD area generates an estimated \$289,369,469 in gross value of agricultural production with an assessed valuation of approximately \$1,459,397,597. These values are highly dependent on the continued and consistent availability of irrigation water. This is the fundamental reason why this community of interest feels that its active representation, as a local special district, in the groundwater sustainability management of the Vina Basin, is critical to its continued economic viability. It is not only economically important to the individual landowners to maintain crop values, but County property taxes are directly related to the value of the land, which is much less without a consistent irrigation water supply.

2.11 Boundaries.

Response: The proposed TWD service is contiguous and without islands of unserved territory. To the extent feasible, the proposed boundary followed the hydrologic boundary of the Vina Basin while taking into consideration physical features such as roads and creeks. The boundary also utilized the City of Chico Sphere of Influence boundary and the service areas and spheres of the Durham Irrigation District and Western Canal Water District. The boundary conforms to existing parcel lines. Individual landowners will be permitted to detach parcels if desired.

2.12 Revenue Neutrality.

Response: The formation of the TWD will have no impact on the revenues assigned to all other local agencies as it will be funded by parcel assessments rather than property taxes. The County of Butte has adopted a Master Tax Sharing Agreement that does not allow for any property tax allocations to special districts after 1978.

2.14 Need for Services. Public Health and Safety Threat; Five-year Urbanization. Community Needs

Response: This factor has limited applicability as no growth or urbanization is proposed by the TWD formation, but it does have a direct connection to community needs. The TWD proposal directly relates to the implementation of the Sustainable Groundwater Management Act (SGMA). The proposed TWD is primarily located within Vina Subbasin in an area that currently has no locally governed, subbasin-wide special district that can evaluate, fund, implement, and oversee projects to implement the GSP. The proponent farmers/groundwater users approached the County and Water and Resources Conservation Department staff to actively participate in the groundwater issue on the Vina Basin which resulted in encouragement from the County to form a local special district to implement future groundwater strategies and projects once identified.

Section 5. LAFCo DISTRICT FORMATION POLICIES

5.2.1 Consistency with LAFCO Policies. The formation of a special district must be consistent with the General Policies set forth in these Policies and Procedures, as well as specific policies for formations.

Response: Addressed above in under LAFCo General Policies

5.2.2 Need for New District Required. LAFCo will only approve special district formations in areas that demonstrate a need for the proposed services and where no existing agency can adequately or efficiently provide such services, in an accountable manner as required by Government Code Section 56886.5.

Response: It was clear to the TWD proponents from early consultation with County representatives that: 1) the County did not desire to become an active participant or funder for the implementation of identified GSP projects or be in the irrigation business; 2) the County was not interested in initiating the formation of a special district; and 3) the County would support the citizens' initiative to initiate the formation via a petition of landowners directly to Butte LAFCo.

The other local agencies underlying the Vina Basin (Rock Creek Reclamation District, Durham Irrigation District, Sacramento River Reclamation District, Butte County Resource Conservation District) demonstrated no interest in expanding their service territory and assuming the responsibility to manage, fund and implement the GSP in the white areas. While there has been minimal discussion of the potential to form some other type of countywide special district that could address SGMA and water related issues, this concept gained little to no support from existing local agencies, most notably the County. The concept would require considerable research and development and would need to be coordinated with a dozen local water related agencies as well as private, PUC regulated water providers. None of these stakeholders has shared any interest in an alternative countywide strategy to address SGMA related issues.

For the very clear above reasons, the purpose of the TWD is to organize the landowners into a public agency with the overarching purpose of working cooperatively with the County of Butte, Butte County Water Commission, Vina, Butte and Rock Creek Reclamation District Groundwater Sustainability Agencies (GSA's) and other state and local agencies in the development, implementation, and funding the Vina Basin GSP to ensure adequate water is available to continue the existing, historical agricultural uses of the affected land.

- 5.2.3 **Sphere of Influence Plan and Municipal Service Review.** LAFCO will adopt a sphere of influence for a newly formed district within two years of the completion of formation proceedings.

Response: The Commission will defer determining the sphere of influence for the TWD until after formation but within one year of approval. The following condition is proposed: *Within 6 months of the recording of the Certificate of Completion for the formation of the Tuscan Water District, the new Board of Directors of the Tuscan Water District shall submit an application to LAFCo to conduct a municipal service review (MSR) and determine the sphere of influence for the new district. All fees and costs associated with the application shall be borne by the applicant (TWD), including an initial deposit in an amount deemed appropriate by the Executive Officer. The failure to execute this condition will result in the Commission applying a zero sphere of influence and initiating corrective actions up to and including, dissolution of the District.*

- 5.2.4 **Plan for Services Required.** Every proposal for formation of a new special district must include a Plan for Services that addresses the items identified in Government Code Section 56653.

Response: A Plan for Service was submitted by the applicant and is included on this staff report as Attachment "B".

- 5.2.5 **Consistency Required.** LAFCO will only approve district formation applications that accommodate development that is consistent with the General and Specific Plans of all affected land use authorities.

Response. The proposed TWD formation will result in no changes or amendments to existing land uses or Butte County General Plan land use categories. Given there are no resulting land use changes, there are no corresponding effects or impacts on planned, orderly, efficient patterns of urban development for LAFCo to consider. To the contrary, the continued and consistent availability of irrigation water to agricultural lands will encourage their continued productivity and economic viability resulting in far less pressure to convert marginal agricultural lands to urban development proposals. As agricultural land protection is at the core of LAFCo's role, the formation of the TWD will do no harm to current land use patterns and arguably help maintain agricultural as a valued economic driver in Butte County.

- 5.2.6 **Conflicts Not Allowed.** LAFCO will not approve a district formation proposal if the Plan for Services conflicts with the Municipal Service Review of other agencies unless higher quality, more efficient service provision will occur as determined under item 4.2.

Response: The proposed TWD territory will overlap portions of the Western Canal Water District SOI and overlays the Rock Creek Reclamation District, Sacramento River Reclamation District and the Butte County Resource Conservation District. As the mission, services, and functions of the TWD are not in direct conflict or competition with existing agencies, the overlap is of no significance. Additionally, none of the agencies have expressed opposition to the District and most have provided letters of support. There will be a condition of approval that restricts the TWD from providing drainage, flood control or reclamation services within the RCRD without the consent of its Board.

- 5.2.7 **Public Benefit Considered.** LAFCO will consider whether the proposed district formation will benefit the affected public as a whole or only a select group. Absent other circumstances, LAFCO will not approve a formation proposal that amounts to a grant of governmental powers to a special interest group.

Response: The above sections and responses clearly indicate that the formation of the TWD was encouraged and supported by, and not is in conflict with, other local agencies. As indicated by the support of 57% of the landowners within the District who signed the formation petition in support of the TWD, the proponents are not a minority or special interest within the proposed district. As a landowner voter district with approximately 90% of the district being actively farmed, the benefits of the districts groundwater sustainability efforts will be experienced by all landowners who utilize groundwater.

To address this question it is important to understand the context and setting of the proposed formation within the hydrogeological boundary of the Vina Groundwater Basin. The Vina Subbasin is a portion of the larger Sacramento Valley Groundwater Basin covering approximately 184,917 acres. The proposed TWD would represent approximately 102,000 acres of the Vina Subbasin, otherwise referred to as the “white area”, or the unincorporated territory that is not currently represented by a local water/irrigation/reclamation district and is governed by Butte County. The Vina Basin also contains the City of Chico whose residents are served domestic water by the California Water Service (CalWater) who utilizes groundwater wells for their water supply. As the Vina Basin is currently over drafted by approximately 10,000/AF, any and all efforts to restore a sustainable balance to the groundwater basin benefits not only the TWD landowners, but all groundwater users in the basin. Additionally, as discussed in detail in this staff report, the economic value of agriculture is significantly important to the overall economic health of the County including revenues that support the County General Fund and therefore, the services provided to the entire county. It is clear that the proposed TWD has a greater public benefit, proportionally, well beyond whatever individual landowner within the TWD benefit.

- 5.2.8 **Fiscal Solvency.** LAFCO will prepare, or cause to be prepared, a fiscal analysis for the proposed district which projects services to be provided, costs to service recipients, and revenue and expenses for a period of at least five years. If the financing element of the Plan for Services requires voter or landowner approval (for instance, a special tax or benefit assessment), LAFCo’s approval of the proposal will require voter approval of the funding mechanism as a condition for completion of the formation. [GC§56653]

Response: As discussed elsewhere in this staff report and responses above to GC Section 56668 factors, the proposed TWD has proposed an annual budget (Attachment “C”) of \$446,000 which is similar or higher than other local single-purpose special districts. The budget is adequate to initiate the creation, organization and administrative functions of the District, allowing the District to develop additional plans and long term funding sources. The TWD formation is conditioned to include a landowner assessment vote not to exceed \$10/acre to fund initial start-up expenses and administrative operations.

California Water District Powers WC34000

When forming a special district, LAFCo's must blend the principal act directives with the procedural requirements of LAFCo law, the Cortese Knox Hertzberg Local Government Reorganization Act of 2000 (CKH)(Government Code 56000). CKH (GC56100) provides the sole and exclusive authority and procedure for the initiation, conduct, and completion of changes of organization for districts. Where conflicts exist between the two laws proceedings for the formation of a district shall be conducted as authorized by the principal act, except that the commission shall serve as the conducting authority and the procedural requirements of CKH shall prevail in the event of conflict with the procedural requirements of the principal act of the district. In short, LAFCo must stay in its lane and not create rules or conditions that are not consistent with the principal act or deprive a district of its essential, local government operating powers.

Enabling or principal acts are legislative statutes that serve as the framework for a district, outlining the legal parameters for its governance and operation. These statutes specify:

- the **types of services** special districts can provide,
- the means by which the services may be **funded**,
- the **governance structure** of the district,
- how the district may be **created**, and
- how it may **expand** its boundaries through annexation.

The powers identified in most principal acts can be further divided into the powers that allow for specific **services and functions** of the district and those powers that address **administrative and operational structures** that any particular local government agency may need to effectively function as an independent special district.

The primary powers that the District may exercise under Water Code Section 34000 include:

- the acquisition and operation of **water works** for the production, storage, transmission, and distribution of water for irrigation, domestic, industrial and municipal purposes, and any drainage or reclamation works connected with such undertakings.
- acquire and operate facilities and services for the collection, treatment, and disposal of **sewage**, waste, and storm waters.

In addition to these core powers, the Board of Directors of the District has the power to perform all acts necessary or proper to carry out fully the provisions of the water code. There are powers granted to the Board of Directors of all special districts. Water Code powers are listed below:

WC-35400. Each district has the power generally to perform all acts necessary or proper to carry out fully the provisions of this division.

Analysis: This code section gives the water district authority to perform all acts necessary to carry out fully the provisions. It is recommended that this authority be active. These include the ability to contract for services, finance projects, and administer funds.

WC-35401. A district may acquire, plan, construct, maintain, improve, operate, and keep in repair the necessary works for the production, storage, transmission, and distribution of water for irrigation, domestic,

industrial, and municipal purposes, and any drainage or reclamation works connected therewith or incidental thereto.

Analysis: This code section allows the Water District to plan, construct, maintain, improve, or operate water systems. It is recommended that this authority be active.

WC-35402. A district shall not contract for the construction of irrigation works nor construct the irrigation works by employees of the district, if the cost of the construction is paid out of the proceeds of bonds of the district, until an election has been held to determine whether or not the bonds shall be issued.

Analysis: This code section requires an election process to occur before the Water District can proceed with irrigation works if the costs are paid out under bonds. It is recommended that this authority be active.

WC-35403. A district may contract to perform any agreement for the transfer or delivery pursuant to Chapter 5 of this part of any irrigation system, canals, rights of way, or other property owned or acquired by the district in exchange for the right to receive and use water or a water supply to be furnished to the district by the other party.

Analysis: This code section allows the Water District to contract to perform any agreement. Local government jurisdiction's commonly contract with licensed professionals to perform waterworks activities. It is recommended that this authority be active. By condition, The District is prohibited from moving/transferring/exporting any water outside of the Paso Robles Basin.

WC-35404. A district may enter for the purposes of the district upon any land.

Analysis: This code section allows the Water District entry on property for the purposes of District. This is a common ability of local governments the right to enter property to do Water District business. It is recommended that this authority be active.

WC-35405. A district may take conveyances, contracts, leases, or other assurances for property acquired by the district pursuant to this division.

Analysis: This code section allows the Water District to contract or lease property acquired by the district. This is a common ability of local governments to lease property owned by the Water District. It is recommended that this authority be active.

WC-35406. (a) A district may execute, by its president and secretary, all contracts and other documents necessary to carry out the powers and purposes of the district. (b) The board of a district may delegate and redelegate to officers and employees of the district, under the conditions and restrictions as shall be determined by the board, the power to bind the district by contract and execute contracts on behalf of the district.

Analysis: This code section allows the proposed Water District president and secretary to execute all contracts or other documents. It is common to grant the president or secretary the ability to sign documents on behalf of the Water District. It is recommended that this authority be active.

WC-35407. A district may commence and maintain any actions and proceedings to carry out its purposes or protect its interests and may defend any action or proceeding brought against it.

Analysis: This code section allows the proposed Water District to defend any action taken to carry out its purposes. It is recommended that this authority be active.

WC-35408. A district may commence, maintain, intervene in, compromise and assume the costs of any action or proceeding involving or affecting the ownership or use of waters or water rights within the district used or useful for any purpose of the district or a benefit to any land.

Analysis: This code section requires the proposed Water District to assume the cost of any action taken to carry out its purposes that may affect others. It is recommended that this authority be active.

WC-35409. A district may commence, maintain, intervene in, defend and compromise actions and proceedings to prevent interference with or diminution of the natural flow of any stream or natural subterranean supply of waters which may:

- (a) Be used or be useful for any purpose of the district;
- (b) Be of common benefit to the land or its inhabitants; or

(c) Endanger the inhabitants or land.

Analysis: This code section allows the proposed Water District to prevent interference with the natural flow of its water supplies. It is recommended that this authority be active.

WC-35410. The board of a district whose corporate area, in whole or in part, is included within a metropolitan water district may in any fiscal year declare its intention to pay out of its district funds the whole or a stated percentage of the amount of taxes to be derived from the area of such metropolitan water district within the district as such amount of taxes shall be fixed in the next succeeding fiscal year by resolution of the board of directors of such metropolitan water district. District receipts from any source, including assessments, acreage assessments and standby charges, may be used to pay said metropolitan tax. A district may provide for the levy, collection and enforcement of any district or improvement district assessment, acreage assessment or standby charge for the payment of said metropolitan water district tax in the same manner as other district or improvement district assessments and standby charges.

Analysis: This code section allows the proposed Water District to declare its intention to pay out of its Water District funds the amount of taxes to be derived from the area. It is recommended that this authority be active. Please note there is no metropolitan water district in the area. Also proposition 218 and State Law apply in the levying of taxes.

WC-35410.1. In addition to and as an alternative procedure to the levy and collection of assessments and standby charges, a district may fix and collect acreage assessments in an amount determined by the board for each acre of land and for parcels less than one acre within a district or improvement district. These acreage assessments shall be levied only for the payment of the whole or any part of a metropolitan water district tax. The resolution fixing the acreage assessment shall be adopted by the board only after adoption of a resolution setting forth the schedule of such acreage assessments proposed to be established and after notice and hearing in the form and manner prescribed by the board. The acreage assessment shall be levied, collected and enforced in the same manner as provided in Article 4 (commencing with Section 35470) of this chapter for standby charges.

Analysis: This code section allows the Water District to collect acreage assessments. Charging for water use is common for water agencies to cover costs and manage the resource and would be subject to proposition 218. It is recommended that this authority be active.

WC-35410.2. If there is more than one tax code area for the levy of said metropolitan water district tax within a district, an improvement district may be formed in the manner provided in Chapter 4.9 (commencing at Section 36410), of Part 6 of this division for any or all of said tax code areas for the purpose of providing for the payment of the whole or part of the metropolitan water district tax attributable to any tax code area. After the hearing on the resolution of intention as provided in Section 36415, or as said hearing may be continued, the board may by resolution order the improvement district formed. Thereafter in any year the board may elect to pay, from receipts, assessments or standby charges or any combination thereof levied exclusively in said improvement district, the whole or a stated percentage of the metropolitan tax for the next succeeding fiscal year attributable to the area within said improvement district, provided, that it takes similar action with respect to all other said tax code areas.

Analysis: This code section allows the proposed Water District to establish an Improvement District. Improvement Districts are commonly formed to identify specific areas that require diverse management. It is recommended that this authority be active.

WC-35411. A district may disseminate information to the public concerning the rights, properties, and activities of the district.

Analysis: This code section allows the proposed Water District to disseminate information about the District and its activities. It is common for local agencies to provide information about what it does. It is recommended that this authority be active.

WC-35413. (a) In order to enforce the provisions of any ordinance of the district, including an ordinance fixing charges for the furnishing of commodities or services, or to enforce any district rule or regulation adopted by the board of directors pursuant to Section 35421 or 35423 pertaining to the sale or distribution of water, the district may correct any violation of an ordinance of the district or of the rule or regulation. The district may also petition the superior court for the issuance of a preliminary or permanent injunction, or

both, as may be appropriate, restraining any person from the continued violation of any ordinance, rule, or regulation, of the district or for the issuance of an order stopping or disconnecting a service if the charges for that service are unpaid at the time specified in the ordinance, rule, or regulation.

(b) The district may enter upon the private property of any person within the jurisdiction of the district in order to investigate possible violations of an ordinance of the district or law, rule, or regulation described in subdivision (a). The investigation shall be made with the consent of the owner or tenant of the property or, if consent is refused, with a warrant duly issued pursuant to the procedures set forth in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, except that, notwithstanding Section 1822.52 of the Code of Civil Procedure, the warrant shall be issued only upon probable cause.

(c) The district shall notify the county or city building inspector, county health inspector, or other affected county or city employee or office, in writing, within a reasonable time if an actual violation of a district, city, or county ordinance is discovered during the investigation.

Analysis: This code section allows the Water District to enforce its ordinances or rules and correct any violations. Local government jurisdictions commonly have this capability to enforce their regulations. It is recommended that this authority be active.

Part 5 Powers and Purpose; Chapter 2; Powers; Article 2; Water Distribution:

WC-35420. All water distributed for irrigation purposes, except as otherwise provided in this article, shall be apportioned ratably to each holder of title to land upon the basis of the ratio which the last assessment against his land for district purposes bears to the whole sum assessed in the district for district purposes.

Analysis: This code section establishes a fair share ratio for assessments to each holder of title to land for district purposes. It is recommended that this authority be active.

WC-35421. Water sold to holders of title to land pursuant to Section 35470 shall be apportioned ratably to each holder of title to land making application therefor under such rules and regulations as the board may from time to time establish.

Analysis: This code section requires the sale of water to holders of title of land to be established based on the cost and value of the service and be apportioned as such. It is recommended that this authority be active. Current state laws would apply.

WC-35422. Where revenue bonds have been issued payable from revenues to be derived from the sale of water for the irrigation of land all water distributed for irrigation purposes shall be apportioned ratably to each holder of title to land making application therefor pursuant to rules and regulations established by the board.

Analysis: This code section requires all water derived from the revenue under bonds be distributed to each holder of title of land requesting water and paying for that water proportionately. It is recommended that this authority be active.

WC-35422.5. As an alternative, and in addition, to other methods set forth in this article regarding the apportionment of water, a district may enter into long-term water service contracts with the holders of title to land for the apportionment of all or any part of its water supply. Long-term water service contracts may provide that all water charges provided for, when due, are a lien on the land in the nature of assessments and may be collected and enforced in the manner provided in this division for the collection and enforcement of assessments. Any lien pursuant to this section has the same force, effect, and priority as an assessment lien, if the contract is recorded in the office of the county recorder in the county in which the land is located.

Analysis: This code section allows for long-term contracts to supply water/service to holders of title of land and have the assessments collected as a lien on the land. Having a consistent known amount of water under a long-term contract would benefit a landowner. It is recommended that this authority be active.

WC-35423. A district may establish, print, and distribute equitable rules and regulations for the sale and distribution of water. A district may provide therein that water shall not be furnished to (1) persons who violate the rules and regulations or against whom there are delinquent water, standby, facility, or other charges, or penalties or interest on any such charges, or (2) land against which there is a delinquent assessment.

Analysis: This code section allows the district to establish rules and regulations for the sale and distribution of water. It also allows the district to establish rules if violation or delinquent assessments occur. It is recommended that this authority be active. The District is prohibited from moving any water outside of the Paso Robles Basin.

WC-35424. After equitable rules and regulations for the distribution of water have been published once a week for two weeks in a newspaper of general circulation published in each affected county, any violation thereof is a misdemeanor and the violator shall, upon conviction thereof, be subject to a fine of not less than fifty dollars (\$50) and not more than two hundred dollars (\$200). When equitable rules and regulations for the distribution of water are amended, the district may publish a summary of the amendments to the rules and regulations with an Internet address and a physical location where the complete text of the amended rules and regulations may be viewed.

Analysis: This code section requires the district to publish the rules and regulations for general circulation. Once published violations may be fined. It is recommended that this authority be active.

WC-35425. If its board deems it to be for the best interests of the district, a district may enter into a contract for the lease, sale, or use of any surplus water not then necessary for use within the district, for use either within or without the district.

Analysis: This code section allows the district to enter into contract for the sale of surplus water. It is recommended the sale or use of surplus water not be allowed outside of the basin boundary as conditioned. It is recommended that this authority be active with the condition of no export.

WC-35427. Nothing in this article authorizes the sale of any water right.

Analysis: This code section does not authorize or take away any water rights. It is recommended that this authority be active.

WC-35428. No right in any water or water right owned by the district shall be acquired by use permitted under this article.

Analysis: This code section does not authorize the districts water rights to be acquired. It is recommended that this authority be active.

WC-35429. The board may grant to the owner or lessee of a right to the use of any water permission to store the water in any reservoir of the district or to carry it through any conduit of the district.

Analysis: This code section authorizes the district to work with an owner or lessee the right or permission to store water or carry water through the districts infrastructure. It is recommended that this authority be active. The District is prohibited from moving any water outside of the Paso Robles Basin.

Part 5 Powers and Purpose; Chapter 2; Powers; Article 3; Application for Water:

WC-35450. A district may fix and change a date prior to which applications for water for the ensuing irrigation season are to be received for all crops, or for annual crops and new plantings, and may require a cash deposit to be made at the time of application for each acre for which application is made.

Analysis: This code section authorizes the district to set the date for water application for the season and require a deposit for water. It is recommended that this authority be active.

WC-35451. The action of a district fixing or changing any date prior to which applications for water are to be received is ineffective until notice of the date is given by publication once a week for two successive weeks in a newspaper published in the office county. The date fixed is effective for each year thereafter unless changed by the board.

Analysis: This code section requires the district to publish the set dates for water applications for general circulation prior to taking effect. This date would be the same each year unless a new date is set and published. It is recommended that this authority be active.

WC-35452. The cash deposit shall, in the discretion of the board, be forfeited as to each acre not using the water applied for if the district has a sufficient supply of water available at the time the water is to be used.

Analysis: This code section authorizes the district to forfeit the deposit for any unused water applied for if sufficient supply is available. It is recommended that this authority be active.

WC-35453. In the event of water shortage the district may, with respect to the shortage area, give preference to or serve only the land for which application was filed prior to the application date fixed and the land for which no application was required.

Analysis: This code section allows the district to establish a priority based on the water applications in the event of a shortage. It is recommended that this authority be active.

WC-35454. If the available water is inadequate to serve all of the land as to which applications for water are filed pursuant to Section 35450, the district may require the owners of land which is proposed to be planted to annual crops or to new plantings to take a proportionate percentage reduction in the water they would normally use thereon and may require the owners of land which is planted to permanent crops to take a reasonable proportionate percentage reduction in the water they would normally use in an amount not exceeding the percentage reduction required of plantings to annual crops and new plantings. The provisions of this section shall be effective only if more than one-half of the district's revenue for that year will be derived from charges made for the sale of water.

Analysis: This code section allows the district to establish a proportional percentage reduction on the water normally used if inadequate water is available to serve all applications for water. It is recommended that this authority be active.

WC-35454.5. In any year in which the board of a district not having meters or other volumetric measuring instruments or facilities to measure substantially all agricultural water to be delivered concludes the available water supply will be inadequate to serve all land entitled to service that will probably desire such service, the district may establish reasonable annual water requirements for growing each type of crop grown or likely to be grown in the district in that year; determine the maximum acreage of each crop that each holder of title to land, or his duly authorized agent or tenant, may irrigate with district water by dividing the quantity of water apportioned or apportionable to him by such reasonable annual water requirements so established by the district; limit the acreage of each crop that each such holder of title to land, or his duly authorized agent or tenant, may irrigate with district water to the maximum acreage or acreages so determined; and refuse to deliver water to, or assess penalties on, a holder of title to land, or his duly authorized agent or tenant, who uses district water on a greater acreage of such crops. Nothing in this section shall prohibit or limit the application of the provisions of Section 35453 or 35454. This section provides a means of measuring the allocation of water to lands based on the type of crop grown and does not authorize a district to designate the crops to be grown on such land.

Analysis: This code section allows the district to establish reasonable annual water requirements if volumetric measuring concludes the available water supply will be inadequate to serve all land entitled. It is recommended that this authority be active.

WC-35455. Nothing in this article restricts or limits existing powers of a district to control and provide for distribution of water.

Analysis: This code section allows the district under existing powers to control (or limit) the distribution of water to serve all land entitled. It is recommended that this authority be active. The District is prohibited from moving any water outside of the Paso Robles Basin.

Part 5 Powers and Purpose; Chapter 2; Powers; Article 4; Charges:

WC-35470. Any district formed on or after July 30, 1917, may, in lieu in whole or in part of raising money for district purposes by assessment, make water available to the holders of title to land or the occupants thereon, and may fix and collect charges therefor. Pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, the charges may include standby charges to holders of title to land to which water may be made available, whether the water is actually used or not. The charges may vary in different months and in different localities of the district to correspond to the cost and value of the service, and the district may use so much of the proceeds of the charges as may be necessary to defray the ordinary operation or maintenance expenses of the district and for any other lawful district purpose.

Analysis: This code section allows the district to collect charges in addition to raising money by assessments for making water available to holders of title to land or the occupant consistent with Prop 218. It is recommended that this authority be active.

WC-35470.1. If the procedures set forth in this article as it read at the time a standby charge was established were followed, the district may, by resolution, continue the charge pursuant to this article in successive years at the same rate. If new, increased, or extended assessments are proposed, the board shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

Analysis: This code section allows the district to collect standby charges consistent with Prop 218. It is recommended that this authority be active.

WC-35470.5. The district may, by resolution, provide that a penalty not in excess of 10 percent shall be added to water, standby, facility, or other charges which are delinquent, and the delinquent charges shall bear interest at a rate not in excess of 11/2 percent per month. For purposes of this section, the district shall establish the period or date after which the charges shall become delinquent if they remain unpaid. The delinquency dates established in Part 7 (commencing with Section 36550) and Part 7.5 (commencing with Section 37200) for unpaid assessments, which may include standby or other charges for the use of district water that has been made a part of the assessment, shall not apply to the addition of penalties and interest to delinquent charges, pursuant to this section.

Analysis: This code section allows the district by resolution to add a penalty not to exceed 10% to delinquent charges. It is recommended that this authority be active.

WC-35471. Any funds derived pursuant to Section 35470 in excess of the amount necessary for operating or maintenance expenses and other lawful district purposes shall be applied by the treasurer upon the payment of interest on general obligation bonds or to create a sinking fund.

Analysis: This code section allows the district to create a sinking fund or apply excess funds to pay interest on bonds. It is recommended that this authority be active.

WC-35472. For the purpose of providing funds to pay revenue bonds and interest when due the board shall fix and collect charges for the sale of water.

Analysis: This code section allows the district to collect charges for the sale of water to pay interest or bonds. It is recommended that this authority be active.

WC-35473. The charges to pay revenue bonds and interest thereon when due shall be fixed by the board before April 1st of each year.

Analysis: This code section requires the district to set a fixed date before April 1st of each year to set charges to pay interest or bonds. It is recommended that this authority be active. This is subject to current state law.

WC-35474. The charges to pay revenue bonds and interest thereon shall be fixed by the board upon a flat rate per acre or connection or on a metered basis or on a combination of a flat rate and metered basis and shall be sufficient to raise the amount specified on the face of the bonds when issued and one year's interest thereon unless the district has accumulated a surplus fund in the treasury of the district which is available for the payment of all bonds and interest that will accrue for payment during the current year, in which event the charges may be made so that the aggregate amount to be raised by the sale of water when added to the surplus fund equals the face value of the bonds that will mature within one year and the interest thereon.

Analysis: This code section requires the district to set a flat rate or connection or a metered basis charge or combination to re-pay bonds and interest. It is recommended that this authority be active. This is subject to current state law.

WC-35475. The charges to pay revenue bonds and interest thereon may include a stand-by or carrying charge notwithstanding the water is not actually used, under such rules and regulations as the board may prescribe.

Analysis: This code section allows the district to charge stand-by or carrying charges to re-pay bonds and interest even if the water is not used. It is recommended that this authority be active. This is subject to current state law.

WC-35476. The charges to pay revenue bonds and interest thereon may be made payable in advance before service of water is made to the land.

Analysis: This code section allows in advance payments to re-pay bonds and interest before service of water is made. It is recommended that this authority be active.

WC-35477. The collection of charges to pay revenue bonds and interest thereon shall be continued each year until all revenue bonds, together with interest thereon, are fully redeemed and paid.

Analysis: This code section allows the district to charge for payment of bonds and interest each year until fully redeemed and paid. It is recommended that this authority be active.

WC-35478. All revenue bond redemption and interest charges are a first lien on all revenues received from the sale of water unless the district, by a limitation clearly expressed in the ballots used at the election at which the bonds are voted and in all the bonds, limits the charge and lien to a part of the revenues of the district or to a fixed portion of all revenues from the sale and use of water.

Analysis: This code section allows all revenue to re-pay bonds and interest to be a first lien from the sale of water unless the district clearly expresses in a ballot to limit the charge and lien to part of the revenue. It is recommended that this authority be active.

WC-35479. The district may elect, if it is using the alternative provisions for levy, collection and enforcement of district assessments by the county as provided in Part 7.5 hereof, to have the county levy and collect standby charges. If the district so elects, it shall certify to the county auditor of each county in which the district is located and the county assessor in each county in which the district is located on or before the fourth Monday in August of each year in which a standby charge is to be levied and collected for the fiscal year commencing on that July 1, the following information for purposes of such levy, assessment and collection:

(a)The amount of the acreage standby charge levied by the district, both by acre and total amount estimated to be collected for the entire district;

(b)The assessee parcels and assessee names for each parcel of land in the district against whom a standby charge is being levied and the acreage assessed to such person according to the district records, and the total amount of the charge to be paid by each assessee parcel.

Analysis: This code section allows the district to use an alternative levy provision to have the county collect charges. It is recommended that this authority be active. This is subject to current State Law.

WC-35480. The county assessor and county auditor shall thereafter add to the tax bills for each assessee and assessee parcel as so certified, in addition to the other charges, the standby charges of the district.

Analysis: If section WC-35479 is used then this code section allows the county assessor and auditor to add charges to the tax bill to each assessee and parcel. It is recommended that this authority be active.

WC-35481. The county tax collector and treasurer shall thereupon collect, receive and disburse to the district the standby charges as collected with the regular tax payments to the county.

Analysis: If section WC-35479 is used then this code section requires the county tax collector and treasurer to collect charges and disburse them to the district. It is recommended that this authority be active.

WC-35482. No district furnishing water for residential use to a tenant shall seek to recover any charges or penalties for the furnishing of water to or for the tenant's residential use from any subsequent tenant on account of nonpayment of charges by a previous tenant. The district may, however, require that service to subsequent tenants be furnished on the account of the landlord or property owner.

Analysis: This code section does not allow the district to recover any charges or penalties for furnishing water to subsequent accounts of nonpayment of previous tenant's. The district may however, require subsequent tenants service be furnished on a landlord or property owners account. It is recommended that this authority be active.

Part 5 Powers and Purpose; Chapter 2; Powers; Article 5; Sewers: [35500 - 35509]

This section describes the collection, treatment, and disposal of sewage, waste, and storm water as services that may be provided by the District. **Sewer services are recommended to not be an active power.** This would mean sewer powers would be inactive or latent. The District could request LAFCO activate these powers in the future.

WC-35300. A district shall adopt for the government and control of its affairs a code of by-laws consistent with the Constitution and laws of the State and the provisions of this division.
(Added by Stats. 1951, Ch. 390.)

WC-35301. Within 60 days after they have qualified for office, the board of directors elected at the formation election shall prepare the by-laws for the written approval of the board of supervisors of the principal county.

WC-35303. The bylaws shall provide for:

- (a) The manner of voting in person or by proxy.
 - (b) The qualifications and duties of officers, the tenure of their office, and the time and manner of their appointment or election, insofar as not provided for in the Uniform District Election Law.
 - (c) The compensation of officers.
- (Amended by Stats. 1968, Ch. 104.)

WC-35304. The by-laws shall also provide for:

- (a) The location of the district office.
 - (b) The method of changing the location of the office.
 - (c) The method of amending or repealing the by-laws.
 - (d) Suitable penalties for the violation of the by-laws not to exceed in any one case two hundred dollars (\$200) for any one offense.
- (Added by Stats. 1951, Ch. 390.)

ARTICLE 1. Acquisition and Disposition of Property [3560 -35604](Article 1 added by Stats. 1951, Ch. 390.)

WC-35600. A district may, within or without the district in the State, acquire by purchase, condemnation, or other legal means all property or rights in property necessary or proper for the district works and to supply the land with sufficient water for all district purposes.
(Amended by Stats. 1963, Ch. 899.)

WC-35601. The right is hereby granted to locate, construct, and maintain works of a district on any land owned by the State.
(Added by Stats. 1951, Ch. 390.)

WC-35602. There is given, dedicated, and set apart for the uses and purposes of each district all water and water rights belonging to the State within the district.
(Added by Stats. 1951, Ch. 390.)

WC-35603. A district may construct any works along, under, or across any stream of water, watercourse, street, avenue, highway, railway, canal, ditch, or flume which the route of a pipeline or canal of the works may proceed along or across in a manner that will afford security for life and property. The district shall restore the property crossed as near as may be to its former state or so as not to have impaired unnecessarily its usefulness. Every company whose railroad is crossed by the works shall unite with the district in forming the crossing and shall grant the necessary privileges.
(Amended by Stats. 1984, Ch. 1552, Sec. 1.)

WC-35604. A district may for a valuable consideration lease, sell, or contract for the sale of any property of the district whenever it may be necessary, advisable, or for the best interests of the district.
(Added by Stats. 1951, Ch. 390.)

ARTICLE 2. Eminent Domain [35627 - 35628] (Article 2 added by Stats. 1951, Ch. 390.)

WC-35627. If the district and the owners and controllers of any property or franchise to be crossed by works of a district cannot agree with the district as to payment, location, or the manner of the crossing, these matters shall be determined as in a proceeding in eminent domain.

(Added by Stats. 1951, Ch. 390.)

WC-35628. A district shall not exercise the right of eminent domain under this article for the condemnation of property outside the boundaries of the principal county in which the district is situated unless it first obtains the consent thereto of the board of supervisors of the county in which such property is located.

(Added by Stats. 1963, Ch. 899.)

CHAPTER 5. Contracts With Other Agencies [35850 - 35855] (Chapter 5 added by Stats. 1951, Ch. 390.)

WC-35850. A district may for a valuable consideration enter into any contract with any irrigation or drainage district formed under the laws of the State as the board deems proper or advisable in the interests of the district, or to carry out or execute any of the purposes authorized by this division.

(Added by Stats. 1951, Ch. 390.)

WC-35850.5. A district shall have power to join with one or more public agencies, private corporations or other persons for the purpose of carrying out any of the powers of such district, and for that purpose to contract with such other public agencies or private corporations or persons for the purpose of financing such acquisitions, constructions and operations. Notwithstanding anything to the contrary in this division, such contracts may provide that bonds of such district may be issued in order to acquire water rights or entitlements, including the right to receive and use water or a water supply, for each of the parties to such contracts, with such water rights or entitlements being divided among the parties in consideration of the payments to be made by such parties in order to provide debt service on the bonds of such district. A district may issue its bonds for the purpose of acquiring such water rights or entitlements under such contracts whenever joint action with the other parties to such contracts is reasonably necessary or convenient in order to obtain such water rights or entitlements for the district, and in such case the issuance of bonds of the district shall be considered a public purpose for the benefit of the district within the meaning of Section 25 of Article XIII of the California Constitution. Such contracts may provide for contributions to be made by each party thereto and for the division and apportionment of the expenses of such acquisitions and operations, and the division and apportionment of the benefits, the services and products therefrom, and may provide for an agency to effect such acquisitions and to carry on such operations, and shall provide in the powers and methods of procedure for such agency the method by which such agency may contract. Such contracts with other public or private corporations or persons may contain such other and further covenants and agreements as may be necessary or convenient to accomplish the purposes thereof.

(Amended by Stats. 1974, Ch. 860.)

WC-35851. A district may for a valuable consideration enter into any contract with the United States, the State, or any department or agency of either, or with any distribution district or improvement district formed within its boundaries, or with any political subdivision of the State, including irrigation and reclamation districts, as the board deems proper, advisable, or in the interest of the district for any one or more of the following purposes:

(a) For the storage, regulation, control, development, and distribution of water for the irrigation of land.

(b) For the use, control, and distribution of drainage water within the district.

(c) For the construction, extension, operation, control, maintenance, and management of any works or other property constructed or acquired by the district, or over which it may have control, or which may be used or useful for the irrigation or drainage of land or for providing hydroelectric power.

(Amended by Stats. 1957, Ch. 1935.)

WC-35852. Any contract entered into pursuant to this chapter may provide:

(a) That the land shall be included in any irrigation, drainage, or reclamation project operated directly or indirectly by or under the authority of the United States or the State.

(b) That the land shall receive water, electric power, drainage service, or other works or property of the irrigation, drainage, or reclamation project, including revenues derived therefrom.
(Added by Stats. 1951, Ch. 390.)

WC-35853. Any contract entered into pursuant to this article may provide for the sale and conveyance to the United States, the State, any reclamation or irrigation project formed or operated by or under the authority of either, or any irrigation or water district formed under the laws of the State on any conditions agreed upon, which conditions shall require that the purchasing party furnish water to the land.
(Added by Stats. 1951, Ch. 390.)

WC-35855. An action to determine the validity of any contract may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.
(Amended by Stats. 1961, Ch. 1529.)

Conditions of Approval

The following conditions of approval are recommended if the proposed Tuscan Water District is approved:

General

1. That the name of the California Water District shall be the Tuscan Water District.
2. That formation of the Tuscan Water District shall be contingent upon a successful landowner vote, based on one (1) vote for every one (1) acre of land owned, on the following:
 - a. Approve the formation of the 102, 327 acre Tuscan Water District
 - b. Approve parcel assessment of a maximum of ten dollars per acre (\$10.00/acre) to fund the initial administrative/organizational needs and activities of the Tuscan Water District.
 - c. Selection of an initial nine (9) members of the Board of Directors

If any of the above matter on the ballot are not successful, the District will not be formed.

3. Prior to filing the Certificate of Completion, a revised legal description and boundary map(s) shall be submitted to reflect the service area of the Tuscan Water District as adopted by the Commission.
4. That the effective date of the Tuscan Water District formation will be determined by the certification of the election results by the Board of Supervisors and the filing of the certificate of completion by the LAFCO Executive Officer with the County Clerk-Recorder's office.
5. That the Tuscan Water District set the appropriations limit as soon as feasibly possible consistent with Government Code Section 57000.

Boundaries

6. Within 6 months of the recording of the Certificate of Completion for the formation of the Tuscan Water District, the Board of Directors of the Tuscan Water District shall submit an application to LAFCo to conduct a municipal service review (MSR) and determine the sphere of influence for the new district to LAFCo and that all fees and costs associated with the application shall be borne by the applicant (TWD), including an initial deposit in an amount deemed appropriate by the Executive Officer. The failure to execute this condition will result in the Commission applying a zero sphere of influence and initiating corrective actions up to and including, dissolution of the District.

Governance – Board of Directors

7. That the initial Board of Directors of the Tuscan Water District shall be composed of nine (9) members as provided for in the California Water Code the Water Code sections 34700.
8. The initial TWD board of directors will be elected at large based on one (1) vote for every one (1) acre of land owned. (WC34700).

9. The Commission shall at the time of calling the formation election for the proposed district, prescribe the procedure for the proponents to present candidates for the offices to be filled at that election. (WC 34403). Prior to the close of the 30 day reconsideration period following project approval, the TWD chief petitioners shall provide to the LAFCo Executive Officer a slate of nine (9) persons nominated for the Board of Directors.
10. The TWD board of directors shall within six (6) months from the date of the recording of the Certificate of Completion, adopt a resolution requesting LAFCo to establish electoral divisions based on equal size (acres) and the boundaries thereof. The number of divisions shall be equal to the number of directors. (WC35025) The failure to execute this condition will result in the Commission initiating corrective actions up to and including, dissolution of the District.

Governance – Voting

11. The Board of Directors of the Tuscan Water District shall, between January 1 and March 30 of each year, inspect the assessable area within the district. At such time as at least 50 percent of the assessable area within the district is devoted to and developed for residential, industrial, or nonagricultural commercial use, or any combination thereof, such fact shall be certified to the board of directors by the secretary of the district. Any time after certification, the registered voters residing within the district may petition for a change in the voting procedure from a landowner voting district to a resident voting district.

Intergovernmental Coordination – SGMA and Water

12. The Tuscan Water District, shall within one (1) year from the date of the recording of the Certificate of Completion, enter into a memorandum of understanding (MOU) with the Vina Basin and Butte Basin Groundwater Sustainability Agencies establishing the formal, government to government working relationship between the Tuscan Water District and the GSA's to include acknowledging the roles of each agency in the SGMA environment, methods for communication, cooperation and collaboration, establishing points of contact and any other matter that leads to cooperation in the implementation of the GSP for the basin. The MOU should identify the Tuscan Water District as a GSA partner, pursuant to the sustainable Groundwater Management Act, Water Code section 10720 et. seq. The MOU shall be provided to the LAFCo Executive Officer upon completion. The failure of the District to successfully enter into a MOU with the GSA's within one year of the Certificate of Completion being filed, the Tuscan Water District shall be dissolved by LAFCo at the request of the TWD Board of Directors. If an agreement cannot be reached with the GSA's, the TWD can request LAFCo to mediate a resolution and/or extend this deadline for an additional period to be determined by LAFCo or modify the condition.
13. Per the MOU required in Condition No. 12, all activities, actions, projects, and proposals initiated by the Tuscan Water District within its jurisdictional boundaries related to the direct or indirect management of groundwater resources, including groundwater recharge options, shall be submitted to the appropriate GSA for review and cannot be implemented or initiated until and unless, the affected GSA Board determines in writing that the proposed activities, actions and proposals are consistent with the applicable GSP. Requests not deemed consistent with the GSA's GSP, are prohibited.
14. Tuscan Water District shall submit any proposals, plans or projects regarding any extraction, use, or transfer of groundwater as defined in Butte County Chapter 33 (Groundwater

Conservation), to the Butte County Department of Water and Resource Conservation for review and such proposals cannot be implemented or initiated until and unless, the Butte County Board of Supervisors or the Director of Butte County Department of Water and Resource Conservation determines in writing that the proposed activities, actions and proposals are consistent with the Butte County Code Chapter 33 (Groundwater Conservation). Requests not deemed consistent with the Butte County Chapter 33 are prohibited. The Tuscan Water District shall adhere to all the laws of the County of Butte

15. The Tuscan Water District shall not have the power to acquire, plan, construct, maintain, improve, operate, and keep in repair the necessary works for any drainage or reclamation works within the jurisdictional boundaries or sphere of influence of the Rock Creek Reclamation District without the written consent of the Rock Creek Reclamation District Board of Directors.

General Powers and Functions

16. That pursuant to the applicable Water Code Sections the Tuscan Water District is authorized to exercise all powers and authorities subject to the following restrictions in a-g below:
 - a. The Tuscan Water District's shall not have the powers to export, transfer, or move water underlying the Tuscan Water District (including groundwater pumped into an above ground storage facility) outside the Vina or Butte Subbasins. For purposes of this Condition "groundwater" shall have the meaning set forth in Water Code Section 10721(g) as follows: "Groundwater" means water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water, but does not include water that flows in known and definite channels unless included pursuant to Section 10722.5.
 - b. The Tuscan Water District shall not have the power to acquire, plan, construct, maintain, improve, operate, and keep in repair the necessary works for the production, storage, transmission, distribution and sale of water for domestic, industrial, and municipal purposes (WC35401). These powers under the California Water Code shall be deemed inactive or latent.
 - e. The Tuscan Water District shall not have the power to acquire, construct, operate, and furnish facilities and services, within or without the district, for the collection, treatment, and disposal of sewage, waste, and storm water nor contract with any persons, firms, public or private corporations or public agencies or other users concerning facilities and services for said purposes. (WC35500) The District could request that LAFCO activate these powers in the future. These powers under the California Water Code shall be deemed inactive or latent.
 - f. The Tuscan Water District shall receive approval for any groundwater recharge projects within the Districts' boundaries from the appropriate GSA under Conditions No.12 and 13, and the reclaimed or recharge water shall be maintained and used for the general public good in sustaining the Vina groundwater basin and the District and its landowners are restricted from ownership of reclaimed or recharged water.

- g. If the District approves and implements a project involving the delivery and/or importation of surface water into the District, then the District shall not thereafter transfer that surface water for use outside the District boundaries.

Future Projects and CEQA

- 17. As a means to ensure that later District actions comply with CEQA and are consistent with the GSP, the District shall comply with the requirements in this condition. Prior to approving any GSP implementation activity that may result in a direct or reasonably foreseeable indirect physical change in the environment, the District shall undertake these steps:
 - (a) The District shall prepare a project description and submit it to the Vina Groundwater Sustainability Agency (GSA). The GSA shall undertake a GSP consistency determination by reviewing the project description and determining whether the project is consistent with the GSP. The GSA shall determine that the project is consistent with the GSP if the project is (1) a type of project or action or within the scope of a project or action identified in the GSP as a planned or potential project or management action, or (2) consistent and compatible with the goals, objectives, purposes, and policies in the GSP. GSA staff and officers shall not use or exercise any personal or subjective judgment in deciding whether the project should be carried out. The GSA GSP consistency determination is intended to be a ministerial review, with the GSA determining only whether the project is consistent or not. This condition is not intended to confer on the GSA the discretionary authority to determine whether to approve a District project or to modify or condition a project. A principal purpose of the GSP determination review is to confirm that the proposed project will be consistent with the GSP before the District undertakes the effort, time, and expense to perform CEQA review of the project.
 - (b) If the GSA determines that the proposed project is consistent with the GSP, the District shall prepare an appropriate CEQA document for the project (e.g., notice of exemption, initial study and negative declaration, environmental impact report), adopt the CEQA document, make appropriate findings, and approve the project in accordance with the procedural and substantive requirements of CEQA. The District shall include the GSA on its distribution list for CEQA-related notices and draft documents. If during the CEQA process the District materially changes the project description, then the District shall consult with the GSA to confirm that the proposed project as modified remains consistent with the GSP.
 - (c) The District may proceed with and implement the project if the GSA has determined that it is consistent with the GSP and the District has complied with CEQA.
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Environmental Determination – Notice of Exemption

The Tuscan Water District (TWD) formation shall be subject to the following analysis concerning California Environmental Quality Act (CEQA) compliance.

Introduction

The proposal being reviewed and considered by the Butte Local Agency Formation Commission (LAFCo) is the formation of a new California water district to be named the Tuscan Water District (the Proposal). This CEQA analysis will also serve as an attachment to accompany the CEQA Notice of Exemption for the Proposal.

A proposal to form a new special district is an activity that triggers and requires LAFCo to preliminarily review the proposal to determine whether CEQA applies, and if so, what level of review is required. Whether district formation is a project under CEQA that requires an initial study/negative declaration or environmental impact report depends upon the particular facts.

LAFCo has preliminarily reviewed the Proposal under CEQA Guidelines section 15060 in order to determine whether the activity is subject to CEQA review. LAFCo has determined that the approval of the Proposal at this time and under the present circumstances is not a project as defined by CEQA. Additionally, even if approval of the Proposal is a project under CEQA, LAFCo has determined that it is exempt from CEQA review. Consequently, LAFCo has prepared this Notice of Exemption.

The purpose of the Notice of Exemption is to explain and confirm that the Proposal is not a project subject to CEQA review, that the Proposal is exempt from CEQA, that detailed CEQA review at this planning stage would be premature and speculative and would not provide meaningful information, and that CEQA review will be conducted later in the groundwater sustainability plan implementation process (discussed below) as and when the new water district identifies appropriate GSP projects and actions to be implemented, at a time when there is sufficient specificity to allow for meaningful environmental review. .

Nature, Location, Purpose, and Beneficiaries of TWD Formation

The Proposal is the formation of a new California water district in Butte County. The water district boundaries would be as shown on Attachment A of this report. The district's sphere of influence would be the same.

The Proposal relates to implementation of the Sustainable Groundwater Management Act (SGMA), adopted by the California Legislature in 2014. The new law requires management of groundwater resources in California. SGMA requires groundwater sustainability agencies to manage groundwater at the local level through the development of groundwater sustainability plans (GSP). A GSP must ensure that a groundwater basin (or subbasin) achieves sustainable conditions.

The State Department of Water Resources has divided the state into separate groundwater basins and subbasins based on hydrology and other factors. Western Butte County is located within the large Sacramento Valley Basin, which DWR has further broken down into many

subbasins. Butte County is located within parts of four subbasins -- Vina, West Butte, East Butte, and Wyandotte Creek. There currently is no locally-controlled, subbasin-wide special district in the Vina (and a portion of the Butte) Subbasins that can evaluate, determine, fund, implement, and oversee projects to implement a GSP.

The Vina and Rock Creek Reclamation District Groundwater Sustainability Agencies (GSA) have recently (12/15/2021) approved the Vina Subbasin Groundwater Sustainability Plan (Vina GSP) and can now submit the GSP to DWR for review. Petitioners seek to form a new water district principally to evaluate, fund, and implement projects and actions to achieve groundwater sustainability under the Vina GSP.

The Vina GSP includes a Projects and Management Actions chapter that lists possible implementing projects and management actions (PMAs) that would help move the subbasin towards its goal of sustainability. The Vina GSA website refers to the PMAs as a "menu of options" for the subbasin to achieve sustainability. The numerous potential PMAs fall under several categories, including recharge projects; water supply augmentation projects; water conservation projects; projects to reduce non-beneficial consumptive use; and, monitoring programs (inter-basin flows, stream-aquifer interactions, groundwater pumping, water levels). PMA examples with over a dozen possible projects listed.¹ The GSA will continue to work with its partners throughout the Vina Basin gathering ideas for potential additional PMAs that could be included in the GSP. Consequently, the Vina GSP is expected to evolve as additional facts are known and the menu of many different PMA options may grow in order to identify feasible and effective options and to achieve sustainability.

The varied PMA choices range from water supply projects to recharge projects to water conservation to groundwater regulation. These choices involve a wide array and very different types of potential environmental impacts. At this planning stage, neither the GSA nor the district formation petitioners have identified any particular preferred, intended, or proposed PMA. This same options considerations process is also at play with other water agencies such as the Paradise Irrigation District which is currently completing an Options Study being prepared by Sacramento State with funding from the State Water Board. This Study will shed additional light on various project or proposals that may assist with groundwater sustainability goals. Also underway is a Sewer Project proposal initiated by the Town of Paradise that may find some relationship between wastewater systems discharge and groundwater recharge projects. These examples further demonstrate the very fluid atmosphere surrounding water issues in Butte County and the clear inability at this stage to make meaningful proposals from incomplete studies and uncertain outcomes for the GSP.

¹ The potential PMA projects are:

recharge projects (FloodMAR (flood managed aquifer recharge); recharge basins; field flooding; stormwater recharge (land application); waste water recycling (land application); in-lieu recharge (import surface water supply); injection wells; upper watershed management); demand management projects (incentive based groundwater pumping reduction; agricultural conservation; urban conservation; groundwater pumping allocation (requires metering); groundwater pumping fees above allocation amount; water trading (cap and trade); well moratorium; land use/zoning ordinances (low impact development; gray water; impervious surfaces; domestic well depths); voluntary land fallowing; non-native vegetation removal);

projects to augment stream flows (e.g., environmental water purchase); domestic well mitigation (deepen wells; connect to an existing water purveyor).

With the GSP adopted, the newly elected TWD governing board would evaluate the GSP and its menu of PMA options and it would develop a plan to determine, fund, and implement appropriate PMAs to achieve sustainability in consultation with the area residents, landowners, farmers, and other interested parties. Appropriate PMAs would be approved and implemented over a 20-year horizon. Tuscan Water District would be a local government agency with its own CEQA responsibilities and obligations. Consequently, as the new district identifies any proposed PMA project, it will review the PMA under CEQA before approving the project.

The principal objective for district formation is to create a local agency with the authority to evaluate, determine, fund, implement, and oversee projects and actions to achieve groundwater sustainability under the GSP adopted by the Vina and Rock Creek Reclamation District GSAs. LAFCo approval of the Proposal would allow for a locally-controlled, subbasin-wide district to assume these responsibilities and obligations. The Proposal would benefit the local residents, landowners and farmers who depend upon a well-managed groundwater subbasin and who would bear the principal financial obligation for GSP implementation.

Exempt Status and Reasons Why Proposal is Exempt

LAFCo has determined that the Proposal is exempt from environmental review for three reasons: (1) the Proposal is not a CEQA project; (2) CEQA environmental review relating to the Proposal is premature; and (3) the Proposal is exempt under several exemptions.

Proposal is not a Project

LAFCo approval of a change of organization (such as a special district formation) is a project under CEQA when the action has a potential for resulting in either a direct or reasonably foreseeable indirect physical change in the environment. (CEQA Guidelines §§ 15060(c) & 15378.) For example, a local government change of organization approval is a CEQA project when it constitutes an essential and conclusive step that foreseeably will culminate in some action that may affect the environment (e.g., approval of annexation of territory to a city for the planned development of that territory). But, when the LAFCo approval leaves open the issue of whether, what, where, or when any actual physical change affecting the environment would ultimately take place, the approval is not a project.

The formation of a water district under these facts and at this time is not a CEQA project because the GSP has not yet received approval by DWR (under review) and the GSA's must then consider how to best implement the GSP, assuming the PMA's will evolve throughout this stage and the preferred or planned GSP actions and projects to be implemented have not yet been fully vetted beyond cursory identification. Therefore, under the current circumstances, approval of district formation will not result in any reasonably foreseeable change to the environment.

Environmental Review is Premature

Choosing the precise time for CEQA compliance involves a balancing of competing factors. EIRs and negative declarations should be prepared as early as feasible in the planning process to enable environmental considerations to influence project program and design and

yet late enough to provide meaningful information for environmental assessment. (CEQA Guidelines § 15004(b).)

Since the GSP has not yet received approval by DWR (under review) and the GSA's must then consider how to best implement the GSP, assuming the PMA's will evolve throughout this stage and the preferred or planned GSP actions and projects to be implemented have not yet been fully vetted beyond cursory identification, it would be difficult to identify and formulate a project for thorough and meaningful environmental assessment. Consequently, detailed CEQA environmental review of the Proposal at this time would be premature because (a) the analysis would occur too early in the GSP evaluation and planning process to allow meaningful analysis of potential environmental impacts, (b) the GSP will propose several different projects and options such that analysis of potential environmental impacts would be wholly speculative, and (c) the potential future environment- changing projects and actions are so varied and uncertain at this time that preparation of an initial study or EIR at this planning stage would be so speculative as to be meaningless.

Detailed CEQA review therefore should wait until GSP implementation project plans have matured into firm and specific proposals. Tuscan Water District will be a local government agency with its own CEQA responsibilities and obligations and it will review proposed GSP implementation actions under CEQA as and when it identifies proposed PMA projects.

Proposal is Exempt

There are six CEQA exemptions that apply to LAFCo's review and approval of the Proposal:

- Common sense exemption. CEQA does not apply "where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." (CEQA Guidelines§ 15061(b)(3).) At the time of water district formation, there will not be any identifiable environmental changes that are reasonably foreseeable because GSP implementation actions will be evaluated, determined, and implemented at a much later stage in the SGMA/GSP process.
- Organizational activity exemption. Similarly, CEQA defines "project" to exclude "organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment." (CEQA Guidelines§ 15378(b)(5).) At this stage and as part of the planning work toward implementing groundwater regulation, LAFCo's organizational action to create a new water district is exempt because that action at this time will not result in any physical change in the environment.
- Funding mechanism creation exemption. A principal objective for water district formation is to create a local agency with the authority to generate local revenue through fees or assessments and fund GSP implementation projects. The creation of a government funding mechanism is not a project. (CEQA Guidelines§ 15378(b)(4).)
- Natural resource protection exemption. LAFCo is a government agency authorized by state law to regulate local government changes of organization. LAFCo approval of water district formation is an action to facilitate GSP implementation, which is an action to maintain and restore the groundwater, a natural resource and a matter involving environmental protection. The regulatory process involves procedures for

protection of the environment because LAFCo will create a new water district (a local government agency subject to CEQA) that must evaluate its projects under CEQA before approving GSP implementation actions. The Proposal therefore is exempt under CEQA Guidelines sections 15307 and 15308.

- Planning study exemption. "[F]easibility or planning studies for possible future actions which the agency, board, or commission has not approved, adopted, or funded does not require the preparation of an EIR or negative declaration." (CEQA Guidelines § 15262.) Water district formation is exempt under this provision because it is a GSP planning-related action that will facilitate future GSP implementation actions that LAFCo, GSA, and the water district have not yet approved, adopted, or funded.
- SGMA exemption. SGMA contains a special CEQA exemption: "[CEQA] does not apply to the preparation and adoption of plans pursuant to this chapter. Nothing in this part shall be interpreted as exempting from [CEQA] a project that would implement actions taken pursuant to a plan adopted pursuant to this chapter." (Water Code § 10728.6.) This exemption distinguishes between GSP preparation and adoption (exempt) and later GSP implementing projects (not exempt). Petitioners are pursuing water district formation concurrent with GSA preparation of the Vina GSP in order for the district to exist and be able to start GSP implementation after the Vina GSP is adopted. Water district formation therefore is an organizational activity that is part of GSP preparation and adoption. At this time, the SGMA/GSP process is in the planning (exempt) phase and water district formation at this stage similarly should be considered exempt. Conversely, if LAFCo were to treat district formation as a CEQA project and undertake detailed environmental review of potential Vina GSP implementation actions, then the environmental analysis would need to evaluate the potential actions to later implement the Vina GSP, which would be inconsistent with the SGMA exemption for GSP adoption.

Future Efforts Under CEQA

District formation will be subject to the following conditions cornering Groundwater Sustainability Plan consistency and future CEQA compliance.

- (a) As explained in the District formation application, LAFCo staff reports, and CEQA Notice of Exemption, detailed CEQA environmental review at the time of District formation is premature because (i) the analysis would occur too early in the Vina Groundwater Subbasin Groundwater Sustainability Plan (GSP) planning and implementation process to allow meaningful analysis of potential environmental impacts, (ii) the GSP proposes several different projects and options such that analysis of potential environmental impacts would be speculative at this time, and (iii) the future environment-changing projects and actions to be implemented are uncertain and unknown at this time. Rather, detailed CEQA review should wait until GSP implementation proposals have matured into firm and specific project plans. However, it is expected that the new District will determine and implement projects and actions to implement the GSP and that those projects and actions may involve changes to the environment. Consequently, it is essential that the District comply with CEQA prior to approving any such project or action.
- (b) The District is being formed principally to implement the GSP within the boundaries of the District and to approve and implement one or more of the projects identified in the GSP. Consequently, in furtherance of improved and coordinated groundwater management in

the region, it is important that the future projects approved and implemented by the District will further, implement, and be consistent with the GSP.

- (c) Choosing the precise time for CEQA compliance involves a balancing of competing factors. CEQA documents should be prepared as early as feasible in the planning process to enable environmental considerations to influence project program and design and yet late enough to provide meaningful information for environmental assessment. The environmental document preparation and review should be coordinated by the involved public agencies in a timely fashion with the applicable planning, review, and project approval processes. (CEQA Guidelines section 15004.) Government Code sections 56122, 56375 and 56886 and CEQA Guidelines sections 15004, 15022 and 15040 authorize LAFCo to impose this term conditioning District formation approval on the District's later CEQA compliance in accordance with the process set forth below.
- (d) As a means to ensure that later District actions comply with CEQA and are consistent with the GSP, the District shall comply with the requirements in this condition. Prior to approving any GSP implementation activity that may result in a direct or reasonably foreseeable indirect physical change in the environment, the District shall undertake these steps:
 - (i) The District shall prepare a project description and submit it to the Vina Groundwater Sustainability Agency (GSA). The GSA shall undertake a GSP consistency determination by reviewing the project description and determining whether the project is consistent with the GSP. The GSA shall determine that the project is consistent with the GSP if the project is (1) a type of project or action or within the scope of a project or action identified in the GSP as a planned or potential project or management action, or (2) consistent and compatible with the goals, objectives, purposes, and policies in the GSP. GSA staff and officers shall not use or exercise any personal or subjective judgment in deciding whether the project should be carried out. The GSA GSP consistency determination is intended to be a ministerial review, with the GSA determining only whether the project is consistent or not. This condition is not intended to confer on the GSA the discretionary authority to determine whether to approve a District project or to modify or condition a project. A principal purpose of the GSP determination review is to confirm that the proposed project will be consistent with the GSP before the District undertakes the effort, time, and expense to perform CEQA review of the project.
 - (ii) If the GSA determines that the proposed project is consistent with the GSP, the District shall prepare an appropriate CEQA document for the project (e.g., notice of exemption, initial study and negative declaration, environmental impact report), adopt the CEQA document, make appropriate findings, and approve the project in accordance with the procedural and substantive requirements of CEQA. The District shall include the GSA on its distribution list for CEQA-related notices and draft documents. If during the CEQA process the District materially changes the project description, then the District shall consult with the GSA to confirm that the proposed project as modified remains consistent with the GSP.
 - (iii) The District may proceed with and implement the project if the GSA has determined that it is consistent with the GSP and the District has complied with CEQA.

LAFCo approval of District formation is conditioned upon later CEQA compliance by the District pursuant to this condition.

Environmental Determination.

LAFCo is the Lead Agency for the proposed Formation of the Water District. The purpose of the environmental review process is to provide information about the environmental effects of the actions and decisions made by LAFCo and to comply with the California Environmental Quality Act (CEQA).

The Commission finds that the formation of the Tuscan Water District will not have a significant effect on the environment, and is Categorical Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to:

- Common sense exemption. CEQA does not apply "where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." (CEQA Guidelines§ 15061(b)(3).) At the time of water district formation, there will not be any identifiable environmental changes that are reasonably foreseeable because GSP implementation actions will be evaluated, determined, and implemented at a later stage in the SGMA/GSP process.
- Organizational activity exemption. Similarly, CEQA defines "project" to exclude "organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment." (CEQA Guidelines§ 15378(b)(5).) At this stage and as part of the planning work toward implementing groundwater regulation, LAFCo's organizational action to create a new water district is exempt because that action at this time will not result in any physical change in the environment.
- Funding mechanism creation exemption. A principal objective for water district formation is to create a local agency with the authority to generate local revenue through fees or assessments and fund GSP implementation projects. The creation of a government funding mechanism is not a project. (CEQA Guidelines§ 15378(b)(4).)
- Natural resource protection exemption. LAFCo is a government agency authorized by state law to regulate local government changes of organization. LAFCo approval of water district formation is an action to facilitate GSP implementation, which is an action to maintain and restore the groundwater, a natural resource and a matter involving environmental protection. The regulatory process involves procedures for protection of the environment because LAFCo will create a new water district (a local government agency subject to CEQA) that must evaluate its projects under CEQA before approving GSP implementation actions. The Proposal therefore is exempt under CEQA Guidelines sections 15307 and 15308.
- Planning study exemption. "[F]easibility or planning studies for possible future actions which the agency, board, or commission has not approved, adopted, or funded does not require the preparation of an EIR or negative declaration." (CEQA Guidelines§ 15262.) Water district formation is exempt under this provision because it is a GSP planning-related action that will facilitate future GSP implementation actions that LAFCo, GSA, and the water district have not yet approved, adopted, or funded.

- SGMA exemption. SGMA contains a special CEQA exemption: "[CEQA] does not apply to the preparation and adoption of plans pursuant to this chapter. Nothing in this part shall be interpreted as exempting from [CEQA] a project that would implement actions taken pursuant to a plan adopted pursuant to this chapter." (Water Code § 10728.6.) This exemption distinguishes between GSP preparation and adoption (exempt) and later GSP implementing projects (not exempt). Petitioners are pursuing water district formation concurrent with GSA preparation of the Vina GSP in order for the district to exist and be able to start GSP implementation after the Vina GSP is adopted. Water district formation therefore is an organizational activity that is part of GSP preparation and adoption. At this time, the SGMA/GSP process is in the planning (exempt) phase and water district formation at this stage similarly should be considered exempt. Conversely, if LAFCo were to treat district formation as a CEQA project and undertake detailed environmental review of potential Vina GSP implementation actions, then the environmental analysis would need to evaluate the potential actions to later implement the Vina GSP, which would be inconsistent with the SGMA exemption for GSP adoption.

Notice of Exemption

Appendix E

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

County Clerk
County of: Butte
155 Nelson Avenue
Oroville, CA 95965

From: (Public Agency):
Butte LAFCO
1453 Downer Street, Suite C
Oroville, CA 95969

(Address)

Project Title: Tuscan Water District Formation

Project Applicant: Chief petitioners Richard McGowan, Darren Rice, and Edward McLaughlin

Project Location - Specific: see Attachment 1

Project Location - City: see Attachment 1 Project Location - County: Butte

Description of Nature, Purpose and Beneficiaries of Project: see Attachment 1

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

Name of Person or Agency Carrying Out Project: same

Exempt Status: **(check one):**

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: see Attachment 1
- Statutory Exemptions. State code number: see Attachment 1

Reasons why project is exempt: see Attachment 1

Lead Agency
Contact Person: _____ Area Code/Telephone/Extension: _____

If filed by applicant:

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

Signature: _____ Date: _____ Title: _____

Signed by Lead Agency Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: _____

Draft Resolution

Resolution No. 21 2021/22

DRAFT**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION
OF THE COUNTY OF BUTTE MAKING DETERMINATIONS
AND APPROVING THE FORMATION OF THE TUSCAN WATER DISTRICT**

RESOLVED, by the Local Agency Formation Commission of the County of Butte, State of California, that

WHEREAS, a Petition of Application signed by 57 percent of the landowners in the proposed Water District was filed with the Commission to initiate the change of organization; and

WHEREAS, application has been made to this Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Sections 56000 et seq.) for consideration of a proposal for the formation of the Tuscan Water District as shown in Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, the formation of the Tuscan Water District, a California Water District as defined in the California Water Code, Section 34000 et seq., has been filed with the Executive Officer of the Local Agency Formation Commission of Butte County, California by petition, and said application complied with all the requirements of law and the Commission; and

WHEREAS, the Executive Officer has given the notices required by law and forwarded copies of his report to officers, persons and public agencies prescribed by law; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56658, set December 2, 2021 as the initial hearing date and gave the required notice of public hearing; and the matter was continued to the meeting of January 6, 2022, and continued again to February 3, 2022, in the City of Oroville City Council Chambers; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56665, has reviewed this proposal and prepared a report including his recommendations thereon, and has furnished a copy of this report to each person entitled to a copy; and

WHEREAS, this Commission has considered the application materials, studies, attachments, and other documentation at the December 2, 2021, January 6, 2022, and February 3, 2022, public hearings which is incorporated by reference herein; and

WHEREAS, on December 2, 2021, January 6, 2022, and February 3, 2022, this Commission heard and received, all oral and written protests, objections and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter concerning this proposal; and

WHEREAS, this Commission considered the factors determined by the Commission to be relevant to this proposal, including, but not limited to, factors specified in Government Code Sections 56301, 56668; and 56886.5(a); and the California Water Code Section 34000.

NOW THEREFORE, the Local Agency Formation Commission of the County of Butte **DOES HEREBY RESOLVE, DETERMINE AND ORDER**, as follows:

Section 1. Environmental Findings:

A. A. Based upon its review of the entire record, including the Staff Report, any public comments or testimony presented to the Commission, and the facts outlined herein, the Commission finds that the formation of the Tuscan Water District is not subject to CEQA for the following reasons:

i. The formation of the Tuscan Water District is not a “project” under CEQA

LAFCo approval of a change of organization (such as a special district formation) is a project under CEQA when the action has a potential for resulting in either a direct or reasonably foreseeable indirect physical change in the environment. (CEQA Guidelines §§ 15060(c) & 15378.) For example, a local government change of organization approval is a CEQA project when it constitutes an essential and conclusive step that foreseeably will culminate in some action that may affect the environment (e.g., approval of annexation of territory to a city for the planned development of that territory). But, when the LAFCo approval leaves open the issue of whether, what, where, or when any actual physical change affecting the environment would ultimately take place, the approval is not a project.

The formation of a water district under these facts and at this time is not a CEQA project because the Groundwater Sustainability Plan (GSP) has not yet received approval by the Department of Water Resources (DWR) (under review) and the Groundwater Sustainability Agencies (GSAs) must then consider how to best implement the GSP, assuming the project and management actions (PMAs) will evolve throughout this stage and the preferred or planned GSP actions and projects to be implemented have not yet been fully vetted beyond cursory identification. Therefore, under the current circumstances, approval of district formation will not result in any reasonably foreseeable change to the environment.

ii. The formation of the Tuscan Water District is exempt from CEQA

Even if formation of the Tuscan Water District us a “project” under CEQA, there are six CEQA exemptions that apply to LAFCo's action:

- Common sense exemption. CEQA does not apply "where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." (CEQA Guidelines § 15061(b)(3).) At the time of water district formation, there will not be any identifiable environmental changes that are reasonably foreseeable because GSP implementation actions will be evaluated, determined, and implemented at a much later stage in the SGMA/GSP process.
- Organizational activity exemption. Similarly, CEQA defines "project" to exclude "organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment." (CEQA Guidelines § 15378(b)(5).) At this stage and as part of the planning work toward implementing groundwater regulation, LAFCo's organizational action to create a new water district is exempt because that action at this time will not result in any physical change in the environment.

- Funding mechanism creation exemption. A principal objective for water district formation is to create a local agency with the authority to generate local revenue through fees or assessments and fund GSP implementation projects. The creation of a government funding mechanism is not a project. (CEQA Guidelines § 15378(b)(4).)
- Natural resource protection exemption. LAFCo is a government agency authorized by state law to regulate local government changes of organization. LAFCo approval of water district formation is an action to facilitate GSP implementation, which is an action to maintain and restore the groundwater, a natural resource and a matter involving environmental protection. The regulatory process involves procedures for protection of the environment because LAFCo will create a new water district (a local government agency subject to CEQA) that must evaluate its projects under CEQA before approving GSP implementation actions. The Proposal therefore is exempt under CEQA Guidelines sections 15307 and 15308.
- Planning study exemption. "Feasibility or planning studies for possible future actions which the agency, board, or commission has not approved, adopted, or funded does not require the preparation of an EIR or negative declaration." (CEQA Guidelines § 15262.) Water district formation is exempt under this provision because it is a GSP planning-related action that will facilitate future GSP implementation actions that LAFCo, GSA, and the water district have not yet approved, adopted, or funded.
- SGMA exemption. SGMA contains a special CEQA exemption: "[CEQA] does not apply to the preparation and adoption of plans pursuant to this chapter. Nothing in this part shall be interpreted as exempting from [CEQA] a project that would implement actions taken pursuant to a plan adopted pursuant to this chapter." (Water Code § 10728.6.) This exemption distinguishes between GSP preparation and adoption (exempt) and later GSP implementing projects (not exempt). Petitioners are pursuing water district formation concurrent with GSA preparation of the Vina GSP in order for the district to exist and be able to start GSP implementation after the Vina GSP is adopted. Water district formation therefore is an organizational activity that is part of GSP preparation and adoption. At this time, the SGMA/GSP process is in the planning (exempt) phase and water district formation at this stage similarly should be considered exempt. Conversely, if LAFCo were to treat district formation as a CEQA project and undertake detailed environmental review of potential Vina GSP implementation actions, then the environmental analysis would need to evaluate the potential actions to later implement the Vina GSP, which would be inconsistent with the SGMA exemption for GSP adoption.

Section 2. General Findings, Terms and Conditions:

- A. The Commission has considered the factors determined by the Commission to be relevant to this proposal, including, but not limited to, Sphere of Influence and General Plan consistency, and other factors specified in Government Code Sections 56301, 56668; and 56886.5(a); and the California Water Code Section 34000 and as described and discussed in the staff reports dated November 23, 2021 for the meeting of December 2, 2021 (Part A) and January 27, 2022, for the meeting of February 3, 2022 (Part B).
- B. Based on the evidence, analysis, and conclusions set forth in this resolution and the Executive Officer's report, the Commission finds that the formation of this District serves to

further the purposes of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 including, but not limited to, the following: efficiently providing government services and facilitating the orderly formation and development of local agencies based upon local conditions and circumstances.

- C. The Commission adopts the determinations regarding consistency with LAFCO law and Commission Policies contained in the staff report for this proposal and incorporates them by reference herein.
- D. The Commission recognizes its core responsibility preserve and protect agricultural lands (GC 56100, 56301) and finds that this proposal conforms with, and will not alter, modify or amend any current land uses or County land use designations in the Butte County General Plan. Furthermore, the Commission finds that the Tuscan Water District (TWD) formation will assist and support the continued and consistent availability of irrigation water to agricultural lands that will encourage their continued productivity and economic viability resulting in far less pressure to convert marginal agricultural lands to urban development proposals. As agricultural land protection is at the core of LAFCo's role, the formation of the TWD will do no harm to current land use patterns and help maintain agricultural as a valued economic driver in Butte County.
- E. The subject territory includes approximately 102,327 acres and 3,136 parcels of mostly private and very limited public property as described and identified in the adopted map shown as Exhibit A to this resolution and is assigned the following distinctive short term designation: 21-06 - Formation of the Tuscan Water District.
- F. Pursuant to Government Code Section 56426.5(b), the Commission will within one year of the effective date of the TWD formation, determine the sphere of influence for the TWD. The Commission's conditions of approval require the TWD, within 6 months of the recording of the Certificate of Completion for the formation of the Tuscan Water District, to submit an application to LAFCo to conduct a municipal service review (MSR) and determine the sphere of influence for the new district to LAFCo and that all fees and costs associated with the application shall be borne by the applicant (TWD), including an initial deposit in an amount deemed appropriate by the Executive Officer.
- G. Pursuant to Government Code Section 56886.5, the Commission determines, based upon the public record, the responses from alternative service providers lacking interest in assuming the role proposed by the TWD, the services currently provided to the affected territory by the County of Butte and other local agencies, the County's clear intent to not actively pursue water supply and irrigation projects, and its declared support for the formation application, that existing allied agencies are in support of the TWD formation and cannot feasibly provide the needed service or services in a more efficient and accountable manner than is proposed and that a new local agency is deemed necessary.
- H. The proposed TWD would have a landowner voter Board of Directors that would be focused on making decisions about the groundwater resources in the unincorporated service area of the Vina Basin.
- I. The proposed TWD offers the opportunity for landowners to manage the groundwater resource. The GSP shows that the Vina Groundwater Basin is in decline and is in need of a more focused management effort. It is in the best interests of all users of the Basin to better manage the groundwater resources.

- J. The landowners proposing the TWD are willing to fund and form the District to sustainably manage the groundwater resources. This brings more resources to the management of the Basin. The County would not be responsible for the entire Basin. The District would assist in complying with SGMA. The two Water Districts, Shandon (\$300,000) and TUSCAN (\$500,000), could bring in an estimated \$425,000 to perhaps \$1,000,000 annually to help implement the Vina GSP and comply with SGMA. This is money that the County would not have to spend on SGMA compliance activities and areas that will not have to be managed by the County.
- K. The TWD would establish a local public agency of voluntary landowners that would sustainably manage the groundwater resource under its area. The District would work within the State Law with other agencies to provide for the reasonable use of water, pursue supply solutions, and to raise funds for planning and projects that comply with the GSP's.

Section 3. Conditions adopted by LAFCO:

Administrative Conditions

- A. All LAFCo, Butte County and State of California fees must be paid in full prior to filing the Certificate of Completion.
- B. The map and legal description shall comply with the Department of Public Works and State Board of Equalization requirements.
- C. The legal description and map, if rejected by the State Board of Equalization or amended by action of the Commission, will be revised at the expense of the applicant.
- D. The following conditions are applied by the Commission consistent with its authority granted by Government Code Sections 56301, 56668; and 56886.5(a); and the California Water Code Section 34000:

General

- 1. That the name of the California Water District shall be the Tuscan Water District.
- 2. That formation of the Tuscan Water District shall be contingent upon a successful landowner vote, based on a one acre one vote formula, the following:
 - a. Approve the formation of the 102,327 acre Tuscan Water District.
 - b. Approve parcel assessment of a maximum of ten dollars per acre (\$10.00/acre) to fund the initial administrative/organizational activities of the Tuscan Water District.
 - c. Selection of an initial nine (9) members of the Board of Directors
- 3. Prior to filing the Certificate of Completion, a revised legal description and boundary map(s) shall be submitted to reflect the service area of the Tuscan Water District as adopted by the Commission.

4. The effective date of the Tuscan Water District formation will be determined by the certification of the election results by the Board of Supervisors and the filing of the certificate of completion by the LAFCO Executive Officer with the County Clerk-Recorder's office.
5. The Tuscan Water District shall set the appropriations limit as soon as feasibly possible consistent with Government Code Section 57000.

Boundaries

6. Within 6 months of the recording of the Certificate of Completion for the formation of the Tuscan Water District, the Board of Directors of the Tuscan Water District shall submit an application to LAFCo to conduct a municipal service review (MSR) and determine the sphere of influence for the new district to LAFCo and that all fees and costs associated with the application shall be borne by the applicant (TWD), including an initial deposit in an amount deemed appropriate by the Executive Officer. The failure to execute this condition will result in the Commission applying a zero sphere of influence and initiating corrective actions up to and including, dissolution of the District.

Governance – Board of Directors

7. The initial Board of Directors of the Tuscan Water District shall be composed of nine (9) members as provided for in the California Water Code the Water Code sections 34700.
8. The initial TWD board of directors will be elected at large based on a one (1) vote for every one (1) acre of land owned. (WC34700).
9. The TWD board of directors shall within six (6) months from the date of the recording of the Certificate of Completion, adopt a resolution requesting LAFCo to establish electoral divisions based on equal size (acres) and the boundaries thereof. The number of divisions shall be equal to the number of directors. (WC35025) The failure to execute this condition will result in the Commission initiating corrective actions up to and including, dissolution of the District.
10. The Commission shall at the time of calling the formation election for the proposed district, prescribe the procedure for the proponents to present candidates for the offices to be filled at that election. (WC 34403). Prior to the close of the 30 day reconsideration period following project approval, the TWD chief petitioners shall provide to the LAFCo Executive Officer a slate of nine (9) persons nominated for the Board of Directors.

Governance – Voting

11. The Board of Directors of the Tuscan Water District shall, between January 1 and March 30 of each year, inspect the assessable area within the district. At such time as at least 50 percent of the assessable area within the district is devoted to and developed for residential, industrial, or nonagricultural commercial use, or any combination thereof, such fact shall be certified to the board of directors by the secretary of the district. Any time after such certification, the registered voters residing within the district may petition for a change in the voting procedure from a landowner-voting district to a resident-voting district.

Intergovernmental Coordination – SGMA and Water

12. The Tuscan Water District, shall within one (1) year from the date of the recording of the Certificate of Completion, enter into a memorandum of understanding (MOU) with the Vina Basin and Butte Basin Groundwater Sustainability Agencies establishing the formal, government to government working relationship between the Tuscan Water District and the GSA's to include acknowledging the roles of each agency in the SGMA environment, methods for communication, cooperation and collaboration, establishing points of contact and any other matter that leads to cooperation in the implementation of the GSP for the basin. The MOU should identify the Tuscan Water District as a GSA partner, pursuant to the sustainable Groundwater Management Act, Water Code section 10720 et. seq. The MOU shall be provided to the LAFCo Executive Officer upon completion. The failure of the District to successfully enter into a MOU with the GSA's within one year of the Certificate of Completion being filed, the Tuscan Water District shall be dissolved by LAFCo at the request of the TWD Board of Directors. If an agreement cannot be reached with the GSA's, the TWD can request LAFCo to mediate a resolution and/or extend this deadline for an additional period to be determined by LAFCo or modify the condition.
13. Per the MOU required in Condition No. 12, all activities, actions, projects, and proposals initiated by the Tuscan Water District within its jurisdictional boundaries related to the direct or indirect management of groundwater resources, including groundwater recharge options, shall be submitted to the appropriate GSA for review and cannot be implemented or initiated until and unless, the affected GSA Board determines in writing that the proposed activities, actions and proposals are consistent with the applicable GSP. Requests not deemed consistent with the GSA's GSP, are prohibited.
14. Tuscan Water District shall submit any proposals, plans or projects regarding any extraction, use, or transfer of groundwater as defined in Butte County Chapter 33 (Groundwater Conservation), to the Butte County Department of Water and Resource Conservation for review and such proposals cannot be implemented or initiated until and unless, the Butte County Board of Supervisors or the Director of Butte County Department of Water and Resource Conservation determines in writing that the proposed activities, actions and proposals are consistent with the Butte County Code Chapter 33 (Groundwater Conservation). Requests not deemed consistent with the Butte County Chapter 33 are prohibited. The Tuscan Water District shall adhere to all the laws of the County of Butte
15. The Tuscan Water District shall not have the power to acquire, plan, construct, maintain, improve, operate, and keep in repair the necessary works for any drainage or reclamation works within the jurisdictional boundaries or sphere of influence of the Rock Creek Reclamation District without the written consent of the Rock Creek Reclamation District Board of Directors.

General Powers and Functions

16. That pursuant to the applicable Water Code Sections the Tuscan Water District is authorized to exercise all powers and authorities subject to the following restrictions in a-g below:
 - a. The Tuscan Water District's shall not have the powers to export, transfer, or move water underlying the Tuscan Water District (including groundwater pumped into an above ground storage facility) outside the Vina or Butte Subbasins. For purposes of this Condition

“groundwater” shall have the meaning set forth in Water Code Section 10721(g) as follows: “Groundwater” means water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water, but does not include water that flows in known and definite channels unless included pursuant to Section 10722.5.

- b. The Tuscan Water District shall not have the power to acquire, plan, construct, maintain, improve, operate, and keep in repair the necessary works for the production, storage, transmission, distribution and sale of water for domestic, industrial, and municipal purposes (WC35401). These powers under the California Water Code shall be deemed inactive or latent.
- e. The Tuscan Water District shall not have the power to acquire, construct, operate, and furnish facilities and services, within or without the district, for the collection, treatment, and disposal of sewage, waste, and storm water nor contract with any persons, firms, public or private corporations or public agencies or other users concerning facilities and services for said purposes. (WC35500) The District could request that LAFCO activate these powers in the future. These powers under the California Water Code shall be deemed inactive or latent.
- f. The Tuscan Water District shall receive approval for any groundwater recharge projects within the Districts’ boundaries from the appropriate GSA under Conditions No.12 and 13, and the reclaimed or recharge water shall be maintained and used for the general public good in sustaining the Vina groundwater basin and the District and its landowners are restricted from ownership of reclaimed or recharged water.
- g. If the District approves and implements a project involving the delivery and/or importation of surface water into the District, then the District shall not thereafter transfer that surface water for use outside the District boundaries.

Section 4. Further Procedural Actions

- A. The recitals set forth hereinabove are true, correct, and valid.
- B. The Executive Officer is hereby authorized and directed to mail certified copies of this Resolution in the manner and as provided in Section 56882 of the Government Code.
- C. The Formation of the Tuscan Water District is hereby conditionally approved.
- D. This formation requires a protest proceeding to be conducted and the Commission directs the Executive Officer to set the proposal for a protest hearing and give public notice of said hearing pursuant to Butte LAFCo Policy and California Government Code Section 57002. The outcome of the protest hearing process is termination of the proposal if 50% or more of landowners who have 50% of the voting power (own 50% of the acreage in the area) files a valid written protest with the EO. Any number protests below this threshold and the question of formation will be forwarded to a vote of the landowners in the area per the election process.
- E. The Executive Officer, on behalf of the Commission and in compliance with this resolution and State law, hereby requests that the Butte County Board of Supervisors direct the County Elections Official to conduct the necessary election, setting the matter for consideration of the voters of the affected territory on a date consistent election law and the Cortese-Knox-Hertzberg Act. The Executive Officer is directed to coordinate with the County Clerk to

formulate the election questions consistent with the Commission's determinations set forth herein. The regular County assessment roll will be used.

- F. Pursuant to §57144 and §56898 of the Government Code, the Executive Officer will prepare for the Commission's review an Impartial Analysis of the proposed District formation; after the Commission has approved or modified the Impartial Analysis, it shall direct the Executive Officer to submit it to the elections official no later than the last day for submission of ballot arguments.

PASSED AND ADOPTED by the Local Agency Formation Commission of the County of Butte, on the 3rd day of February 2022, by the following vote:

AYES:

NOES:

ABSTAINS:

ABSENT:

CARL LEVERENZ, Chair
Butte Local Agency Formation Commission

Public Agency Comments/Responses

Butte County Board of Supervisors Comments – Submitted 9/28/21 to include Butte County Water Commission Response to LAFCo Questions as Exhibit A

- The Board of Supervisors (BOS) held a public hearing on September 28, 2021, to consider the merits of the TWD proposal and provide comments back to LAFCo for consideration (**Exhibit 1**). Excerpts from the letter indicate that the BOS “*express its support for the formation of the new district given that conditions are placed by LAFCo on its formation to address concerns identified by the County.*” Furthermore, “*Butte County believes the formation of the TWD will help the overall management of water resources in the region by filling a current gap in water resource management in the County. And that “The County intends to work constructively, cooperatively, and collaboratively with the TWD, should it be formed, to ensure water resources are sustainably managed and protected for the benefit of our local communities, economy, and environment.” The County supports the following conditions being placed on the formation of the TWD:*
 1. “Any water imported into the District will remain in the district. Such a condition developed by LAFCo should address concerns related to water transfers.”
 2. “Projects and Programs conducted by the district must be consistent with Projects and Management Actions or Implementation activities as described in the relevant Groundwater Sustainability Plan in the Vina or Butte Subbasin. Such a condition should help address concerns regarding representation and harm to small landowners due to large landowners dominating the decisions and actions of the district.”

Water Commission Responses - Exhibit A to the BOS Letter above

1. What affect, if any, will this proposal have on the operations and functions of your agency?

The Butte County Department of Water and Resource Conservation has historically conducted monitoring and studies and worked cooperatively with other local agencies to manage and preserve the water resources within the County. Butte County intends to continue in this role consistent with Resolution 17-170 to “work constructively, cooperatively, and collaboratively” with the Tuscan Water District, should they be formed.

2. Does your agency believe the formation of the proposed TWD will help or hinder the overall management of surface irrigation water and groundwater resources within Butte County and the region?

Butte County believes the formation of the TWD will help the overall management of water resources in the region by filling a current gap in water resource management in the County. The County believes conditions placed on the TWD by LAFCo can adequately address concerns that have been raised.

Butte County supports the following conditions placed on the formation of the TWD:

1. *Any water imported into the District will remain in the district. Such a condition developed by LAFCo should address concerns related to water transfers.*

2. *Projects and Programs conducted by the district must be consistent with Projects and Management Actions or Implementation activities as described in the relevant Groundwater Sustainability Plan in the Vina or Butte Subbasin. Such a condition should help address concerns regarding representation and harm to small landowners due to large landowners dominating the decisions and actions of the district.*
3. Should the TWD be approved and formed, would your agency be willing to enter into cooperative agreements or studies with the TWD to examine methods of maintaining or enhancing local water supplies?

The County will work constructively, cooperatively, and collaboratively with the TWD should they be formed and would be willing to enter into cooperative agreements or studies with the TWD to examine methods of maintaining or enhancing local water supplies.

4. Would you agree or disagree, that the proposed formation of the TWD would be a threat to the overall agricultural water supply in Butte County or otherwise compromise the ability of existing local water agencies to protect the current water supply available to the residents and irrigation water users in Butte County?

Butte County has the following concerns

1. *The TWD will participate in out-of-subbasin water transfers*
2. *Potential privatization of the aquifer by activities and projects of the district*
3. *Representation within the district and voting structure that allows power of decision-making to reside with large landowners. Concern regarding harm and cost burden to small landowners within the district.*
4. *Projects pursued by the district could have huge financial and environmental impacts on landowners, the County as a whole, or other entities within the County*

Butte County encourages LAFCo to place conditions on the TWD to address these concerns and believes such conditions would adequately address these concerns. Therefore, the TWD would not be a threat to the overall water supply in Butte County.

5. Other comments:

The Butte County Board of Supervisors supports the formation of the TWD, with conditions.

Response: The comments of the Butte County Board of Supervisors in support of the TWD further underscores two important points:

- The County continues to believe a special district is best suited to represent the white areas in the Vina Basin which is consistent with the application and LAFCo factors for consideration.
- The County believes that with certain conditions placed on the formation of the TWD that the formation does not represent significant concerns related to groundwater management with the Vina Basin and will be a valuable partner in implementing the Vina Basin GSP.

- Conditions No. 12, 13, 14, 16 (a, f, g) in Attachment F have been recommended that both address restrictions on water transfers/exports as well as coordination with the affected GSA's and compliance with the affected GSP's as follows:
12. The Tuscan Water District, shall within one (1) year from the date of the recording of the Certificate of Completion, enter into a memorandum of understanding (MOU) with the Vina Basin and Butte Basin Groundwater Sustainability Agencies establishing the formal, government to government working relationship between the Tuscan Water District and the GSA's to include acknowledging the roles of each agency in the SGMA environment, methods for communication, cooperation and collaboration, establishing points of contact and any other matter that leads to cooperation in the implementation of the GSP for the basin. The MOU should identify the Tuscan Water District as a GSA partner, pursuant to the sustainable Groundwater Management Act, Water Code section 10720 et. seq. The MOU shall be provided to the LAFCo Executive Officer upon completion. The failure of the District to successfully enter into a MOU with the GSA's within one year of the Certificate of Completion being filed, the Tuscan Water District shall be dissolved by LAFCo at the request of the TWD Board of Directors. If an agreement cannot be reached with the GSA's, the TWD can request LAFCo to mediate a resolution and/or extend this deadline for an additional period to be determined by LAFCo or modify the condition.
 13. Per the MOU required in Condition No. 12, all activities, actions, projects, and proposals initiated by the Tuscan Water District within its jurisdictional boundaries related to the direct or indirect management of groundwater resources, including groundwater recharge options, shall be submitted to the appropriate GSA for review and cannot be implemented or initiated until and unless, the affected GSA Board determines in writing that the proposed activities, actions and proposals are consistent with the applicable GSP. Requests not deemed consistent with the GSA's GSP, are prohibited.
 14. Tuscan Water District shall submit any proposals, plans or projects regarding any extraction, use, or transfer of groundwater as defined in Butte County Chapter 33 (Groundwater Conservation), to the Butte County Department of Water and Resource Conservation for review and such proposals cannot be implemented or initiated until and unless, the Butte County Board of Supervisors or the Director of Butte County Department of Water and Resource Conservation determines in writing that the proposed activities, actions and proposals are consistent with the Butte County Code Chapter 33 (Groundwater Conservation). Requests not deemed consistent with the Butte County Chapter 33 are prohibited. The Tuscan Water District shall adhere to all the laws of the County of Butte
 16. That pursuant to the applicable Water Code Sections the Tuscan Water District is authorized to exercise all powers and authorities subject to the following restrictions in a-g below:
 - a. The Tuscan Water District's shall not have the powers to export, transfer, or move water underlying the Tuscan Water District (including groundwater pumped into an above ground storage facility) outside the Vina or Butte Subbasins. For purposes of this Condition "groundwater" shall have the meaning set forth in Water Code Section 10721(g) as follows: "Groundwater" means water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water, but does not include water that flows in known and definite channels unless included pursuant to Section 10722.5.
 - f. The Tuscan Water District shall receive approval for any groundwater recharge projects within the Districts' boundaries from the appropriate GSA under Conditions No.12 and 13, and the reclaimed or recharge water shall be maintained and used for the general public good in sustaining the Vina groundwater basin and the District and its landowners are restricted from ownership of reclaimed or recharged water.
 - g. If the District approves and implements a project involving the delivery and/or importation of surface water into the District, then the District shall not thereafter transfer that surface water for use outside the District boundaries.



Butte County Board of Supervisors

25 County Center Drive, Suite 200 | T: 530.552.3300 | www.buttecounty.net/administrat
Oroville, California 95965 | F: 530.538.7120

Members of the Board
Bill Connelly | Debra Lucero | Tami Ritter | Tod Kimmelshue | Doug Teeter

September 28, 2021

Mr. Stephen Lucas, Executive Officer
Butte Local Agency Formation Commission
1453 Downer Street, Suite C
Oroville, CA 95969

Dear Mr. Lucas,

The Butte County Board of Supervisors is responding to the Butte Local Agency Formation Commission’s (LAFCo) request for comments regarding the Tuscan Water District (TWD) Formation. The Board would like to express support for the formation of the new district given that conditions are placed by LAFCo on its formation to address concerns identified by the County. Responses to questions posed by LAFCo are attached to this letter in the comment form provided as Exhibit A.

Discussion by the Butte County Water Commission and public input have identified the following concerns:

1. Representation within the district and its voting structure allows power of decision-making to reside with large landowners. There is great concern regarding future harm and cost burden to small landowners within the district.
2. Activities and projects of the TWD may include out-of-subbasin water transfers
3. Potential privatization of the aquifer by activities and projects of the district
4. Projects pursued by the district could have huge financial and environmental impacts on landowners, the County as a whole, or other entities within the County

Butte County believes the formation of the TWD will help the overall management of water resources in the region by filling a current gap in water resource management in the County. To help address the concerns expressed above, the County supports the following conditions being placed on the formation of the TWD:

1. Any water imported into the District will remain in the district. Such a condition developed by LAFCo should address concerns related to water transfers.
2. Projects and Programs conducted by the district must be consistent with Projects and Management Actions or Implementation activities as described in the relevant Groundwater Sustainability Plan in the Vina or Butte Subbasin. Such a condition should help address concerns regarding representation and harm to small landowners due to large landowners dominating the decisions and actions of the district.

Butte County, through the work of the Department of Water and Resource Conservation and the Water Commission, has historically conducted monitoring and studies and worked cooperatively with other local agencies to manage and preserve the water resources within the County. The County intends to work constructively, cooperatively, and collaboratively with the TWD, should it be formed, to ensure water resources are sustainably managed and protected for the benefit of our local communities, economy, and environment.

Sincerely,


Bill Connelly, Chair
Butte County Board of Supervisors

California Water Service (Cal Water) Comments Submitted 12/20/21

Excerpts from Letter:

CalWater provided a letter (Exhibit 1) expressing *“its strong support for the formation of the Tuscan Water District (District).”*

“Cal Water has provided safe, clean, reliable, and affordable drinking water service in Butte County since 1926. Today, we serve about 120,000 residents in Chico and Oroville.”

“One of Cal Water’s highest priorities in ensuring the long-term sustainability of the water supplies on which our customers depend. Water is quite literally the lifeblood of our communities.”

“It is for this very reason that the formation of the District is so critical. Currently, there is not a locally elected body that is charged with the responsibility of evaluating, funding, and implementing projects that are identified in Groundwater Sustainability Plans and are necessary to achieve long-term groundwater sustainability.”

Response: Questions have been posed to the Commission about the representation of the 100,000 plus Chico residents who have a stake in the formation of the TWD and how it may affect their water access. As the sole provider of publicly available domestic water to 120,000 customers in the entire Chico Urban area, CalWater is in the best position to determine what impacts the proposed TWD would have on its domestic water supplies derived exclusively from groundwater. It is clear from their comments that CalWater supports the formation of the TWD and believes it can be an asset to meeting the groundwater sustainability goals of the Vina Basin.

Cal Water also requested several principles to be addressed by LAFCo in the terms and conditions, to include 1) restricting TWD services to provide domestic water; 2) constraints to acquisition of CalWater service area; and restraints on eminent domain powers.

Response:

- Condition No. 16(b) in Attachment F addresses domestic water services:
The Tuscan Water District shall not have the power to acquire, plan, construct, maintain, improve, operate, and keep in repair the necessary works for the production, storage, transmission, distribution and sale of water for domestic, industrial, and municipal purposes (WC35401). These powers under the California Water Code shall be deemed inactive or latent.
- The request for a condition for the TWD to receive LAFCo approval before any TWD service territory expansion into the CalWater service area is understood, but unnecessary. LAFCo already has the sole authority to approve any territorial expansion of the TWD pursuant to GC56000 and is subject to the procedural requirements for an annexation or service extension.
- As discussed with respect to eminent domain powers elsewhere in this report, this is not a condition that LAFCo can or should include as there are current laws and procedures for addressing eminent domain issues and LAFCo law does not provide LAFCo’s the authority to restrict or remove administrative and operational structures identified in the principal act.



CALIFORNIA WATER SERVICE

Chico District 2222 Dr. Martin Luther King Jr. Parkway
Chico, CA 95928 *Tel:* (530) 893-6300

December 20, 2021

Mr. Stephen Lucas
Executive Officer
Butte County Local Agency Formation Commission
1453 Downer Street, Suite C
Oroville, CA 95965
Via Email: SLucas@buttecounty.net

RE: Tuscan Water District

Dear Mr. Lucas:

California Water Service (Cal Water) would like to express its strong support for the formation of the Tuscan Water District (District).

Cal Water has provided safe, clean, reliable, and affordable drinking water service in Butte County since 1926. Today, we serve about 120,000 residents in Chico and Oroville.

One of Cal Water's highest priorities is ensuring the long-term sustainability of the water supplies on which our customers depend. Water is quite literally the lifeblood of our communities.

It is for this very reason that the formation of the District is so critical. Currently, there is not a locally elected body that is charged with the responsibility of evaluating, funding, and implementing projects that are identified in Groundwater Sustainability Plans and are necessary to achieve long-term groundwater sustainability.

The District will fill this gap and, in turn, serve as a critical water steward in Butte County.

In light of this, Cal Water extends its support for the formation of the District, subject to the following principles, which we have discussed with representatives from the District.



CALIFORNIA WATER SERVICE

These principles will help ensure that the District provide maximum value to the residents of Butte County.

- The District shall be prohibited from providing, selling, delivering, or otherwise facilitating the availability of municipal and industrial water (domestic/potable) service.
- The District shall not acquire any portion of the service area of Cal Water without first demonstrating to the satisfaction of LAFCo and the adjacent water agencies the ability to provide reliable and sufficient surface water and groundwater to meet the current and projected needs for the next 20 years of that portion of the service area that it is seeking to acquire such that it will be in compliance with any applicable Groundwater Management Plan and shall demonstrate to the satisfaction of LAFCo that such acquisition is demonstrated to be desirable pursuant to the results of a municipal services review.
- The District shall not exercise the power of eminent domain with respect to Cal Water except as provided under Water Code sections 35600, 35627 and 35628, the California Public Utilities Code, the California Constitution, and any other applicable laws or regulations.

With these principles in place, we respectfully urge the Local Agency Formation Commission to approve the District's application.

We appreciate the time, energy, and effort that the Petitioners have devoted to this vitally important endeavor and look forward to working with the District in the coming months and years to preserve the sustainability of our most precious resource.

Please do not hesitate to contact me if you require any additional information.

Sincerely,

A handwritten signature in black ink that reads "Justin Skarb". The signature is fluid and cursive, with a long horizontal stroke at the end.

Justin Skarb

Director of Community Affairs & Government Relations

Cc: Mr. Tovey Giezentanner
Mr. Richard McGowan

Joint Comment Letter from South Feather Water and Power Agency, Paradise Irrigation District, Western Canal Water District and the Joint Water Districts - Submitted 1/5/221

The joint letter (Exhibit 3) was submitted by the South Feather Water and Power Agency (SFWPA), Paradise Irrigation District (PID), Western Canal Water District (WCWD) and the Joint Water Districts which includes the Biggs-West Gridley Water District (BWGWD), Richvale Irrigation District (RID), Butte Water District (BWD), and Sutter Extension Water District (SEWD) organized to form the Joint Water Districts Board (Joint Districts).

The concern of this comment relates to the powers of eminent domain that are afforded a California Water District in its principal act. The commenters have suggested the following condition be approved by LAFCo:

“Condition XX: Acquisition, transfer, exchange, or other purchase of water rights or of real property for water distribution or conveyance facilities shall be from willing sellers and not through condemnation”

The project proponents have provided a response to the comments and follows as Exhibit 3a.

Response:

In response to the January 5, 2022, letter from the South Feather Water and Power Agency requesting that LAFCo impose a condition on TWD precluding the new district from having the power of eminent domain:

California Water Code §§ 34000, et seq. is the Principal Act for forming and administering a California Water District. LAFCo cannot eliminate a power from the Principal Act, but it can restrict the use of a various functions using a condition of approval. The terms “power” and “function” are often used interchangeably, but there are important distinctions. The CKH Act authorizes LAFCo’s to determine a “function” as active or inactive through the formation process. (See Govt. Code § 56425(i).)

The terms “functions” and “services” are defined in the CKH and “powers” are referenced in the definition of a “divestiture of power” where a power is related to particular functions or classes of services. (Govt. Code §§ 56037.2, 56040, and 56074.)¹

From the LAFCo perspective, the collective and interchangeable use of the terms *functions*, *services*, *powers* and *facilities* refers to the widely recognizable services and functions that a district provides, such as sewers, animal control, fire protection, power generation, reclamation, drainage, irrigation, mosquito control and many others. It is these services and functions that LAFCo can authorize, modify, or allow to be latent powers requiring later approval or not allow at all.

LAFCo however, should not delve into the principal act powers related to the administrative structures, organizational management, financial management and the provision of legal rights available to most all other local government agencies.

Response Cont'd:

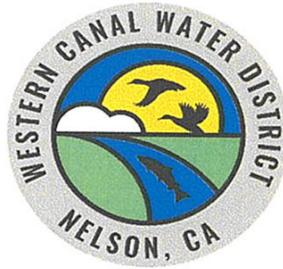
The CKH Act (Govt. Code § 56886) sets forth conditions that LAFCO may impose, and notably does not state authority for LAFCo to limit a newly formed district's basic governmental powers granted by the principal act and related to the administrative structures, organizational management, financial management and the provision of legal rights.

It is unusual for a local government agency to acquire the property of another local government agency through condemnation. Additionally, there is an extremely high bar in such situations, requiring the acquiring agency to demonstrate to a court that its intended "use for which the property is sought to be taken is a more necessary public use than the use to which the property is appropriated." (CCP § 1240.610.) The acquiring agency must also overcome the following presumption: "where property has been appropriated to public use by a local public entity, the use thereof by the local public entity is presumed to be a more necessary use than any use to which such property might be put by any other local public entity." (CCP § 1240.660.)

¹ 56037.2. "*Divestiture of power*" means the termination of the power and authority to provide particular functions or classes of services within all or part of the jurisdictional boundaries of a special district.

56040. "*Function*" means any power granted by law to a local agency to provide designated governmental or proprietary services or facilities for the use, benefit, or protection of persons or property.

56074. "*Service*" means a specific governmental activity established within, and as a part of, a function of a local agency.



SOUTH FEATHER WATER & POWER AGENCY



January 5, 2022

Steve Lucas, Executive Director
BUTTE COUNTY LOCAL AGENCY FORMATION COMMISSION
1453 Downer Street # C
Oroville, California 95965

RE: The Proposed Tuscan Water District/Request for Condition on Formation

Dear Mr. Lucas:

The undersigned all own and utilize rights to surface water in Butte County. All of the undersigned have expressed support for the formation of Tuscan Water District (“TWD”). We write to request that LAFCO adopt a condition on formation of Tuscan Water District that would limit, in certain situations, TWD’s exercise of the power of condemnation (“TWD”), as follows:

Condition XX: Acquisition, transfer, exchange, or other purchase of water or water rights or of real property for water distribution or conveyance facilities shall be from willing sellers and not through condemnation

As background for this request, proponents of TWD seek to exercise “the power and authority of the California Water Districts (Water Code Section 34000 and following)...”. (Application for Formation, p. 11.) Water Districts have the power of condemnation and to involuntarily acquire “all property or rights in property necessary or proper for the district works and to supply the land with sufficient water for all district purposes.” (Water Code § 35600.)

TWD’s application states, notwithstanding the authorizations of the Water Code, it would “not be authorized to acquire, plan, construct, maintain, improve, operate, or keep in repair the necessary works for the production, storage, transmission, and distribution of water, unless the exercise of such power is consistent with, or required by the applicable Groundwater Sustainability Plan.” (Application for

Steve Lucas, Executive Director
BUTTE COUNTY LOCAL AGENCY FORMATION COMMISSION

Formation, p. 11.) This limitation would not, however, limit TWD's potential future exercise of the power of condemnation because the Vina Subbasin Groundwater Sustainability Plan ("GSP") contemplates acquisition of water/water rights and water distribution facilities. For example, the Vina GSP in its "Project and Management Actions" chapter lists as potential projects: (a) an intertie between Paradise Irrigation District and Chico for the delivery of treated water to Cal Water customers to help offset groundwater demand; (b) acquiring surface water from water right holders in the neighboring Butte Subbasin and potentially other areas, including Lake Oroville, upstream of Lake Oroville, the Sacramento River, and other sources; and (c) streamflow augmentation focused on Comanche Creek, Butte Creek, Little Chico Creek, and Big Chico Creek.

The undersigned support TWD and are not opposed, in concept, to additional analysis and consideration of these potential future projects identified in the Vina Subbasin GSP. However, to the extent TWD proposes to acquire water/water rights or real property for water distribution facilities, the undersigned believe such actions should only be implemented through willing seller/willing buyer arrangements and not through condemnation. This is consistent with TWD's overall theme in forming to cooperate and partner with GSAs and stakeholders in the implementation of the Sustainable Groundwater Management Act. It is also consistent with a recent trend in state law limiting the exercise of condemnation, including in recent Propositions¹, California Conservancies², and in the construction of certain new school sites³.

Finally, representatives of the undersigned have conferred with the proponents of TWD and can represent that they do not oppose the requested condition on formation.

Thank you in advance for your consideration of this request.

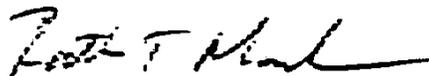
Sincerely,

JOINT WATER DISTRICTS



By: DONNIE STINNETT, Manager

SOUTH FEATHER WATER & POWER AGENCY



By: RATH MOSELEY, General Manager

PARADISE IRRIGATION DISTRICT



By: TOM LANDO, District Manager

WESTERN CANAL WATER DISTRICT



By: TED TRIMBLE, General Manager

¹ E.g., Proposition 50 (Water Code §§ 79554, 79573), Proposition 13 (Water Code § 79037), Proposition 84 (Pub. Res Code § 75070.4), Proposition 12 (Pub. Res. Code § 5096.350), and Proposition 1 (Pub. Res. Code § 32612)

² E.g., Delta Conservancy (Pub. Res. Code § 32366), Sierra Conservancy (Pub. Res. Code § 33347), State Coastal Conservancy (Pub. Res. Code § 31414), Baldwin Hills Conservancy (Pub. Res. Code § 32567), San Joaquin River Conservancy (Pub. Res. Code § 32532), and San Gabriel Conservancy (Pub. Res. Code § 32612)

³ E.g., Educ. Code § 35278

TUSCAN WATER DISTRICT CHIEF PETITIONERS
30 Independence Circle, Ste. 300
Chico, CA 95973

January 26, 2022

VIA U.S. MAIL and EMAIL

Mr. Steve Lucas
Executive Director
Butte County Local Agency Formation Commission
1453 Downer Street, Ste. C
Oroville, CA 95965
SLucas@buttecounty.net

Re: Proposed Tuscan Water District Formation – Reply to January 5, 2022 Letter

Dear Mr. Lucas:

This correspondence responds to a letter dated January 5, 2022 from four Butte County water districts that supports Tuscan Water District (TWD) formation, but also requests that LAFCO adopt a condition that would limit TWD's condemnation (aka eminent domain) power. The TWD petitioners welcome the support, but object to the proposed condition because it could be problematic, would be unfair, and is unnecessary and unauthorized.

Background

A California water district has the power to acquire real property through condemnation as appropriate for district projects. It may exercise this power within and outside the district boundaries. (Cal. Water Code sec. 35600 & 35627 – 35628.) Almost all government agencies have the power of eminent domain. It is a rarely used power, but it is an essential power of government in developing and implementing projects for the public good.

The proposed condition, if adopted by LAFCO, could be construed and applied to prohibit TWD from exercising its condemnation power anywhere it is used to acquire water, water rights, or real property or rights of way for water distribution or conveyance facilities. This would be a significant and unusual limitation on the district's powers.

The TWD petitioners have no plans or expectations to use condemnation to acquire real property or water rights. Condemnation is a difficult, cumbersome, lengthy, and expensive process. Instead, TWD would be more likely to pursue projects, acquisitions, and transactions with and through mutual assent with willing buyers and participants.

Condition could be problematic

Nevertheless, it is possible in the life of TWD that it may find it necessary to use its condemnation power to acquire essential property for a future project. The proposed LAFCO condition could significantly restrain this authority.

TWD's condemnation power could be exercised only if the district demonstrates that it is necessary. It is difficult to speculate and predict the future about the circumstances when or whether TWD would find it necessary to pursue condemnation. But, it's an important and essential tool for a local government agency that should not be lightly taken away.

For example, condemnation is sometimes used by a water district to acquire land and rights of way for pipelines and canals. Pipeline and canal rights of way are linear by nature. It sometimes is unrealistic and impracticable to acquire such rights of way only from willing sellers because the right of way usually needs to proceed in a more direct line from point A to point B. If the owner of a parcel along a canal or pipeline route is unreasonable and unbending, then occasionally and reluctantly a water district must resort to condemnation.

Conversely, not having condemnation power could significantly and adversely impact a water district in acquiring property for a public project. If a landowner knows that a district lacks condemnation power and that its property is essential for a particular public project, then that landowner would be in a very strong bargaining position and able to insist on unreasonable prices and demands. This situation could result in TWD having to pay extraordinary and above-market prices, which in turn would burden ratepayers and property owners within the district. Allowing TWD to be formed with the usual condemnation powers would protect the interests of its ratepayers and property owners.

Condition would be unfair

The four districts requesting the condition are local government agencies. As such, each has the full power of condemnation. If circumstances were reversed, we are certain that each of these districts would vigorously oppose any condition limiting its condemnation power. Nevertheless, the districts think it's okay to ask LAFCO to limit the condemnation power of another water district to be created in the County. Doing so would be unfair and inequitable. It seems odd and inappropriate that the four districts seek to impose a limitation on a new water district that they themselves would find very objectionable.

Furthermore, the four water districts have been aware of the TWD formation proposal for years and they have had ample opportunity to raise this issue before with the district formation petitioners or LAFCO. Yet, they wait until a few weeks before the LAFCO hearing to make this request. LAFCO should reject this late, last-minute effort as ill-timed and unfair.

Condition is unnecessary

Since the four districts are local government agencies, they have special protection under existing eminent domain law. It is very rare for one local government agency to seek to acquire another local government agency's real property through eminent domain. In those situations, the acquiring agency would need to demonstrate to a court that its intended "use for which the property is sought to be taken is a more necessary public use than the use to which the property is appropriated." (Cal. Code of Civ. Proc. sec. 1240.610.) Additionally, "where property has been appropriated to public use by a local public entity, the use thereof by the local public entity is presumed to be a more necessary use than any use to which such property might be put by any other local public entity." (Sec. 1240.660.) We are not aware of any instance in Butte County when one local government agency condemned property of another local agency.

This 'more necessary public use' showing is a high and difficult standard for the acquiring agency to prove. The acquiring agency also must overcome the presumption in state law that the existing use by the other agency is presumed to be a more necessary use. Consequently, these provisions in existing law adequately protect the four districts from a future TWD condemnation action. This protection renders the proposed condition unnecessary.

Condition is unauthorized

The four districts' letter claims there is a recent trend in state law limiting the exercise of condemnation. The letter then cites in footnotes to several state statutes. Significantly, though, the letter does not cite to a single instance of a LAFCO imposing this type of limitation through a condition placed on a district formation.

LAFCO does not have the authority to approve a district formation subject to a condition that limits the district's essential powers under the applicable principal act (here, the Cal. Water District Law). Government Code section 56886 lists dozens of possible conditions for LAFCO to consider. However, the list omits any express authority for LAFCO to limit a new district's powers under the principal act. The statute therefore does not authorize LAFCO to impose the condition requested by the four districts.

The four districts' request to remove a power should not be confused with LAFCO's authority to regulate the scope of a district's functions and services (e.g., water, sewer, drainage, fire protection) under the Cortese-Knox-Hertzberg Local Government Reorganization Act. Condemnation is a basic power (such as the powers to contract, employ personnel, commence and defend lawsuits, adopt ordinances) and not a function or service. While LAFCO may restrict the scope of what a special district does (functions/services), it cannot tell the district how to do something (basic powers).

Consistent with the footnotes in the letter and in light of LAFCO's lack of authority, if there is to be a limitation on the condemnation power of a California water district, that limitation should be adopted by the California Legislature, not LAFCO.

Mr. Steve Lucas
January 26, 2022
Page 4

TWD petitioners did not and do not consent to proposed condition

The four districts' letter concludes with "representatives of the undersigned have conferred with the proponents of TWD and can represent that they do not oppose the requested condition on formation." This is incorrect and we did not agree to it. Instead, there was a request to review the proposed condition. We did not see the condition until after the letter had been finalized and submitted to LAFCO.

To be clear, the petitioners oppose the requested condition. We request that LAFCO reject the proposal.

Thank you for considering our comments.

Sincerely,

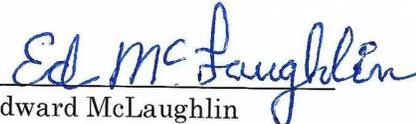
Tuscan Water District Chief Petitioners



Richard McGowan



Darren Rice



Edward McLaughlin

Cc: Donnie Stinnett
Rath Moseley
Tom Lando
Ted Trimble

Mechoopda Indian Tribe of Chico Rancheria (“Tribe”) Comments Submitted 12/20/21

The comments submitted by Mechoopda Indian Tribe of Chico Rancheria, California (Tribe) are focused on three topics:

- Opposition to the formation of the TWD because it potentially involves the concept of conjunctive use of water resources as a strategy to achieve groundwater sustainability within the Vina Basin. The Tribe believes only conservation efforts should be undertaken to restore the sustainability of the Vina Basin.
- Fair Representation and Voting Processes
- A need for an extended comment period.

Response:

- The TWD is to be a California Water District which is by state law, a landowner voter district. Landowner voter districts have been found to be constitutional by the United States Supreme Court. Staff accepts that some observers are philosophically opposed to this type of special district governance, but LAFCo has no justifiable grounds to limit or restrict the use of landowner voter districts.
- The TWD application proposal has been in existence for over year and the application has been posted to the Butte LAFCo website since June 2021. The TWD proposal was also discussed at length in public hearings by the Butte County Water Commission in August 2021 and again by the Butte County Board of Supervisors in September 2021. LAFCo also held a noticed public hearing on December 2, 2021, that thoroughly vetted the proposal and its background. The proposal has also been actively discussed on social media. Anyone interested in this proposal had abundant opportunity to become informed, participate in public hearings and submit written comments, therefore, staff does not believe additional comment periods are necessary.
- According to the respected Water Education Foundation, until 2015, California has not had a statewide groundwater management system, and groundwater and surface water have been traditionally treated as separate resources. Now, with water demand frequently outpacing supply, water leaders are often coordinating the use of both, and California water managers are now including conjunctive use as part of their strategies for future water management. Conjunctive use centers on flexibility, and its application includes both active and passive forms. In its passive form, also called in-lieu conjunctive use, surface water is used in wet years and groundwater is used in dry years. In active conjunctive use, surface water is recharged into an aquifer through a variety of methods, with above ground storage and percolation naturally into aquifers. Such practices enable water purveyors to buy and reserve water to be used at a later date. It also gives them the flexibility to mix and match water resources based on demand and in spite of California’s widely varying hydrological landscape. Storing groundwater below ground through conjunctive use is also seen as a way to lessen its evaporation and avoid building reservoirs and dams. It is not reasonable nor practical to limit groundwater sustainability plans to rely solely on conservation methods.

Mechoopda Indian Tribe of Chico Rancheria



Via U.S Mail and Email (slucas@buttecounty.net)

December 20, 2021

Butte Local Agency Formation
Commission 1453 Downer Street, Suite C
Oroville, CA 95969

RE: Letter of Opposition – Proposed Tuscan Water District

Dear Butte Local Agency Formation Commission:

The Mechoopda Indian Tribe of Chico Rancheria, California (“Tribe”) appreciates the opportunity to comment on the proposed application and petition for formation of the Tuscan Water District (“TWD”). The enclosed comments are submitted on behalf of the Tribe.

The proposed sphere of influence and jurisdiction of the TWD contains approximately 102,237 acres of land within its proposed service boundaries, extending from the northwest Butte County bordered by the Sacramento River on the west, the Tehama County line to the north, SR 99 to the east and extending south to the northern border of the Western Canal Water District or roughly the location of the community of Durham. The proposed TWD would overlay with the service areas of the Rock Creek Reclamation District west of Highway 99, Durham and Dayton Mutual Water Companies, Western Canal Water District and a portion of Cal Water, Chico, and contain approximately 3,136 individual parcels within the proposed service boundaries. The affected county is the County of Butte.

The Tribe and its members have occupied lands within the counties of Butte, Tehama, Yuba, Sutter, and Sacramento since time immemorial. We have aboriginal rights and interests to the groundwater and surface water resources in the region, which we steward and have relied on for millennia for traditional, cultural, domestic, and agricultural subsistence purposes. As long-term residents of the north Central Valley, we understand the importance of sustainable water management. The Tribe and its members have a homeland in the County including substantial land holdings for housing, health clinics, government offices, orchards, and cultural and commercial enterprises, both within and around the proposed TWD service boundaries. We are a community of interest.

The Tribe opposes the formation of the TWD as proposed. We are aware that the groundwater in the region has been used for most of the last century at rates that exceed natural recharge and understand that water management plans must be implemented and managed for the long-term

viability of our groundwater resources. However, we are concerned that the approach of the proposed TWD focuses on quantity, with little regard for the overall management of surface irrigation water and groundwater resources within Butte County and its surrounding region. Further, sustainable groundwater management is vital to the future of all residents, who have a right to representation. The proposed one vote to one acre voting scheme involves the absolute exclusion of some residents from the right to vote, while apportioning representation according to the amount of land owned. This will leave a majority of residents of the County within the proposed service boundaries of the TWD without any meaningful input concerning a vital natural resource, water, and undermine public accountability. Thus, we request that the Butte Local Agency Formation Commission (“Butte LAFCO”) deny the petition for formation of the TWD.

The review process of the TWD application involved little outreach and engagement with the Tribe, its members, and the community at large. We strongly urge the Butte LAFCO to extend the comment period on the proposed application for the TWD formation to allow for meaningful participation and input from the Tribe, its members, and the community. The application and petition for formation of the TWD are extensive and require time for review and comments to the hundreds of pages of materials and information, which has been altered without any notice or information to the public on the content and extent of the modifications made from the original application. The application is also missing legally required information of registered voter counts which is critical in determining application of the one person one vote requirement.

Extending the comment period will also serve the Butte LAFCO’s interest in receiving comments that will identify issues and offer recommendations and results in a more predictable process for agencies, project applicants, and the public.

While we understand that the petition for formation of the TWD may not require formal tribal government-to-government consultation, we take this opportunity to encourage the Butte LAFCO to actively engage with the Tribe for government-to-government collaboration. The Butte LAFCO and any proposed water district which the Butte LAFCO will retain oversight jurisdiction will be better served to cultivate a voluntary and mutually beneficial working relationship with the Tribe on a government-to-government basis. Assembly Bill 52 (“AB 52”) requires the government agency carrying out the California Environmental Quality Act (“CEQA”) process to engage with the Tribe in that process, not as a mere stakeholder but as a sovereign government engaging in a government-to-government consultation. Although the formation of the TWD may not be subject to the CEQA, virtually all of the projects and management actions of the proposed TWD will be subject to the CEQA, requiring meaningful consultation with the Tribe. In addition to the CEQA, Senate Bill 18 (“SB 18”) imposes consultation obligations on the agency to engage with the Tribe in the General Plan amendments and updates. The National Environmental Policy Act (“NEPA”) would also trigger legal requirements for consultation with the Tribe if a project receives federal funding. Thus, it is essential to have the Tribe at the table. Involving the Tribe early in the planning or scoping discussions will allow all parties the opportunity to determine and plan for mitigation of potential impacts to areas and resources and avoid costly disputes and litigation.\

In the interest of time, the following comments focus the two fundamental deficiencies in the proposed TWD: its primary objective to import water and the inequality of its voting structure.

Sustainable water management cannot be achieved with a water district whose primary plan for services and financing for its long-term operation is “surface water distribution”.

The primary objective communicated by the proponents of the proposed TWD is to import surface water to reduce the need for groundwater and finance the TWD’s long-term operation and administration.¹ This approach refracts energy that should be going towards the only truly sustainable water management action, which is water conservation. If our community continues to increase demand and overdraw not only our groundwater, but also the surface water that can be imported, then it leaves us dangerously vulnerable to future droughts that will affect both forms of vital water sources. There is little surface water to begin with in the region. We recognized that during wet periods with surface water deliveries, some overdraft reverses temporarily. However, given the general water shortage of water throughout California, water conservation practices such as reducing water use through planning and engineering controls would be more effective and sustainable.

In the TWD application, (a) annual collection of assessments of ten dollar per acre (\$10.00/acre) on all groundwater dependent TWD service areas (which amount could increase at the authority of the TWD once formed) and (b) collection of charges for surface water imported will “be the backbone revenue stream for financing District administration and operations”. This approach focuses on increased water source substitution, with little regard for water conservation. The Tribe finds this unacceptable. The philosophy and approach of the TWD would not get us to sustainable water management. With its long-term funding strategies dependent on charges for surface water import deliveries, the result will be high cost to residents and we risk being overly reliant on an inconsistent supply of imported water resources leaving the majority of the population in the service area most vulnerable.

Fair Representation and Voting Processes

The voting structure of the proposed TWD grossly misrepresents the population that would be served. The land-based model of one vote per acre owned gives majority control of the proposed TWD to approximately 50 stakeholders, while over 3,000 parcels and potentially more than 6,500 residents will be represented. Approximately 12% of the acreage (and the vote) is controlled by a corporation headquartered in Salt Lake City, Utah. Over 9% of the acreage (and the vote) has ownership from Concord, California. This voting structure over-represents certain land uses and opens the door to large corporations becoming corporate landowners able to buy the majority vote of the proposed TWD. The proposed one vote to one acre voting scheme will deprive a significant number of individuals (residents who own less than one acre of land, small landowners, landowner-lessees, and non-landholding residents), adequate representation in the proposed TWD elections.

We question whether it is constitutional for the proposed TWD to utilize the acreage-based voting scheme, as the TWD would be granted broad budgetary and other government authority that subjects it to the one person, one vote requirement.² Even assuming arguendo that the TWD would have no general governmental powers to trigger the requirement for the one person, one

¹ See pp. 8 of the District Formation Application Form; see also pp. 43 of the Tuscan Water District Application for Formation.

² *Bd. of Estimate v. Morris*, 489 U.S. 688 (1989).

vote rule, the fact that the financial burden of the charges for service by the TWD will fall on the consumers of water, whether they own land or not may not be ignored. When both large property owners and small or non-property owners would be substantially affected by the outcome of the election, both should have the opportunity to vote one equally weighted vote. Numerically diluting a vote would have the same effect as denying the right to vote altogether.

There are tested, practical options for groundwater management through agencies that comply with the one person, one vote requirement. All traditional governments, including cities and counties, meet this requirement. In addition, many special districts have boards that are elected by equi-population districts or at-large. These agencies are eligible to take on groundwater responsibilities under Sustainable Groundwater Management Act (“SGMA”), and many already have. While time is of essence, there is ample time to adopt and implement better approaches without compromising or even delaying the ultimate goal: sustainable groundwater management. Safeguards for the delegation of substantial power and authority will promote open, accessible decision-making processes and improve public accountability. Empowering democratically elected districts/agencies can uphold the SGMA’s commitment to local control without ceding power to private interests or compromising requirements for sustainability.

The formation of the proposed TWD does not represent the interests of the majority of residents in its service area, including members of the Tribe, nor does it recognize the only long-term solution to our community’s unsustainable water use. Effective groundwater management requires collaboration, robust tribal and stakeholder participation, and community engagement. The Tribe opposes the formation of the TWD and urges the Butte LAFCO to deny the TWD’s application.

Considering the essence of time, we addressed our concerns generally. This letter does not purport to exhaustively set forth the Tribe’s entire position in the above referenced matter. This letter is without prejudice to any rights and remedies of the Tribe, all of which are expressly reserved.

In addition to the comments above, the Mechoopda Indian Tribe stands ready to work with and discuss regional or activity specific conditions to further protect groundwater resources of interest to the Tribe.

Please do not hesitate to contact Mark Alabanza, Tribal Administrative Officer, at (530) 924- 2717 or malabanza@mechoopda-nsn.gov for questions or additional information. We look forward to hearing from you on this matter.

Sincerely,

Dennis Ramirez

Dennis Ramirez Chairman
Mechoopda Indian Tribe

Public Comments Responses

Responses to Comments

There has been an extensive period of public comments concerning this proposal that began with public meetings conducted by the Butte County Water Commission in August 2021, followed by the Butte County Board of Supervisors and the Vina Groundwater Sustainability Agency in in September 2021 and the first LAFCo meeting on December 2, 2021. These meetings generated a number of comments that are largely similar and are discussed below. Generally, the comments received addressed very similar concerns and have been categorize and responded to below. One new public comment was submitted on 1/27/22 and is attached below.

1. Landowner voter structure is unconstitutional and unfair.

Response:

- The staff reports Part A and Part B, thoroughly addressed this question. The TWD is to be a California Water District which is by state law, a landowner voter district. Landowner voter districts have been found to be constitutional by the United States Supreme Court. Staff accepts that some observers are philosophically opposed to this type of special district governance, but LAFCo has no justifiable grounds to restrict the use of landowner districts.
- Given that the landowners in the District will be funding the operations of the District and potentially future groundwater supplementation projects, it is fair, reasonable and appropriate that landowners would have a weighted vote in direct relationship with their weighted costs/assessments. A registered voter district would allow non-landowners to decide matters of funding that would be the burden of landowners to fund.
- The proposed TWD is intended to be an enterprise special district with revenue generated exclusively by landowner assessments based on the assessed value of the land. This is one of the fundamental benefits of a landowner district, those who own the most land and benefit the most from services, pay the most for improvements.
- Butte County currently has numerous landowner voter districts that provide water/irrigation, drainage and reclamation services that operate efficiently, effectively and transparently, the most notable being:

Landowner Districts in Butte County	Acres	Other
Rock Creek Reclamation District	4,644	GSA – Vina Basin
Western Canal Water District	62,974	GSA – Butte Basin
Sacramento River Reclamation District	20,725	
Reclamation District No. 833	38,600	
Biggs West Gridley Water District	32,000	GSA – Butte Basin
Butte Water District	18,030	GSA – Butte Basin
Richvale Irrigation District	34,150	GSA – Butte Basin
<i>Groundwater Sustainability Agency (GSA)</i>		

2. Control/ownership of groundwater resources is to be expected.

Response:

- The staff reports Part A and Part B, thoroughly addressed this question. Multiple conditions have been applied to the formation proposal that restricts all forms of water transfers, exchanges, sales and ownership of recharged water. Additionally all actions related to groundwater resources management will be at the discretion of the appropriate GSA's.
 - Conditions No. 12, 13, 14, 16 (a, f, g) in Attachment F have been recommended that both address restrictions on water transfers/exports as well as coordination with the affected GSA's and compliance with the affected GSP's as follows:
12. The Tuscan Water District, shall within one (1) year from the date of the recording of the Certificate of Completion, enter into a memorandum of understanding (MOU) with the Vina Basin and Butte Basin Groundwater Sustainability Agencies establishing the formal, government to government working relationship between the Tuscan Water District and the GSA's to include acknowledging the roles of each agency in the SGMA environment, methods for communication, cooperation and collaboration, establishing points of contact and any other matter that leads to cooperation in the implementation of the GSP for the basin. The MOU should identify the Tuscan Water District as a GSA partner, pursuant to the sustainable Groundwater Management Act, Water Code section 10720 et. seq. The MOU shall be provided to the LAFCo Executive Officer upon completion. The failure of the District to successfully enter into a MOU with the GSA's within one year of the Certificate of Completion being filed, the Tuscan Water District shall be dissolved by LAFCo at the request of the TWD Board of Directors. If an agreement cannot be reached with the GSA's, the TWD can request LAFCo to mediate a resolution and/or extend this deadline for an additional period to be determined by LAFCo or modify the condition.
 13. Per the MOU required in Condition No. 12, all activities, actions, projects, and proposals initiated by the Tuscan Water District within its jurisdictional boundaries related to the direct or indirect management of groundwater resources, including groundwater recharge options, shall be submitted to the appropriate GSA for review and cannot be implemented or initiated until and unless, the affected GSA Board determines in writing that the proposed activities, actions and proposals are consistent with the applicable GSP. Requests not deemed consistent with the GSA's GSP, are prohibited.
 14. Tuscan Water District shall submit any proposals, plans or projects regarding any extraction, use, or transfer of groundwater as defined in Butte County Chapter 33 (Groundwater Conservation), to the Butte County Department of Water and Resource Conservation for review and such proposals cannot be implemented or initiated until and unless, the Butte County Board of Supervisors or the Director of Butte County Department of Water and Resource Conservation determines in writing that the proposed activities, actions and proposals are consistent with the Butte County Code Chapter 33 (Groundwater Conservation). Requests not deemed consistent with the Butte County Chapter 33 are prohibited. The Tuscan Water District shall adhere to all the laws of the County of Butte
 16. That pursuant to the applicable Water Code Sections the Tuscan Water District is authorized to exercise all powers and authorities subject to the following restrictions in a-g below:
 - a. The Tuscan Water District's shall not have the powers to export, transfer, or move water underlying the Tuscan Water District (including groundwater pumped into an above ground storage facility) outside the Vina or Butte Subbasins. For purposes of this Condition "groundwater" shall have the meaning set forth in Water Code Section 10721(g) as follows: "Groundwater" means water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water, but does not include water that flows in known and definite channels unless included pursuant to Section 10722.5.
 - f. The Tuscan Water District shall receive approval for any groundwater recharge projects within the Districts' boundaries from the appropriate GSA under Conditions No.12 and 13, and the reclaimed or recharge water shall be maintained and used for the general public good in sustaining the Vina groundwater basin and the District and its landowners are restricted from ownership of reclaimed or recharged water.

3. Issues with the application completeness.

Response:

- The application was deemed complete by the Executive Officer on October 2, 2021. Pursuant to LAFCo Bylaws (1.16), the Commission appoints an Executive Officer to conduct the day-to-day business of the Commission to include all administrative matters. All matters related to applications or application completeness are at the complete discretion of the Executive Officer who determined all necessary information was provided.

4. District is unneeded and alternatives exist.

Response:

- The staff reports Part A and Part B, thoroughly addressed this question and determined that feasible alternatives do not exist and that the proposed TWD would provide a critical and necessary service in the implementation of the Vina GSP.

5. Groundwater sustainability in the Vina Basin can be achieved with conservation methods alone and no projects related to supplemental surface water are necessary.

Response:

- According to the respected Water Education Foundation, until 2015, California has not had a statewide groundwater management system, and groundwater and surface water have been traditionally treated as separate resources. Now, with water demand frequently outpacing supply, water leaders are often coordinating the use of both, and California water managers are now including conjunctive use as part of their strategies for future water management. Conjunctive use centers on flexibility, and its application includes both active and passive forms. In its passive form, also called in-lieu conjunctive use, surface water is used in wet years and groundwater is used in dry years. In active conjunctive use, surface water is recharged into an aquifer through a variety of methods, with above ground storage and percolation naturally into aquifers. Such practices enable water purveyors to buy and reserve water to be used at a later date. It also gives them the flexibility to mix and match water resources based on demand and in spite of California's widely varying hydrological landscape. Storing groundwater below ground through conjunctive use is also seen as a way to lessen its evaporation and avoid building reservoirs and dams. It is not reasonable nor practical to limit groundwater sustainability plans to rely solely on conservation methods.
- Given the anticipated cycles of drought interspersed with periods of heavy precipitation, the ability to capture these infrequent, high flow water events and use it to supplement groundwater use is a rational and reasonable approach to groundwater sustainability.

December 2, 2021

Mr. Steve Lucas
Butte County Local Agency Formation Commission
1453 Downer Street, Suite C
Oroville, California 95965

Dear Mr. Lucas:

I am writing to extend my full support of the formation of the proposed Tuscan Water District ("TWD") in Butte County.

Existing annual overdraft in the Vina Subbasin and more frequent, extreme drought conditions throughout California and the Western United States together pose an imminent and existential threat to Butte County groundwater dependent users – both agricultural and domestic.

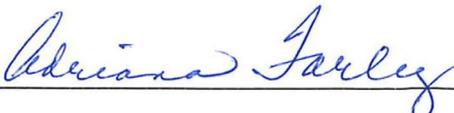
In fact, since 2015 and the passage of California's Sustainable Groundwater Management Act ("SGMA"), County elected officials and water department staff have been encouraging agricultural groundwater users in Butte County to organize a California Water District to "improve drought coordination and groundwater management."

According to Butte County staff, the current problem with advancing supply and recharge projects in the Vina Subbasin "is that there is currently no agency with the capacity and capability to acquire, distribute, and manage surface water supplies in groundwater dependent areas. The TWD intends to develop programs to fill this gap in water resources management."

Implementing projects and protecting access to groundwater won't be easy, inexpensive, or possible through individual efforts. By forming the Tuscan Water District and utilizing the resulting economy of scale, however, groundwater dependent landowners – both agricultural and domestic – can protect their access to groundwater and ensure that Butte County remains one of the best places in the world to live and grow crops.

Thank you for the opportunity to comment on this important topic.

Respectfully,



Signature

ADRIANA FARLEY

Printed Name

1384 Durham Dayton Hwy., Durham CA 95938

Full Address

atfarley@att.net 530-578-6158

Email Phone

Maps and Legal Description - Additional Information

The project is conditioned as follows:

Section 3.

- B. The map and legal description shall comply with the Department of Public Works and State Board of Equalization requirements.
- C. The legal description and map, if rejected by the State Board of Equalization or amended by action of the Commission, will be revised at the expense of the applicant.
- 5. Prior to filing the Certificate of Completion, a revised legal description and boundary map(s) shall be submitted to reflect the service area of the Tuscan Water District as adopted by the Commission.

The proposed TWD is depicted on the following maps and described in the legal description:

Given the file size of the maps and legal description, these very specific documents can be viewed and downloaded from the Butte LAFCo website at www.buttelafo.org or click below on the item.

[Tuscan Water District
Detailed Map](#)

[Tuscan Water District
Legal Description](#)

Additional information available:

[Tuscan Water District
Total Parcel
Ownership List](#)

[Tuscan Water District
Petitioners List](#)