LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
Political Subdivision of the State of California

We Manage Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

SPHERE OF INFLUENCE REVIEW AND UPDATE:
Napa Berryessa Resort Improvement District

Draft Report
February 2013

Commissioners
Brad Wagenknecht, Chair, County Member
Brian J. Kelly, Vice Chair, Public Member
Joan Bennett, Commissioner, City Member
Lewis Chilton, Commissioner, City Member
Bill Dodd, Commissioner, County Member
Juliana Inman, Alternate Commissioner, City Member
Mark Luce, Alternate Commissioner, County Member
Gregory Rodeno, Alternate Commissioner, Public Member

Staff / Administrative Office
Keene Simonds, Executive Officer
Jacqueline M. Gong, Counsel
Brendon Freeman, Staff Analyst
Kathy Mabry, Commission Secretary

1030 Seminary Street, Suite B
Napa, California 94559
www.napa.lafco.ca.gov

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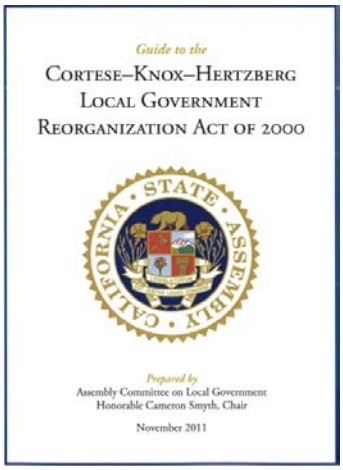
I. INTRODUCTION

1.0 Local Agency Formation Commissions

1.1 Authority and Objectives

Local Agency Formation Commissions (LAFCOs) were established in 1963 as political subdivisions of the State of California and are responsible for providing regional growth management services under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 ("CKH").[1] LAFCOs are located in all 58 counties in California and are delegated regulatory and planning powers to coordinate and encourage the logical formation and development of local governmental agencies and their municipal services. Towards this end, LAFCOs are commonly referred to as the Legislature's "watchdog" for local governance issues. Underlying LAFCOs regulatory and planning powers is fulfilling specific objectives outlined by the California Legislature under Government Code (G.C.) Section 56301, which states:


Guide to the
CORTESE–KNOX–HERTZBERG
LOCAL GOVERNMENT
REORGANIZATION ACT OF 2000

Prepared by
Assembly Committee on Local Government
Honorable Cameron Smyth, Chair

November 2011

> *"Among the purposes of the commission are discouraging urban sprawl, preserving open space and prime agricultural lands, efficiently providing governmental services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances. One of the objects of the commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local agencies in each county and to shape the development of local agencies so as to advantageously provide for the present and future needs of each county and its communities."*

1.2 Regulatory Responsibilities

LAFCOs' principal regulatory responsibility includes approving or disapproving all jurisdictional changes involving the establishment, expansion, and reorganization of cities and special districts within their jurisdictions.[2] LAFCOs are also provided broad discretion to condition jurisdictional changes as long as they do not directly regulate land use, property development, or subdivision requirements. LAFCOs generally exercise their regulatory authority in response to applications submitted by local agencies, landowners, or registered voters. Recent amendments to CKH, however, now empower and encourage LAFCOs to initiate on their own jurisdictional changes to form, merge, and dissolve special districts consistent with current and future community needs. The following table provides a complete list of LAFCOs' regulatory authority as of January 1, 2012.

LAFCOs' Regulatory Authority	
• City Incorporations and Disincorporations	• City and District Annexations
• District Formations and Dissolutions	• City and District Detachments
• City and District Consolidations	• Merge/Establish Subsidiary Districts
• City and District Outside Service Extensions	• District Service Activations or Divestitures

[1] Reference California Government Code Section 56000 et seq.

[2] CKH defines "city" to mean any incorporated chartered or general law city. This includes any city the name of which includes the word "town". CKH defines "special district" to mean any agency of the State formed pursuant to general law or special act for the local performance of governmental or proprietary functions within limited boundaries. All special districts in California are subject to LAFCO with the following exceptions: school districts; community college districts; assessment districts; improvement districts; community facilities districts; and air pollution control districts.

1.3 Planning Responsibilities

LAFCOs inform their regulatory actions through two central and interrelated planning responsibilities: (a) making sphere of influence ("sphere") determinations and (b) preparing municipal service reviews. Sphere determinations have been a central planning function of LAFCOs since 1971 and effectively serve as the Legislature's version of "urban growth boundaries" with regard to delineating the appropriate interface between urban and non urban uses. Municipal service reviews, in contrast, are a relatively new planning responsibility enacted in 2001 as part of CKH and are intended to inform – among other activities – sphere determinations. The Legislature mandates, notably, all sphere changes be accompanied by preceding municipal service reviews to help ensure LAFCOs are effectively aligning governmental services with current and anticipated community needs. An expanded summary of the function and role of these two planning responsibilities follows.

Sphere Determinations

LAFCOs establish, amend, and update spheres for all cities and special districts to designate the territory it independently believes represents the appropriate and probable future service area and jurisdictional boundary of the affected agency. Importantly, all jurisdictional changes, such as annexations and detachments, must be consistent with the spheres of the affected local agencies with limited exceptions.[3] Further, an increasingly important role involving sphere determinations relates to their use by regional councils of governments as planning areas in allocating housing need assignments for counties and cities, which must be addressed by the agencies in their housing elements. LAFCO must review and update each local agency's sphere every five years as necessary. In making a sphere determination, LAFCO is required to prepare written statements addressing five specific planning factors listed under G.C. Section 56425. These mandatory factors range from evaluating current and future land uses to the existence of pertinent communities of interest. The intent in preparing the written statements is to focus LAFCO in addressing the core principles underlying the sensible development of each local agency consistent with the anticipated needs of the affected community. The five planning factors are summarized in the following table.

Sphere Determinations: Mandatory Written Statements	
1.	Present and planned land uses in the area, including agricultural and open space.
2.	Present and probable need for public facilities and services in the area.
3.	Present capacity of public facilities and adequacy of public services the agency provides or is authorized to provide.
4.	Existence of any social or economic communities of interest in the area if the commission determines they are relevant to the agency.
5.	If the city or district provides water, sewer, or fire, the present and probable need for those services of any disadvantaged unincorporated communities within the existing sphere.

Municipal Service Reviews

Municipal service reviews are comprehensive studies of the availability and sufficiency of governmental services provided within a defined geographic area. LAFCOs generally prepare municipal service reviews to inform subsequent sphere determinations. LAFCOs also prepare municipal service reviews irrespective of making any specific

[3] Exceptions in which jurisdictional boundary changes do not require consistency with the affected agencies' spheres include annexations of State correctional facilities or annexations to cities involving city owned lands used for municipal purposes.

sphere determinations in order to obtain and furnish information to contribute to the overall orderly development of local communities. Municipal service reviews vary in scope and can focus on a particular agency or governmental service. LAFCOs may use the information generated from municipal service reviews to initiate other actions under their authority, such as forming, consolidating, or dissolving one or more local agencies. Municipal service reviews culminate with LAFCOs preparing written statements addressing seven specific service factors listed under G.C. Section 56430. This includes, most notably, infrastructure needs or deficiencies, growth and population trends, and financial standing. The seven service factors are summarized in the following table.

Municipal Service Reviews: Mandatory Written Statements	
1.	Growth and population projections for the affected area.
2.	Location and characteristics of any disadvantaged unincorporated communities within or contiguous to affected spheres of influence.[4]
3.	Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies.
4.	Financial ability of agencies to provide services.
5.	Status and opportunities for shared facilities.
6.	Accountability for community service needs, including structure and operational efficiencies.
7.	Any matter related to effective or efficient service delivery as required by LAFCO policy.

1.4 Composition

LAFCOs are generally governed by an eight-member board comprising three county supervisors, three city councilmembers, and two representatives of the general public.[5] Members are divided between "regulars" and "alternates" and must exercise their independent judgment on behalf of the interests of residents, landowners, and the public as a whole. LAFCO members are subject to standard disclosure requirements for California public officials and must file annual statements of economic interests. LAFCOs have sole authority in administering its legislative responsibilities and its decisions are not subject to an outside appeal process.

All LAFCOs are independent of local government with the majority employing their own staff; an increasingly smaller portion of LAFCOs choose to contract with their local county government for staff support services. All LAFCOs, nevertheless, must appoint their own Executive Officers to manage agency activities and provide written recommendations on all regulatory and planning actions before the members.

1.5 Funding

CKH prescribes local agencies fund LAFCOs' annual operating costs. Counties are generally responsible for one-half of LAFCO's annual operating costs with the remainder proportionally allocated among cities based on a calculation of tax revenues and population.[6] LAFCOs are also authorized to collect fees to offset local agency contributions.

[4] This determination was added to the municipal service review process by Senate Bill 244 effective January 1, 2012. The definition of "disadvantaged unincorporated community" is defined under G.C. Section 56330.5 to mean inhabited territory that constitutes all or a portion of an area with an annual median household income that is less than 80 percent of the statewide annual median household income.

[5] Several LAFCOs also have two members from independent special districts within their county.

[6] The funding formula for LAFCOs with special district representation provides that all three appointing authorities (county, cities, and special districts) are responsible for one-third of LAFCOs' annual operating costs.

2.0 LAFCO of Napa County

LAFCO of Napa County ("Commission") was first established in 1963 as a department within the County of Napa. Consistent with pre CKH provisions, the County was entirely responsible for funding the Commission's annual operating costs over the first three decades. Further, the duties of the Executive Officer were first performed by the County Administrator and later the County Planning Director.

CKH's enactment in 2001 changed the Commission's funding to assign one-half of its operating costs to the County with the other one-half assigned to the Cities of American Canyon, Calistoga, Napa, St. Helena, and the Town of Yountville. CKH's enactment also facilitated a number of organizational changes highlighted by the Commission entering into a staff support services agreement with the County; an agreement allowing the Commission, among other things, to appoint its own Executive Officer. The Commission's current member roster is provided below.

Napa LAFCO's Commission Roster		
Appointing Agency	**Regular Members**	**Alternative Members**
County of Napa: Supervisors	Bill Dodd Brad Wagenknecht	Mark Luce
City Selection Committee: Mayors	Joan Bennett Lewis Chilton	Juliana Inman
Commissioners: City and County	Brian J. Kelly	Gregory Rodeno

Staffing for the Commission currently consists of 2.5 full-time equivalent employees. This includes a full-time Executive Officer and Analyst along with a part-time Secretary.[7] Legal services are provided by the County Counsel's Office. All other staffing related services, such as accounting, human resources, information technology, are provided by the County as needed. The Commission's adopted budget for 2012-2013 totals $0.432 million with an audited unreserved/undesignated fund balance of $0.119 million as of June 30, 2012.

[7] The Commission contracts with the County for staff support services. The Executive Officer and all support personnel are County employees. The Commission, however, appoints and removes the Executive Officer on its own discretion.

II. EXECUTIVE SUMMARY

1.0 Overview

This report represents the Commission's scheduled sphere update for Napa Berryessa Resort Improvement District (NBRID). The underlying objective of the report is to review NBRID's existing sphere relative to current legislative directives, local policies, and member preferences in justifying whether to (a) change or (b) maintain the designation. This report supersedes the last sphere update on NBRID adopted in December 2007. The report draws on information collected and analyzed in the Commission's recently completed municipal service review on the Lake Berryessa region, which includes the evaluation of availability, adequacy, and capacity of services provided by NBRID.

2.0 Conclusions and Recommendations

2.1 Role of NBRID

NBRID continues to serve an important role in supporting existing and planned development within the Berryessa Highlands community and its estimated 920 residents by providing public water and sewer services. Importantly, organized water and sewer services would otherwise be unavailable to the community and its residents given the lack of alternative providers in the region. NBRID has also assumed a unique and expanded governance role as the community's primary conduit with the County's Board of Supervisors given their role as the District Board. NBRID's effectiveness in meeting current and future community needs, however, has been increasingly challenged given the District's ongoing financial distress compounded by the need for significant improvements to the sewer system; a dynamic highlighted by a negative fund balance, dependency on the County for emergency loans, and operating under a State-directed moratorium on sewer connections. These referenced challenges have been further intensified most recently by the stalled redevelopment plans of the United States Bureau of Reclamation's ("Bureau") for the former Steele Park Resort site.[8]

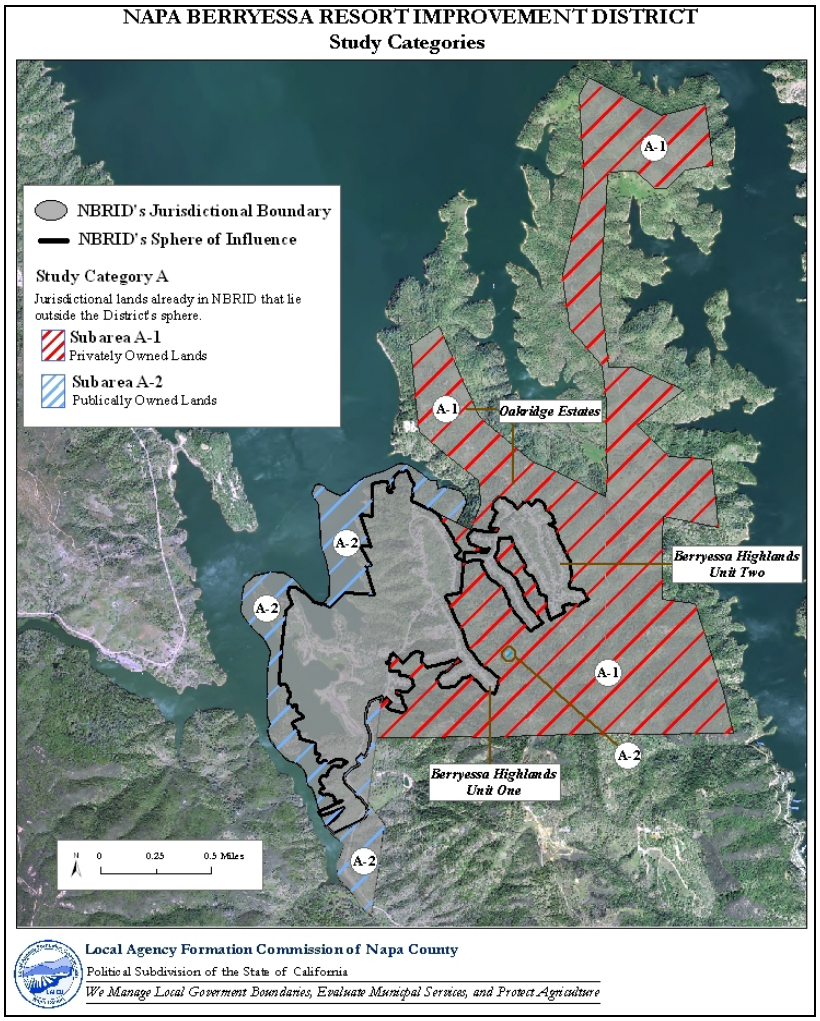
With the preceding governance issues in mind, and based on information collected during the municipal service review, the Commission initiated and conditionally approved the reorganization of NBRID into a community services district under the expedited proceedings available under G.C. Section 56853.5 in April 2011. The Commission's stated intent in approving the reorganization is two-fold. First, reorganization positions the anticipated Napa Berryessa Community Services District (NBCSD) to become more responsive to changes in constituent needs by having the power – subject to subsequent Commission approval – to provide additional municipal services in support of Berryessa Highlands' continued development. Second, reorganization improves public accountability by facilitating the delegation of responsibilities in planning for the present and future service needs of the community from the County to local residents. Specifically, the Commission approved reorganization with the explicit expectation it would directly lead NBCSD to call and conduct an election to replace the County Board of Supervisors with registered voters as the governing board. Approval, nonetheless, has been conditioned on NBRID first executing water and sewer service contracts with the approved concessionaire for the former

[8] NBRID's ability to implement the needed utility improvements is dependent on Bureau's pending redevelopment of the former Steele Park Resort site; a critical component to funding any improvements given the potential impact on a voter-approved assessment.

Steele Park Resort site: a condition requested by NBRID and intended to help ensure the reorganized District will have sufficient revenue sources going forward.[9] The Commission recently extended the condition deadline from April 2012 to December 2017.[10]

2.2 Policy Focus

The report and its analysis has been oriented to focus on one central policy question as to whether it is appropriate to expand NBRID's current sphere to include the District's entire jurisdictional boundary. This central consideration is drawn from the Commission's previous action to include only one-fourth of NBRID's jurisdictional boundary in establishing the sphere in 1985 for reasons detailed in this report and summarized in the succeeding paragraphs. The report, accordingly, evaluates the merits of adding this lone study category consisting of approximately 1,387 acres of remaining jurisdictional land to the sphere relative to current considerations (i.e., legislative directives, adopted policies, and member preferences). The report further divides this lone study category into two distinct subareas labeled "A-1" and "A-2" based on private versus public ownership.



[9] The condition addresses a discrepancy between resort improvement district and community services district laws as it relates to the ability of an affected district to require a landowner to connect to a public water system. A resort improvement district is authorized to require water and sewer connection of any landowner while a community services district has only the power to require sewer connection.

[10] The approved extension of the condition deadline to December 2017 corresponds with the sunset date provided for the expedited reorganization proceedings under G.C. Section 56853.5.

2.3 Conclusions

The report concludes there is *equal* merit for the Commission to either change or maintain NBRID's existing sphere designation depending on the collective preference of members (emphasis added). The principal justification to change and expand NBRID's sphere to include both subareas – A-1 and A-2 – applies if it is the preference of the Commission to assign deference to the lands' existing social and economic ties with the District. These ties apply – albeit at different degrees – to both subareas and are borne from their standing inclusion in NBRID's jurisdictional boundary. It is important to note these ties are particularly pronounced for A-1's Oakridge Estates given the landowners have already established service connections to NBRID's water and sewer systems and, accordingly, pay the same user rates and assessment fees applied to District lands that lie within the sphere. The addition of both subareas to the sphere would also delete a decades-old policy statement that has proven ineffective in encouraging NBRID to initiate detachment proceedings for the affected lands. Adding the subareas to the sphere may also prove advantageous in engaging the affected landowners with respect to their current and future needs in anticipation of completing the pending reorganization.[11]

In contrast to the preceding considerations, the principal consideration to maintaining NBRID's existing sphere is drawn from the two subareas' limited land use and, to a lesser degree, service compatibilities with the District. In particular, this includes recognizing the addition of the subareas to the sphere would be inconsistent with a Commission policy given it would serve to support the location of urban uses within agricultural/open-space designated lands as defined under the County General Plan.[12] It is also reasonable to assume adding the subareas does not provide new assurances services would be established by NBRID within those affected lands not already being served (i.e. Oakridge Estates) in the next 10 years; a potential outcome that is explicitly discouraged under Commission policy with respect to designating spheres.[13] Finally, it would be reasonable for the Commission to defer making any changes to the sphere to the next update to allow the pending reorganization proceedings to conclude and/or if members believe more information is needed in aligning the sphere with the needs of the community.

Given the referenced conclusions, the following four distinct options have been identified for consideration by the Commission in updating NBRID's sphere at this time.

- **Option One: Expand the Sphere to Match the Jurisdictional Boundary**
  This option would be appropriate if it is the Commission's preference to assign overriding deference to the lands' existing social and economic ties to NBRID in choosing to add the subareas to the sphere.

[11] The conclusion of the reorganization proceedings appears to have three possible outcomes. The first and ideal outcome would be for the reorganization proceedings to be complete upon satisfaction of all terms and conditions by the December 2017 deadline. The second possible outcome would be for the reorganization proceedings to be terminated if the terms and conditions are not satisfied by the referenced deadline and no follow up action is pursued by the Commission in the near term. The third possible outcome would be for the reorganization proceedings to be terminated if the terms and conditions are not satisfied by the referenced deadline and new proceedings are pursued by the Commission in the short term.

[12] Statement references Policy Determination III/B/(3).

[13] Statement references Policy Determination III/B/(5)/(b).

- **Option Two: Expand the Sphere to Include A-1's Oakridge Estates**
  This option would be appropriate if it is the Commission's preference to assign overriding deference to the existing need for water and sewer services within the lands as well as their social and economic ties to NBRID in choosing to add the approximate 130 acres to the sphere. This option would orient the sphere to explicitly reflect NBRID's present service area, and in doing so, eliminate the current policy inference of the Commission that the affected lands – irrespective of their connectivity to the water and sewer systems – be detached.

- **Option Three: Retain Current Sphere and Pursue Detachment Alternatives**
  This option would be appropriate if it is the Commission's preference to emphasize the affected lands' limited land use and, to a lesser degree, service planning compatibilities with NBRID in choosing to continue to exclude the subareas from the sphere with the possible exception of the Oakridge Estates given its referenced service ties to the District. This option would serve to reaffirm the Commission's policy statement the affected lands be detached and memorialized by requesting the NBRID Board take action to initiate a proposal for Commission consideration to detach the subareas.

- **Option Four: Retain Current Sphere and Table Considerations**
  This option would be appropriate if it is the Commission's preference to maintain the status quo on the sphere and table all related policy considerations to the next update. This option would specifically be appropriate if the Commission prioritizes allowing the pending reorganization proceedings to be completed without changing baseline factors and/or if members believe more information is needed in aligning the sphere with the needs of the community.

2.4 Recommendation and Determinative Statements

It is recommended the Commission retain NBRID's current sphere designation and table all policy considerations until the next update; actions identified in the preceding section as Option Four. These actions – most notably – would serve to signal the Commission's interest and intent in prioritizing the conclusion of the pending reorganization proceedings before making any other determinations on possible changes to NBRID's sphere. Further, these actions would provide the Commission, NBRID, and the community the opportunity to continue to collectively consider the merit of sphere changes in step with the District's anticipated facility improvements over the next five year period.

The following written statements support the recommendation to update NBRID's existing sphere of influence with no changes as required under G.C. Section 56425.

- **Present and Planned Land Uses in the Area**
  The County of Napa's adopted land use policies provide for the current and future residential uses characterizing the majority of the recommended sphere. The commercial recreational uses – although currently dormant – characterizing the remainder of the recommended sphere have been tenured over the last several decades and consistent with uses throughout the Lake Berryessa shoreline. These present and planned uses are compatible with NBRID's water and sewer services.

There are no agricultural lands and limited open-space lands within the recommended sphere as defined under LAFCO law.

- **Present and Probable Need for Public Services in the Area**
  There is a present need for NBRID's water and sewer services throughout the recommended sphere to support the existing and continued development of the Berryessa Highlands community and its estimated 920 residents. These services are also needed in anticipation and support of the expected redevelopment and opening of the former Steele Park Resort site.

- **Present Capacity and Adequacy of Public Services Provided by the Agency**
  The Commission's recently completed municipal service review on the Lake Berryessa region indicates NBRID's water services are sufficiently capacitated to meet both existing and projected needs in the recommended sphere with the exception of increasing storage and treatment facilities to accommodate peak day demands at buildout. The municipal service review concludes sewer services, however, are not adequately capacitated and require immediate and substantial improvements to meet existing needs in the recommended sphere; a conclusion independently supported by an existing State moratorium prohibiting NBRID from issuing any new sewer service connections. NBRID's ability to address these and other improvements are constrained by the District's ongoing fiscal distress tied to operating aging infrastructure in a confined area characterized by modest annual growth increases along with the loss – temporary or permanent – of its largest water and sewer user at the former Steele Park Resort site.

- **Existence of Relevant Social or Economic Communities of Interest**
  The affected territory within the recommended sphere has established strong social and economic interdependencies with NBRID distinct from neighboring areas and agencies. These ties are affirmed and strengthened by this update.

- **Present and Probable Need for Water, Sewer, or Fire Protection for Any Disadvantaged Unincorporated Communities in the Area**
  Lands within the recommended sphere do not qualify as disadvantaged unincorporated communities under LAFCO law.

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III. AGENCY PROFILE

1.0 Background

1.1 Formation Proceedings

Napa Berryessa Resort Improvement District	
Date Formed:	1965
Enabling Legislation:	Government Code 25210.1-25217.4
Services Provided:	Water and Sewer
Estimated Population:	920

NBRID was formed in 1965 as a dependent special district governed by the County of Napa Board of Supervisors. NBRID's formation was approved by the Commission at the request of the principal landowner, Berryessa Highlands Development Company, and with the support of the County to provide a range of municipal services for the development of "Berryessa Highlands;" a planned residential/commercial community located along the southern shoreline of Lake Berryessa in east Napa County.[14] It was initially expected – and similar to other approved projects in the region – Berryessa Highlands would develop over several subdivision phases to accommodate both permanent and seasonal uses; the latter of which was primarily tied to the expansion and development of Steele Park Resort.[15] It was also expected that governance would eventually transition from the Board of Supervisors to registered voters within Berryessa Highlands. In all, the buildout of Berryessa Highlands was expected to include 4,000 residential units with a fulltime population of 6,500.

1.2 Development Activities

HIGHLANDS / UNIT ONE

Actual development within Berryessa Highlands has been limited to date to include three distinct subdivisions with a current estimated resident population of 920.[16] The first two subdivisions were developed immediately following NBRID's formation and entailed the creation of "Unit One" and "Unit Two," which involved the creation of 202 and 359 single-family lots, respectively. Notably, only 349 out of the 561 total lots within Units One and Two have been constructed to date. Development within Unit One also includes the former Steele Park Resort site. The third subdivision was developed in the early 1980's with the creation of a 10-lot subdivision known as "Oakridge Estates;" eight of which have been constructed to date.[17] Reasons for the lack of actual development within Berryessa Highlands appear to be attributed to three related factors. First, the demand for primary and secondary homes in the region has not materialized as expected. Second, the County amended its land use policies, among other factors, to discourage further development along Lake Berryessa's shoreline beginning with the adoption of the County's first general plan in 1975. Third, NBRID has been prohibited from providing any services other than water and sewer as a result of an amendment to its principal act taking affecting in 1971.

[14] Actual slope within NBRID is identified to have a range of 435 to 1,300 feet above sea level.

[15] The Steele Park Resort, along with six other resorts, was developed in the late 1950s following an agreement with the County to provide recreational and commercial services to the public at Lake Berryessa. At the time of NBRID's formation, Steele Park Resort was expected to develop into a year-round resort facility and include approximately 150 campsites, a 24-room motel, and a retail center outfitted with a grocery store, restaurant, and bait-and-tackle shop. In 1975, administrative duties concerning recreational development at Lake Berryessa were later assumed by the U.S. Department of the Interior, Bureau of Reclamation.

[16] The referenced population estimate was calculated by the Commission based on an earlier regional municipal service review.

[17] Services to Oakridge Estates were established in 1982 and facilitated through an intertie to the main distribution and collection systems.

1.3 Financial Issues

The limited amount of actual development within NBRID serves as the key attribute in explaining the prolonged and ongoing fiscal challenges underlying District operations; challenges the Commission first noted in establishing a sphere of influence for NBRID in 1985 as detailed in the succeeding section. This dynamic produces diseconomies of scale in which service costs are spread out among a limited number of users leading to an average monthly charge for water and sewer services of $217 and is one of the highest monthly totals in Napa County. The effect of the diseconomies of scale is highlighted by NBRID finishing each of the last five fiscal years evaluated in the recent municipal service review with negative end-of-year balances; all of which has contributed to the District beginning the current fiscal year with a negative fund balance of ($0.77 million). The effect of the diseconomies of scale is also present relative to NBRID continuing to operate aging infrastructure and has resulted – among other issues – in the Regional Water Quality Control Board (RWQCB) issuing three separate cease and desist orders between 1995 and 2010 for repeated unauthorized sewage spills into Lake Berryessa. Importantly, NBRID is restricted from establishing new sewer connections and is under the directive to construct a new sewer treatment facility before December 2015.

Another pertinent factor underlying NBRID's finances – specifically its ability to fund capital improvements to both utility systems – is tied to uncertainties associated with the United States Bureau of Reclamation's (Bureau) pending redevelopment plans for the Steele Park Resort site and its potential impact on a voter-approved assessment.[18] These uncertainties began in earnest in 2009 when the seven resort sites operating along the Lake Berryessa shoreline were closed as all concessionaire contracts expired. Bureau awarded a new 40-year concessionaire contract in 2010 to the Pensus Group and tasked the contractor – among other directives – to redevelop the Steele Park Resort site for short-term vacation uses. Subsequent disagreements, however, between the two parties ensued with respect to implementing an actual development plan for the Steele Park Resort site and culminated with Bureau terminating the concessionaire contract in December 2012. The termination of the contract is particularly pertinent to NBRID given the Steele Park Resort – when previously operating – represented close to one-third of the District's annual service demands and generated an equivalent percentage of its annual operating revenue. The termination of the contract also impacts a $13.9 million bond measure approved by NBRID voters in April 2007 to make expansive improvements to both water and sewer systems.[19] The bond measure – as approved – is secured by a special assessment levied against all lands within NBRID and calculated based on expected benefit from the system-wide improvements; one-third of which are specifically tied to the Steele Park Resort site. The termination of the contract – among other considerations – calls into question if and when the bond measure as presently formulated can reasonably be implemented.[20]

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[18] The majority of services at Steele Park Resort were closed in May 2008. Bureau reports limited services were provided through early 2010 through an interim contract between the Bureau and the previous concession contractor. This concession site has been left undeveloped since early 2010 due to complications in Bureau's competitive bid process for new contractors to assume control.

[19] The bond measure is secured by a special assessment district that applies an annual $563.96 charge for every dwelling unit over a 30 year period. At the time the bond measure was approved by voters, it was expected Steele Park Resort/Lupine Shores Resort would include 228 equivalent dwelling units. The Pensus Group's development plan, however, will only use the equivalent of 88 dwelling units; a total significantly lower than the originally anticipated amount.

[20] Bureau has recently reached out to the concessionaire operators for Markley Cove and Pleasure Cove with respect to inquiring whether they would have an interest in assuming a short-term contract to operate the former Steele Park Resort site. Bureau has also pledged an approximate $4.0 million investment in facility upgrades to the site to assist a short-term contractor in assuming and opening recreational activities.

1.4 Reorganization Approval

In April 2011, the Commission initiated and approved the expedited reorganization of NBRID into a new community services district ("NBCSD") with the same boundary, duties, powers, assets, and liabilities.[21] Approval of the reorganization was consistent with the recommendation of the earlier municipal service review prepared on the region and intended to serve two distinct Commission objectives. First, reorganization would position NBCSD to become more responsive to changes in constituent needs by having the power – subject to subsequent Commission approval – to provide additional municipal services in support of Berryessa Highlands' continued development. Second, reorganization would improve public accountability by facilitating the delegation of responsibilities in planning for the present and future service needs of the community from the County to local residents. Specifically, the Commission approved reorganization with the explicit expectation it would directly lead NBCSD to call and conduct an election to replace the County Board of Supervisors with registered voters as the governing board. Approval is conditioned on NBRID executing water and sewer service contracts with the approved concessionaire for the Steele Park Resort site: a condition requested by NBRID and intended to help ensure the reorganized District will have sufficient revenue sources going forward.[22] The Commission recently extended the condition deadline from April 2012 to December 2017.[23]

2.0 Current Activities

NBRID has a current operating budget of $1.77 million. This amount covers all approved operating expenses for both the water and sewer systems. An approximate ($0.06 million) operating deficit has been budgeted for the current fiscal year; a marked improvement over previous fiscal years and the result of a recent ratepayer increase. NBRID's audited undesignated/unreserved fund balance at the beginning of the current fiscal year totals approximately ($0.77 million) and tied to perennial operating losses incurred over the last several years. The majority of administrative services are provided directly by the County Public Works Department with operations & maintenance services provided by a contractor, Phillips and Associates.[24]

NBRID's jurisdictional boundary covers approximately 2.9 square miles or 1,896 acres.[25] No changes have been made to the jurisdictional boundary since NBRID's formation in 1965. There are currently 350 metered water connections and 351 metered sewer connections. All connections are located within the jurisdictional boundary and support 358 developed single-family residences with an estimated population of 920.

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[21] Approving NBRID's reorganization was not subject to protest proceedings given the application of Government Code Section 56853.5; special legislation allowing LAFCOs to expeditiously reorganize resort improvement districts into community service districts without protest and election as long as the affected agencies consent and the proceedings are initiated by January 1, 2018.

[22] The condition addresses a discrepancy between resort improvement district and community services district laws as it relates to the ability of an affected district to require a landowner to connect to a public water system. A resort improvement district is authorized to require water and sewer connection of any landowner while a community services district has only the power to require connection to the sewer system.

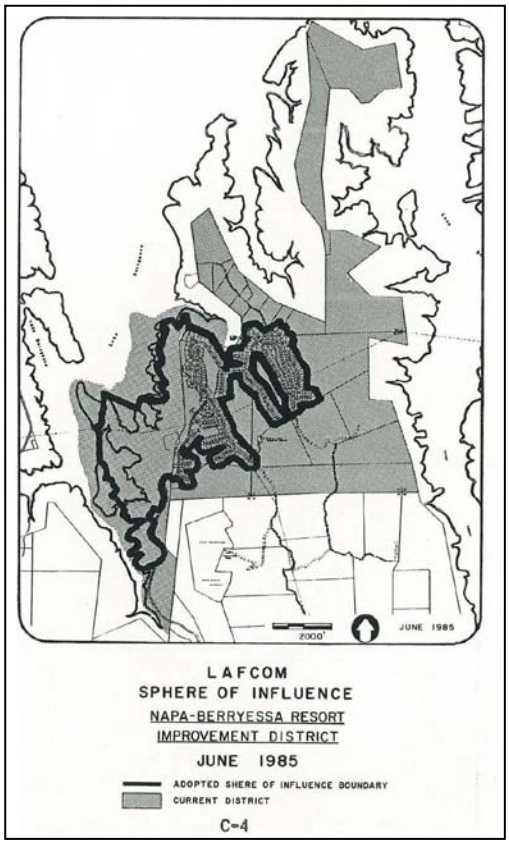
[23] The approved extension of the condition deadline to December 2017 corresponds with the sunset date provided for the expedited reorganization proceedings under G.C. Section 56853.5.

[24] NBRID also receives legal and accounting services from County Counsel and the Auditor's Office, respectively.

[25] There are approximately 620 parcels lying in NBRID with an overall assessed value of $83.2 million. A review of the database maintained by the County Assessor's Office indicates only 352 of the parcels have been developed as measured by the assignment of situs addresses. It is estimated only two-fifths of the total land acres within NBRID have been developed.

3.0 Sphere of Influence

3.1 Establishment



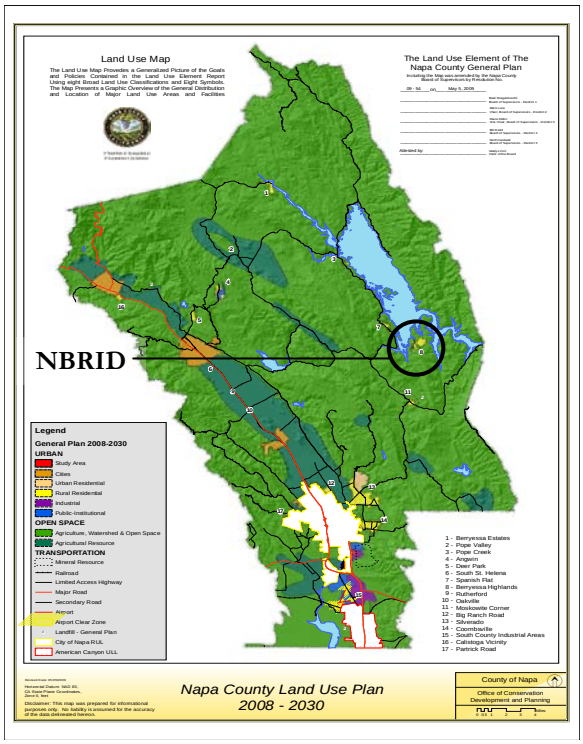
NBRID's sphere was established to include approximately 510 acres by the Commission in June 1985. This action was prompted by earlier legislation requiring LAFCOs to establish spheres for all cities and special districts within their jurisdictions by December 1985.[26] Pertinently, in considering the establishment of a sphere, the Commission formally noted its concerns regarding NBRID's long-term financial viability given the lack of actual development as well as a persistent structural imbalance in which annual expenses were continually exceeding annual revenues. The Commission also noted concerns regarding NBRID's sewer capacity and determined immediate improvements were needed to replace the aging and deteriorating system. The Commission, given these considerations, established NBRID's sphere to include only parcels lying in Units One and Two along with a limited number of adjacent lands expected to be developed for residential or public recreational uses over the next 10 year period.[27] The Commission also directed future resources to create a subcommittee to explore reorganizing NBRID into a community services district in order for the District to also provide garbage, fire, and street services. Further, the Commission directed NBRID to take action to initiate detachment proceedings involving the jurisdictional lands excluded from the sphere.

3.2 Amendments and Updates

The Commission affirmed NBRID's existing sphere designation with no changes as part of a scheduled update in 2007.[28] The update was prepared in conjunction with two earlier municipal service reviews examining countywide water and sewer provision, both of which included determinations noting the need for NBRID to make a number of immediate infrastructure improvements along with stabilizing its financial solvency. The Commission also noted in both municipal service reviews the need to explore regional reorganization opportunities given pervasive service challenges among all three special districts serving the Lake Berryessa shoreline. To this end, the Commission deferred considering any sphere changes for the affected agencies in the region – including NBRID – until completion of additional analysis regarding reorganization/consolidation opportunities.

[26] Assembly Bill 498 (Cortese); Signed, Chapter 27, Statutes of 1983.
[27] There are a total of 1,387 jurisdictional acres encompassing 67 entire or portions of parcels in NBRID lying outside the sphere.
[28] The referenced update was preceded by new legislation requiring LAFCOs to review and update all city and special district spheres by 2008 and every five years thereafter.

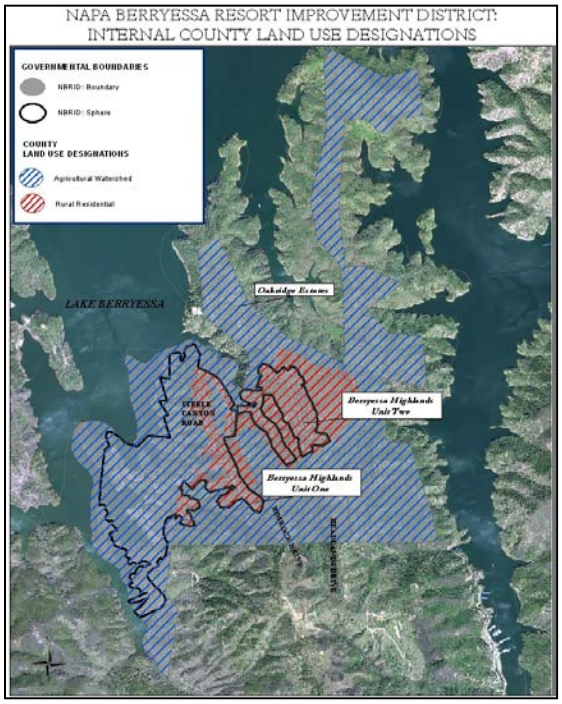
4.0 Planning Factors



NBRID operates entirely under the land use authority of the County. Its jurisdictional boundary anchor – Berryessa Highlands – is one of 15 distinct unincorporated communities identified under the County General Plan. It is estimated the resident population within Berryessa Highlands (920) accounts for less than four percent of the overall unincorporated population (26,567) in Napa County. The nearest incorporated communities to Berryessa Highlands are Napa (Napa County) and Winters (Yolo County) at approximately 20 to 25 miles to the southwest and east, respectively.

It is estimated over three-fifths of land within NBRID's jurisdictional boundary is currently undeveloped/unimproved and mostly comprises natural chaparral or types of native vegetation. The remaining two-fifths of jurisdictional lands are principally developed with single-family residences in Units One (189) and Two (160). There also remains the former Steele Park Resort site within NBRID's jurisdictional boundary, which presently is being directly operated by Bureau and provides free public access to the boat launch and shoreline.[29]

4.1 Land Uses Within Boundary



All lands within NBRID are divided between two distinct designations under the County General Plan: *Rural Residential* and *Agriculture, Watershed, and Open Space.*

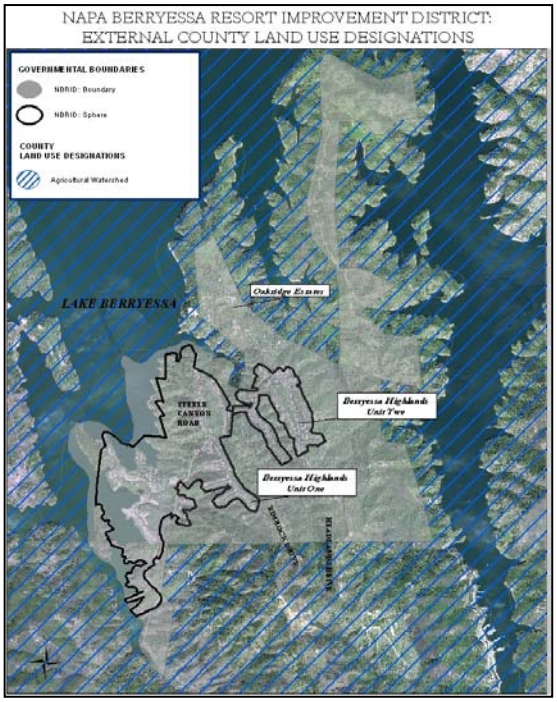
- Jurisdictional lands designated as *Rural Residential* apply to approximately one-fifth of NBRID's jurisdictional boundary and predominantly cover Berryessa Highlands' Units One and Two. The designation is intended to accommodate low density residential uses that are in proximity to existing urbanized areas that are either in agriculture or where further parcelization shall be discouraged. The minimum lot density is 10 acres and, as a result, precludes any further divisions in NBRID based on existing lot sizes.

[29] Bureau operates the former Steele Park Resort site Monday through Sunday from 7:00 A.M. to 5:00 P.M..

- Jurisdictional lands designated as *Agriculture, Watershed, and Open Space* apply to approximately four-fifths of NBRID's jurisdictional boundary and cover mostly undeveloped/unimproved lands with the exception of the segment of Unit One dedicated to the former Steele Park Resort site and the Oakridge Estates. This designation is intended to support the preservation of existing agricultural and open space uses and prescribes a minimum lot density of 160 acres. This designation precludes any new land division within NBRID based on existing lot sizes with the exception of a single parcel near the northern perimeter.[30]

4.2 Land Uses Outside Boundary

All external lands immediately adjacent to NBRID's jurisdictional boundary are designated for non-urban uses under the County General Plan as *Agriculture, Watershed, and Open Space* and subject to the referenced 160 acre minimum lot density. The pervasive land uses within these adjacent lands involve undeveloped/unimproved open space characterized mostly by chaparral and other types of natural vegetation. There are a limited number of rural residences to the south and west located along Rimrock and Headlands Drives.[31] The closest unincorporated area to NBRID with a land use designation other than *Agriculture, Watershed, and Open Space* is approximately 10 miles southwest along Steele Canyon Road and involves the Moskowite Corner community.[32]



IV. DISCUSSION

1.0 Objectives

The basic objective of this report is to identify and evaluate areas warranting consideration for inclusion or removal from NBRID's sphere as part of a scheduled update. Underlying this effort is to designate the sphere in a manner the Commission *independently* believes will facilitate the sensible and timely development of the District consistent with the objectives of the Legislature codified in CKH (emphasis added). Specific goals under this legislation include discouraging urban sprawl, preserving open space and prime agricultural lands, and providing for the efficient extension of governmental services.

[30] All jurisdictional lands within NBRID are zoned by the County as either *Agriculture Watershed, Planned Development, or Residential Country.*
[31] The Bureau of Reclamation owns the majority of lands immediately to the north and west of NBRID's jurisdictional boundary.
[32] Moskowite Corner is designated by the County as *Rural Residential.*

The Commission's "Policy Determinations" were comprehensively updated in 2011 and provide general prescription in fulfilling its legislative objectives paired with responding appropriately to local conditions and circumstances. The Policy Determinations highlight the Commission's commitment to avoid the premature conversion of important agricultural or open space lands for urban uses through a series of restrictive allowances. This includes a broad prescription to exclude lands designated as agricultural or open space from city and special district spheres for purposes of accommodating urban development with limited exceptions. An additional determination states the Commission's support for Measure "P" by assigning deference to the County General Plan as it relates to determining agricultural and open space land use designations unless special circumstances merit otherwise.[33]

2.0 Timeframe

State law currently requires LAFCOs to review and update each local agency's sphere by January 1, 2008 and every five years thereafter as needed. Accordingly, it has been the practice of the Commission to update each local agency's sphere in a manner emphasizing a probable five-year boundary/service area; actual annexation approval, however, is dependent on the Commission determining whether the specific timing of a proposed boundary change is appropriate.[34] This update's analysis is consistent with this practiced timeframe.

V. STUDY CATEGORIES

1.0 Criteria

This report and its analysis on potential sphere modifications for NBRID is predicated on the core policy interest of the Commission to consider the District's existing prescribed role in providing public water and sewer services in support of the Berryessa Highlands community.[35] This involves, most pertinently, considering the community's need for NBRID's services relative to the District's ability to provide these services consistent with the Commission's interests. Information collected and analyzed in the Commission's recent municipal service review on the Lake Berryessa region is incorporated herein.

2.0 Selection

Based on the criteria outlined in the preceding paragraph, one study category – "A" – has been selected for evaluation in this report for possible inclusion into NBRID's existing sphere. This study category has been selected for review given it represents lands totaling 1,387 acres that are all existing jurisdictional lands lying outside the current sphere. Further, based on ownership factors, this study category is divided into two distinct subareas labeled "A-1" and "A-2." A map depicting the study category and its two subareas follows.

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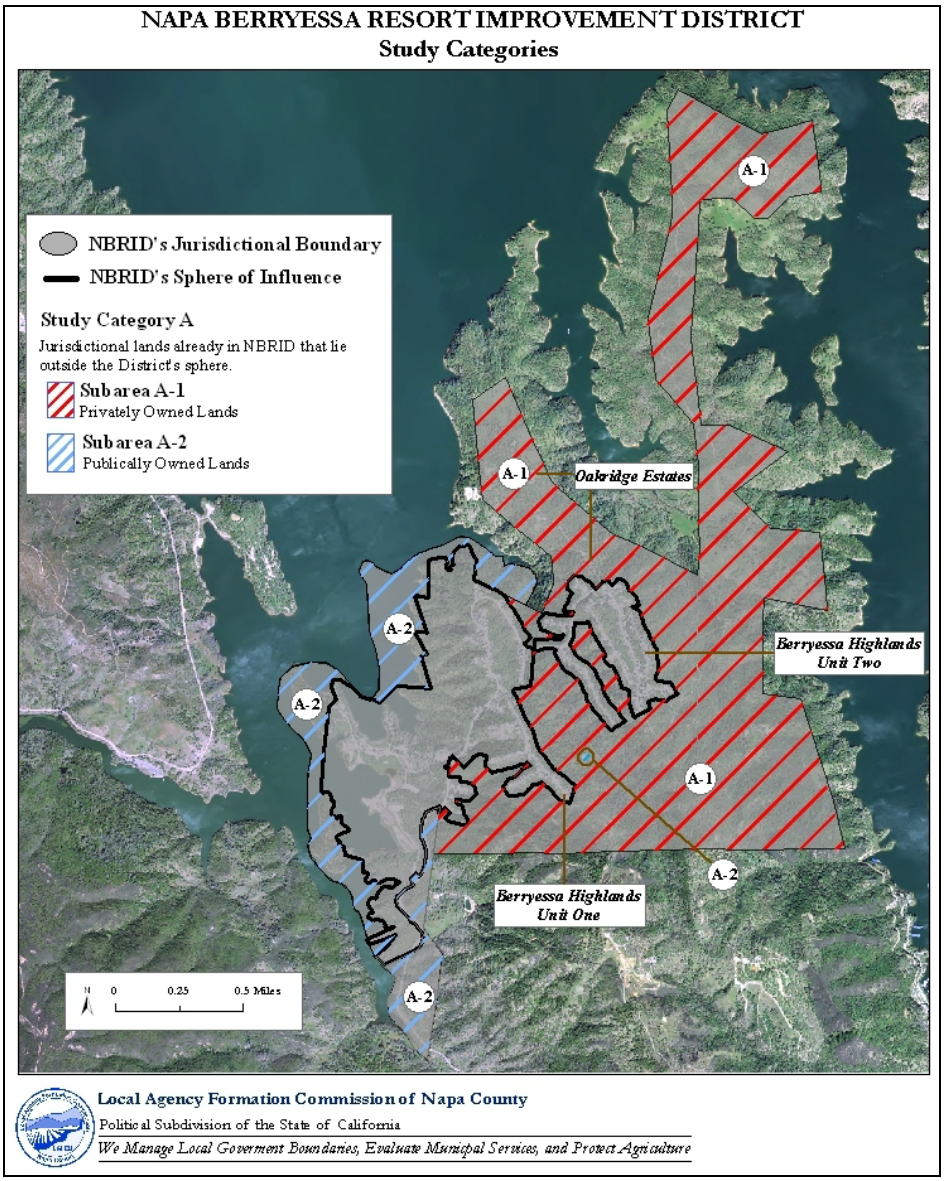
[33] Measure P – formerly Measure J – was initially enacted by Napa County voters in 1990 and prohibits the County from amending agricultural or open space land use designations for urban uses without electorate approval through 2050. Measure P only applies to unincorporated lands.

[34] LAFCOs are directed to consider 15 specific factors under G.C. Section 56668 anytime it reviews a proposed boundary change for purposes of informing the appropriateness of the action. Additionally, it is Commission policy to discourage annexations to cities and districts involving undeveloped or underdeveloped lands without a known project or development plan.

[35] The recent municipal service review noted there may be need/benefit for reorganizing NBRID into a community services district (CSD) to, among other things, provide additional elevated governmental services within the Berryessa Highlands community; most specifically public fire protection, roads, and recreation services. The municipal service review concluded it would be appropriate to immediately initiate a transition for NBRID to reorganize into a CSD.



It is important to note the report does not identify any areas lying outside NBRID's current jurisdictional boundary for possible inclusion into the District's sphere. The decision not to consider expanding the sphere beyond NBRID's jurisdiction appears appropriate at this time given the uncertainties of whether the Commission's terms for approving the District's reorganization will be completed by the December 2017 deadline; terms dependent on a concessionaire assuming control and operations at the former Steele Park Resort site. Irrespective of these comments, and for purposes of serving as a placeholder for a future review, there may be merit to at least one future sphere amendment outside the current jurisdictional boundary involving an approximate 20 acre lot located at 9625 Steele Canyon Road.[36] This lot lies immediately adjacent to NBRID and the District maintains an easement to cross the property in order to access a sewer disposal facility. The landowner has previously contacted LAFCO to express interest in annexing the lot to establish water service for the purpose of facilitating the construction of a single-family residence for use as a second residence.

[36] The referenced lot is identified by the County of Napa Assessor's Office as 019-220-028.

VI. ANALYSIS

1.0 Evaluation Factors

The evaluation of the study category and its two subareas selected for review as part of this scheduled sphere update for NBRID is organized to focus on addressing the five factors the Commission is required to consider anytime it makes a sphere determination under CKH. These five factors are: (a) present and planned uses; (b) present and probable need for public facilities and services; (c) present adequacy and capacity of public services; (d) existence of any social or economic communities of interest; and (e) if the agency provides water, sewer, or fire protection, present and probable need for these services for any disadvantaged unincorporated communities. Conclusions are offered for each subarea relative to evaluating the preceding factors along with incorporating the policies of the Commission in administering LAFCO law in Napa County. This includes, in particular, considering the merits of any proposed changes relative to the Commission's four basic and interrelated policies in determining the appropriate constitution of a special district sphere as summarized below.

- The location of a special district's sphere shall serve to promote appropriate urban uses as independently determined by the Commission with limited exceptions.
- A special district's sphere should reflect existing and planned service capacities based on information independently analyzed by the Commission.
- Lands designated for agricultural or open space uses shall not be included in a special district's sphere for purposes of facilitating urban development unless unique and merited circumstances exist as determined by the Commission.
- A special district's sphere shall guide annexations within a five-year planning period. Inclusion of land within a sphere, however, shall not be construed to indicate automatic approval of a subsequent annexation proposal; annexations will be considered on their own merits with deference assigned to timing.

2.0 Study Category A

2.1 Subarea A-1

A-1 comprises privately owned lands located within NBRID's jurisdictional boundary that lie outside the District's sphere. This continuous subarea lies entirely east of the existing sphere and totals 1,147 approximate acres with all or portions of 66 lots. The subarea is distinguished by having two panhandles emanating to the west and north of its core area. Two public roadways – Headlands and Rimrock Drives – provide access to the subarea's core and western panhandle; no public roadways serve the eastern panhandle. Topography in the subarea varies from an approximate low of 500 feet near the shoreline to a high of 1,250 feet above sea towards the southeast and into the foothills of nearby Wragg Ridge.

Present and Planned Uses

A-1 is partially developed and highlighted by 15 single-family residential lots with an estimated resident population of 38. The majority of the developed lots – eight – are located within the Oakridge Estates subdivision; an area comprising the western panhandle section and situated along the terminus of the community's main access road: Steele Canyon Road. A commercial vineyard/winery also lies in the western panhandle (St. Barthelemy Cellars). The remaining developed residential lots are generally located in the subarea's core area along Headlands Drives. The remaining portion of the subarea is undeveloped with minimal improvements that are limited to private roads and gates. The application of the County's land use policies prohibits any additional land division with the subarea. These land use policies, however, would allow for each existing lot to be developed to include a single-family residence so long as other factors comply (i.e. slope limitations and proof of water/sewer provision).[37] Accordingly, further development opportunities within the subarea include an additional 50 single-family residences and an accompanying resident population estimate of 125. It is reasonable to assume, nonetheless, the probability of new development within the subarea in the near term is unlikely based on recent trends.

Present and Probable Need for Public Facilities and Services

The present need for NBRID's public services within the subarea is limited to the eight developed lots within the Oakridge Estates Subdivision; lots currently connected and dependent on NBRID's water and sewer systems. It would be reasonable to assume there remains a potential need for water service within some/all of the remaining lots within the subarea if and when development occurs given evidence of inconsistent groundwater supplies. The extension of NBRID's sewer services within the rest of the subarea, however, does not appear now or into the probable future given the relatively large lot sizes presumably provide sufficient space to maintain private septic systems without elevated risk of public health or safety threats.

Present Adequacy and Capacity of Public Services

A detailed review of the adequacy and capacity of NBRID's public water and sewer services was performed in the Commission's recently completed municipal service review on the Lake Berryessa region. The municipal service review indicates NBRID has adequate water supply and related infrastructure to accommodate existing and probable demands within its current service area – which includes the Oakridge Estates Subdivision – into the foreseeable future. NBRID's water system would require modest to expansive infrastructure improvements to extend to the remaining portion of the subarea; the cost of which would need to be collectively borne by the landowners. Additionally, the potential buildout of the remaining subarea would further increase the District's peak day demand beyond its existing day storage and treatment capacities and therefore require related facility improvements. Existing deficiencies with NBRID's sewer collection and storage capacities detailed in the municipal service review have culminated in an ongoing moratorium on new connections by RWQCB.

[37] County land use policies would also allow for one guest cottage per existing lot.

Existence of Any Social or Economic Communities of Interest

The entire subarea has established and maintained substantive social and economic ties with NBRID given the lands' existing inclusion within the District's jurisdictional boundary. The inclusion of the subarea in the jurisdictional boundary, specifically, reflects a standing governance assumption originally established by the Commission that the affected lands, as they develop, are to be served by NBRID. Other relevant and tying factors include all of the affected lands' ongoing contribution of property tax proceeds, which help to fund NBRID's general operations. Moreover, these preceding ties are particularly accentuated for the Oakridge Estates subdivision given eight of the ten lots are already connected to NBRID's water and sewer systems and therefore subject to all past and existing assessments and user charges. Irregardless of the these comments, the County's subsequent redesignation and rezoning of the subarea for non-urban uses following NBRID's formation has changed and weakened the affected lands' social and economic ties to the District. These changes in land use policies for the subarea, in particular, have created a disconnect with respect to a special district with urban type service powers for lands now planned for non-urban uses. The Commission previously deferred to these changes in land use policies – among other factors – in choosing to exclude the subarea from NBRID's sphere.

Present and Probable Need for Water, Sewer, or Fire Protection for Any Disadvantaged Unincorporated Communities

The subarea does not qualify as disadvantaged unincorporated communities under LAFCO law. No further analysis is required.

GENERAL CONCLUSIONS

The addition of A-1 to the sphere appears merited if the Commission's preference is to assign deference to the affected lands' existing social and economic ties to NBRID as a result of their standing inclusion in the District. Adding the portion of the subarea comprising the Oakridge Estates would be further merited given the area's present residential land uses and connectivity to NBRID's water and sewer systems. It would be appropriate, nonetheless, to continue to exclude this subarea less the Oakridge Estates from the sphere if it is the Commission's preference to assign deference to one or more of the other policy factors – such as consistency with land uses and service plans – addressed in the accompanying analysis. An expanded discussion on these conclusions and other related issues is provided in the Executive Summary.

2.2 Subarea A-2

A-2 comprises lands publically owned and located within its jurisdictional boundary, but lie outside the sphere. This subarea comprises two non-contiguous sites totaling approximately 240 acres with all or portions of five lots. The larger of the two sites includes four lots owned by Bureau and generally consists of shoreline tied to the former Steele Park Resort site and hereafter referred to as the "Bureau lands." Access to the Bureau lands is provided by Steele Canyon Road and Lakeshore Drive. Topography is relatively flat and peaks at 600 feet above sea. The smaller of the two sites – which is entirely surrounded by the other subarea – includes a single lot owned by NBRID. This smaller site is hereafter referred to as "NBRID lands" and is the location of one of the District's potable water storage tanks. Access to the Bureau lands is limited to a private road. Topography within the smaller site slopes slightly and peaks at 1,150 feet above sea.

Present and Planned Uses

Nearly all of the land comprising Bureau lands is undeveloped with limited improvements associated with the adjacent former Steele Park Resort site. This includes scenic walking paths and unpaved roads along with some auxiliary facilities tied to various recreational activities (i.e. picnic tables, benches, etc.). It is anticipated the Bureau lands will be redeveloped and potentially intensified in step with the anticipated development plans tied to the former Steele Park Resort site; actual uses and timeline, however, are unknown at this time. The NBRID lands are also undeveloped though improved to include the District's 500,000 gallon potable water storage tank, which serves Unit One.

Present and Probable Need for Public Facilities and Services

There is no present need for NBRID's public water and sewer services within either of the two sites comprising the subarea given current land uses. It would be reasonable to assume the probable future need for services is also limited with the possible exception of the Bureau lands and dependent on the type and extent of any future redevelopment associated with the former Steele Park Resort site.

Present Adequacy and Capacity of Public Services

A detailed review of the adequacy and capacity of NBRID's water and sewer services was performed in the Commission's recently completed municipal service review on the Lake Berryessa region. The municipal service review indicates NBRID has adequate water supply and related infrastructure to accommodate existing and probable demands within its current service area into the foreseeable future; a service area that does not include the subarea. The extension of water service into the subarea and specifically to the Bureau lands given its potential need may require facility improvements given NBRID is already operating at or near its storage and treatment capacities in accommodating peak day demands. Additionally, any extension of water service to Bureau lands would generate moderate to expansive line infrastructure improvements with the cost needing to be borne by the Bureau. Existing deficiencies with NBRID's sewer collection and storage capacities detailed in the municipal service review have culminated in an ongoing moratorium on new connections by RWQCB.

Existence of Any Social or Economic Communities of Interest

The entire subarea has established substantive social and economic ties with NBRID given the lands' existing inclusion within the District's jurisdictional boundary. The inclusion of the subarea in the jurisdictional boundary, specifically, reflects a standing governance assumption originally established by the Commission that the affected lands, as they develop, are to be served by NBRID. Irregardless of the above comments, and similar to the other subarea reviewed in this update, the County's subsequent redesignation and rezoning of this subarea for non-urban uses following NBRID's formation has changed and weakened the affected lands' social and economic ties to the District. These changes in land use policies for the subarea, in particular, have created a disconnect with respect to a special district with urban type service powers for lands now planned for non-urban uses. The Commission previously deferred to these changes in land use policies – among other factors – in choosing to exclude the subarea from NBRID's sphere.

Present and Probable Need for Water, Sewer, or Fire Protection for Any Disadvantaged Unincorporated Communities

The subarea does not qualify as disadvantaged unincorporated communities under LAFCO law. No further analysis is required.

GENERAL CONCLUSIONS

The addition of A-2 to the sphere appears merited if it is the preference of the Commission to assign deference to the affected lands' existing social and economic ties to NBRID as a result of their standing inclusion in the District. It would be appropriate, nonetheless, to continue to exclude the subarea from the sphere if it is the Commission's preference to assign deference to one or more of the other factors – such as consistency with land uses and service plans – addressed in the accompanying analysis. An expanded discussion on these conclusions and other related issues is provided in the Executive Summary.

II. EXECUTIVE SUMMARY

A. Overview

The Lake Berryessa region is home to close to 10% of the total unincorporated population in Napa County. Nearly all of this population resides within one of four distinct unincorporated communities: Berryessa Estates; Berryessa Highlands; Berryessa Pines; and Spanish Flat. All four communities began developing subdivided lots in the early 1960s with the expectation they would eventually and collectively result in roughly 7,000 residential units with a permanent population of over 15,000. The development of these communities, however, currently stands at one-tenth relative to initial expectations with approximately 700 residential units and an estimated population of 1,800.

Governmental services in the region are principally limited to public water and sewer provided by LBRID (Berryessa Estates), NBRID (Berryessa Highlands), and SFWD (Berryessa Pines and Spanish Flat); other pertinent public services available in the region, including public safety, roads, and waste disposal, are provided at a basic level by the County of Napa. The lack of planned development in the region has resulted in significant diseconomies of scale for LBRID, NBRID, and SFWD in which they must spread out their increasing service costs among relatively small customer bases. Markedly, the diseconomies of scale coupled with past policy decisions to limit user charges have directly contributed to all three Districts developing structural deficits with no operating reserves while deferring needed capital improvements – especially to the sewer systems. These financial challenges appear most pressing for LBRID and NBRID as they have become entirely dependent on the County over the last two years for emergency loans to maintain cash flow. The pending redevelopment of the United States Bureau of Reclamation's seven concession sites in the region has also created additional financial constraints on NBRID and SFWD with respect to losses in past and future operating revenues. Specifically, the two concession sites served by NBRID and SFWD were closed in 2008 and are not expected to be fully operational until 2021. Uses within these two concession sites are also expected to be developed at significantly lower densities indicating a measurable decline in associated revenues.

In step with the financial and service challenges permeating the region, there appears to be a growing desire among landowners and residents within both LBRID and NBRID to reorganize the respective agencies to become independent from the County. The desire for independence appears most strong among NBRID constituents based on ongoing communication with the Commission. This includes support from the new concessionaire contracted to develop and operate the former Steele Park Resort site, the Pensus Group. The County Board of Supervisors – serving as the NBRID Board – agrees with this sentiment and has formerly requested the Commission expeditiously reorganize the District into a community services district as allowed under Senate Bill 1023.[4] The County's request includes allowing the Supervisors to continue to serve as the District Board as part of a transition plan negotiated with community stakeholders with the goal of calling for an election to seat new board members on or before November 2012. Importantly, though it will not in and of itself improve solvency, reorganizing NBRID into a community services

[4] Senate Bill 1023 became effective January 1, 2011 and authorizes LAFCOs to reorganize resort improvement districts into CSDs with the same powers, duties, and boundaries while waiving protest proceedings. The legislation also authorizes LAFCOs to condition approval to include the election of five resident voters to serve as board members.

district with the same powers and jurisdiction is merited. Reorganization would position the community to become more responsive to changes in constituent needs by having the power to provide additional municipal services in support of Berryessa Highlands' continued development. This statement is particularly pertinent given State law restricts NBRID to only provide water and sewer services due to a 1971 amendment to its principal act. In contrast, State law would allow the new community services district – subject to future Commission approval – to provide a full range of municipal services, such as roads, parks, and fire protection. Reorganization would also improve public accountability by presumably facilitating the delegation of responsibilities in planning for the present and future service needs of the community from the County to local residents.

B. Determinations

As mentioned, as part of the municipal service review process, the Commission must prepare written determinations addressing the service factors enumerated under G.C. Section 56430. The service factors range in scope from considering infrastructure needs and deficiencies to relationships with growth management policies. The determinations serve as statements or conclusions and are based on information collected, analyzed, and presented in the individual agency reviews.

1. Growth and population projections for the affected area.

Regional Statements

a) LBRID, NBRID, and SFWD are the governmental agencies solely responsible for providing public water and sewer services in support of the four unincorporated communities located within the region: Berryessa Estates; Berryessa Highlands; Berryessa Pines; and Spanish Flat. The current and future welfare of these communities is dependent on the solvent operations of these three agencies.

b) The combined estimated resident service population within LBRID, NBRID, and SFWD totals 1,804 and represents 6.3% of the overall unincorporated population.

c) It is estimated LBRID, NBRID, and SFWD have experienced a combined 1.9% annual growth rate over the last five years resulting in 153 new residents within their respective jurisdictional boundaries. This combined growth rate exceeded growth in the remaining unincorporated areas over the last five years by a ratio of six to one.

d) It is reasonable to assume the rate of population growth within LBRID, NBRID, and SFWD relative to the last five years will decrease by nearly one-half from its current annual estimate of 1.9% to 1.0% based on demographic information recently issued by the Association of Bay Area Governments. If this assumption proves accurate, the combined resident population in all three districts will be 1,896 by 2015.

e) Current non-residential growth within the Lake Berryessa region is primarily limited to relatively small commercial and local-serving sites predominantly located within SFWD's Spanish Flat service area. Limited public recreational uses also currently exist throughout the region and are tied to private concessionaire arrangements managed by the United States Bureau of Reclamation. These existing non-residential uses have relatively minimal impact on public water and sewer service demands.

f) It is reasonable to assume public recreational uses in the Lake Berryessa region will significantly expand in the timeframe of this review in conjunction with the United States Bureau of Reclamation's redevelopment plans for the seven concessionaire sites located along the shoreline. Two of the seven concessionaire sites, Lupine Shores and Foothill Pines Resorts, are located within NBRID and SFWD's respective jurisdictional boundaries and will – based on the development plans recently approved by the Bureau – measurably impact these agencies' water and sewer systems.

g) The planned uses for the remaining five concessionaire sites in the Lake Berryessa region suggest it would be appropriate to consider including the affected lands within the spheres of influence of existing or new special districts to help support their orderly growth and uses given the Commission's policies and objectives. Consideration should incorporate and defer, as appropriate, to the input and preferences of the United States Bureau of Reclamation.

Agency Specific Statements

a) Residential uses comprise nearly all development within LBRID and currently include 188 developed single-family lots with an estimated resident population of 483. Buildout would presumably involve the development of the remaining 193 privately-owned lots in Berryessa Estates' Unit One and Unit Two and result in the District's resident population more than doubling to 979.

b) Residential uses in NBRID currently comprise 358 developed single-family lots with an estimated resident population of 920. Buildout would presumably involve the development of the remaining 267 privately-owned lots in Berryessa Highlands' Unit One and Unit Two and result in the District's resident population increasing by over one-half to 1,606.

c) NBRID's buildout is also expected to include the opening of Lupine Shores Resort with demands equivalent to 88 lots or users; an amount measurably less than the 228 equivalent lots associated with the former Steele Park Resort.

d) Residential uses in SFWD currently comprise 167 single-family and mobile home residences with an estimated population of 401. Buildout would presumably involve the development of the remaining 62 privately-owned lots within Berryessa Pines and Spanish Flat and result in the District's resident population increasing by over one-third to 560.

e) SFWD's buildout is also expected to include the opening of Foothill Pines Resort with demands equivalent to 36 lots or users; an amount measurably less than the 221 equivalent lots associated with the former Spanish Flat Resort.

2. Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies.

Regional Statements

a) LBRID, NBRID, and SFWD's infrastructure systems – particularly relating to sewer – are becoming increasingly inefficient in meeting current demands as a result of antiquated facilities coupled with new regulatory standards.

b) Contracted water supplies with the Napa County Flood Control and Water Conservation District are sufficient with respect to accommodating current and projected annual demands at buildout within LBRID, NBRID, and SFWD's respective jurisdictional boundaries. These supplies are a byproduct of the United States Bureau of Reclamation's Solano Project and considered reliable during single and multiple-dry year conditions based on historical levels at Lake Berryessa.

c) LBRID, NBRID, and SFWD's water treatment and storage capacities are adequately sized to meet current and projected peak day demands within the timeframe of this review. These existing capacities help to ensure adequate reserves are available during an emergency or interruption in service as required under State law.

d) Moderate to significant water treatment and storage capacity expansions will be needed to meet projected peak day demands at buildout within LBRID, NBRID, and SFWD's Spanish Flat service area.

e) Other pertinent public services in the region, including law enforcement, fire protection, street maintenance, and waste disposal, are provided directly or indirectly by the County of Napa and appear to have sufficient capacities relative to existing community needs. Community preferences to elevate the range and level of these County-provided services would require local funding and presumably need to delegate to an existing or new special district.

Agency Specific Statements

a) The buildout of LBRID's jurisdictional boundary is expected to more than double its annual water demand from 29.5 to 65.7 acre-feet. This projected buildout demand can be reliably accommodated by the District given the total would represent only 33% of its contracted water supply.

b) LBRID's water treatment and storage facilities have surplus capacity in meeting the current peak day demand total of 0.40 acre-feet. This total represents 52% and 32% of the District's available treatment and storage capacities, respectively, and is expected to accommodate peak day demands through the timeframe of this review.

c) A moderate expansion to LBRID's water treatment capacity in the amount of 0.08 acre-feet would be needed for the District to meet its projected peak day demand of 0.85 acre-feet at buildout within Berryessa Estates.

d) LBRID's sewer system is designed with sufficient capacity to meet average day demands within its jurisdictional boundary through the timeframe of this review. Current peak day wet-weather demands, however, substantially exceed existing capacities by over 40%. These excessive totals are attributed to increasing infiltration into the collection system and have directly resulted in a series of unauthorized spills leading to two substantial fines by the Regional Water Quality Control Board.

e) Excessive peak day wet-weather demands for LBRID are expected to continue without significant improvements to the collection system to reduce infiltration, and therefore subject the District to additional fines and related sanctions.

f) The buildout of NBRID's jurisdictional boundary – including the planned development of Lupine Shores Resort – is expected to nearly double the District's current annual water demand from 71.4 to 132.6 acre-feet. This projected buildout demand can be reliably accommodated by the District given the total would represent only 44% of its contracted water supply.

g) NBRID's water treatment and storage facilities have surplus capacity in meeting the current peak day demand total of 1.5 acre-feet. This total represents 79% and 98% of the District's available treatment and storage capacities, respectively, and is expected to accommodate peak day demands through the timeframe of this review.

h) Significant improvements would be needed to increase NBRID's water treatment and storage capacities to meet the projected peak day demand of 2.6 acre-feet at buildout within Berryessa Highlands.

i) NBRID's sewer system is designed with sufficient capacity to meet current average day demands within its jurisdictional boundary through the timeframe of this review. Current peak day wet-weather demands, however, substantially exceed the District's existing capacity by over 50% due to pervasive infiltration into the collection system as well as poor drainage at its spray field site.

j) Excessive demands on the sewer system during extended storm events have directly resulted in NBRID receiving multiple violation notices from the Regional Water Quality Control Board as well as a recent Cease and Desist Order directing the District to limit its average day sewer flows to 50,000 gallons; an amount the District will continue to exceed without significant improvements to its collection system.

k) The need for substantial improvements to NBRID's sewer collection system to reduce infiltration is evident given current average day demands during dry weather equal close to 100% of the District's daily water demands.

l) The buildout of SFWD's entire jurisdictional boundary – including the planned development of Foothill Pines Resort – is expected to raise the District's annual water demand by over three-fifths from 59.0 to 94.5 acre-feet. This projected buildout demand can be reliably accommodated by the District given the total would represent only 47% of its contracted water supply.

m) SFWD's water treatment and storage facilities within the Berryessa Pines service area have surplus capacities in meeting the current peak day demand total of 0.17 acre-feet. This total represents 39% and 55% of the District's available treatment and storage capacities, respectively, in the service area and is expected to accommodate peak day demands through the timeframe of this review.

n) No additional capacity expansions would be needed to SFWD's water treatment and storage facilities within the Berryessa Pines service area to meet the projected peak day demand of 0.22 acre-feet at buildout.

o) SFWD's sewer system in the Berryessa Pines service area appears to be adequately designed to accommodate current average and peak day demands, although specific capacity levels are not documented. The lack of documentation creates uncertainty in assessing the ability of the District to sufficiently accommodate additional sewer demands within Berryessa Pines.

p) SFWD's water treatment capacity within the Spanish Flat service area has surplus capacity in meeting the projected peak day demand total of 0.31 acre-feet. This total represents 58% of SFWD's available treatment capacity and is expected to accommodate peak day demands through buildout.

q) Overall storage capacities within SFWD's Spanish Flat service area are presently operating beyond capacity relative to accommodating the current peak day demand total of 0.31 acre-feet. This existing constraint is specifically tied to deficient storage within the initial pressure zone, which currently serves close to three-fourths of the customer base and is undersized by one-fifth in meeting its proportional share of the peak day water demand.

r) Significant improvements would be needed to nearly double SFWD's overall water storage capacities within the Spanish Flat service area to meet the projected peak day demand of 0.52 acre-feet at buildout.

s) SFWD's sewer system in the Spanish Flat service area is designed with sufficient capacity to meet current and projected average as well as peak day demands through the timeframe of this review. Improvements would be needed to increase capacity during wet-weather conditions at buildout.

3. Financial ability of agencies to provide services.

Regional Statements

a) The ability of LBRID, NBRID, and SFWD to generate adequate operating revenues in the absence of high user charges is difficult given the lack of planned development within their respective jurisdictional boundaries. The diseconomies of scale associated with the lack of planned development coupled with past policy decisions to limit user charges have directly contributed to all three agencies developing structural deficits with no operating reserves.

Agency Specific Statements

a) Solvency for LBRID and NBRID remains a critical issue as both districts have experienced precipitous declines in their unrestricted reserves due to persistent operating shortfalls resulting in negative balances.

b) LBRID has experienced over a 400% decline in its unrestricted fund balance over the last five years from $0.14 to $(0.72) million. This decrease is attributed to $1.01 million in net income losses since 2006.

c) NBRID has experienced over a 300% decline in its unrestricted fund balance over the last five years from $0.25 to $(0.58) million. This decrease is attributed to $0.96 million in net income losses since 2006.

d) Due to their structural deficits in which expenses have been consistently exceeding revenues, LBRID and NBRID have become entirely dependent on discretionary loans from the County of Napa to maintain positive cash flows.

e) The ability and consent of LBRID and NBRID constituents to assume additional costs is uncertain since they currently pay on average $304 and $217 per month, respectively, for water and sewer related services; totals believed to be the highest in Napa County.

f) The current financial position of SFWD is uncertain given no audit has been prepared on the District's financial statements since the 2006-2007 fiscal year; a year in which the District finished with an unrestricted fund balance of ($0.26 million).

4. Status and opportunities for shared facilities.

Regional Statements

a) LBRID, NBRID, and SFWD serve unincorporated communities with common social and economic interests directly tied to residential, commercial, and recreational activity at Lake Berryessa. These common interests suggest all three districts continue to pursue existing and new opportunities to share resources for the collective benefit of their respective constituents.

b) LBRID, NBRID, and SFWD should explore opportunities to contract with a single vendor to provide administrative and operational support services. This type of arrangement may help economize limited resources while establishing more uniform levels of management services. This type of arrangement may also serve as a litmus test in considering the merits of other resource-sharing alternatives in the region.

Agency Specific Statements

a) LBRID and NBRID's organizational dependency to the County of Napa provides continual cost-savings with respect to the districts sharing staff, equipment, and materials. It is reasonable to assume separating one or both of the districts from the County would result in moderate to significant cost increases to the agencies.

b) SFWD reports it has made a concerted effort to no avail in the past to explore mutually beneficial opportunities to share resources with other districts in the greater area, including NBRID and Circle Oaks County Water District. The Commission commends these efforts and encourages SFWD to continue pursuing cost sharing efficiencies with other neighboring agencies.

c) A significant portion of SFWD's potable water system is located on federal property under an easement with the United States Bureau of Reclamation that expired in 1999. It is imperative SFWD renew its easement with the Bureau to ensure the District has immediate and timely access to its service infrastructure.

5. Accountability for community service needs, including governmental structure and operational efficiencies.

Regional Statements

a) LBRID, NBRID, and SFWD are governed and managed by responsive and dedicated public servants operating under challenging circumstances with respect to maximizing the use and benefit of limited resources on behalf of their respective constituents.

b) LBRID and NBRID have made concerted efforts over the last several years to improve outreach with their respective constituents. These efforts have helped clarify the roles and responsibilities of the Districts apart from the County of Napa and contributed to strengthening the social and economic interests within the communities.

c) It would be advantageous for LBRID, NBRID, and SFWD to each develop and maintain agency websites for purposes of posting pertinent service and financial information for public viewing. These actions will strengthen the Districts' accountability to their respective constituents while helping to foster needed civic engagement regarding the current and planned services of the agencies.

Agency Specific Statements

a) LBRID and NBRID were formed to provide a broad range of municipal services for the Berryessa Estates and Berryessa Highlands communities. However, due to an amendment to their principal act, the Districts are limited to providing only water and sewer services with all other pertinent public services generally provided at a basic level by the County of Napa.

b) It is reasonable to assume the continued development of the Berryessa Estates and Berryessa Highlands communities will eventually necessitate the need for other elevated public services to support existing development; services that would require either expanding LBRID and NBRID's powers through reorganizations or creating new special districts.

c) LBRID and NBRID are governed by the County of Napa Board of Supervisors who are elected by, and accountable to, registered voters residing in their assigned ward. This governance system diminishes local accountability given constituents are limited to voting for only one of the five District board members.

d) There is increasing acrimony among LBRID and NBRID constituents with respect to the County of Napa's management of the two Districts. This acrimony has led to growing desire among landowners and residents within both Districts to reorganize their respective agencies to become independent. The desire for reorganization appears strongest among NBRID constituents based on communication with the Commission.

e) Given underlying governance and service challenges, it would be appropriate to expedite NBRID's reorganization into a community services district with the same powers and jurisdiction as authorized under Senate Bill 1023. Reorganization would position the community to become more responsive to changes in constituent needs by having the power – subject to subsequent Commission approval – to provide additional municipal services in support of Berryessa Highlands' continued development. Reorganization would also improve public accountability by presumably facilitating the delegation of responsibilities in planning for the present and future service needs of the community from the County to local residents.

f) Reorganization of NBRID into a community services district can serve as a model for LBRID and its constituents in assessing preferences and objectives as it relates to the governance of public services in the community.

g) Reorganization of SFWD is not a priority given the constituents' apparent satisfaction of the District's governance and management. Nonetheless, given the potential future need for additional public services that are outside SFWD's existing powers, reorganization may be appropriate at a later time.

6. Relationship with regional growth goals and policies.

Regional Statements

a) LBRID, NBRID, and SFWD serve vital roles in supporting the County of Napa's land use policies with regard to providing necessary public water and sewer services to four of the largest planned unincorporated communities in Napa County.