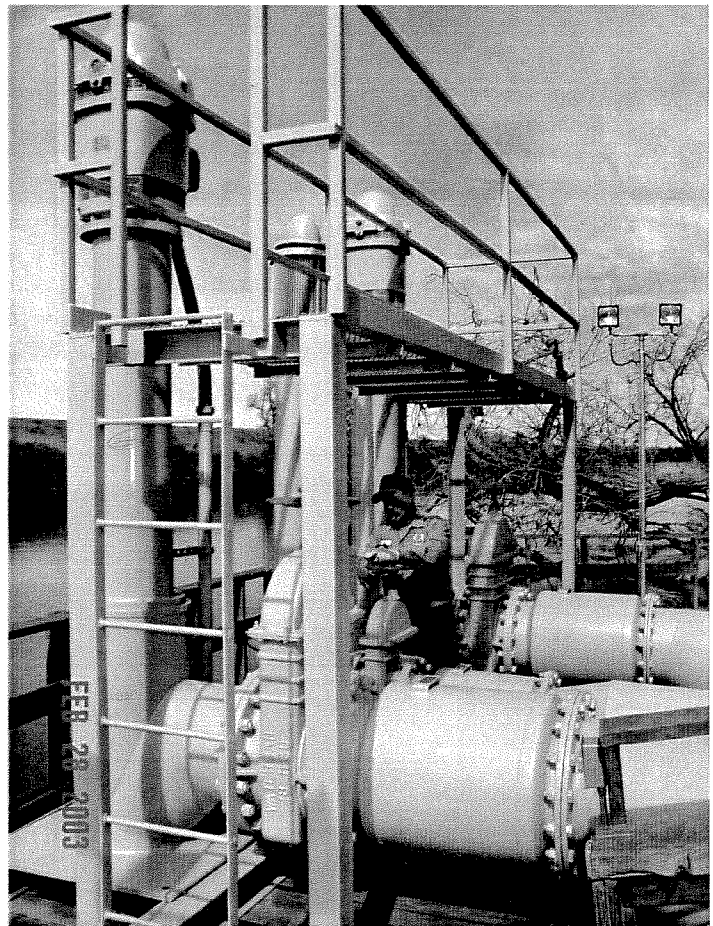


MUNICIPAL SERVICE REVIEW
AND
SPHERE OF INFLUENCE UPDATE
OF THE
NAGLEE BURK IRRIGATION DISTRICT



DECEMBER, 2008

TABLE OF CONTENTS

1. <u>Executive Summary</u>	1
<u>Sphere of Influence:</u>	1
a. Present And Planned Uses In The Area	1
b. Present And Probable Need For Public Facilities And Services	1
c. The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide	2
d. The existence of any social or economic communities of interest.....	2
Municipal Service Review:.....	2
a. <u>Growth and population projections for the affected area</u>	2
b. Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies.....	3
c. <u>Financial ability of agencies to provide services</u>	3
d. Status of, and opportunities for, shared facilities.....	4
e. Accountability for community service needs, including governmental structure and operational efficiencies	4
2. <u>Introduction</u>	6
3. <u>Sphere Of Influence Plan</u>	7
A. <u>Present And Planned Uses In The Area</u> (Gov. Code § 56425(e)(1))	7
1. Present Uses	7
Plat #1 (Present Uses)	7
a) “Prime Farmland” As Defined By The U.S. Dept. Of Agriculture.....	8
Plat #2 (USDA NCRS Soil Types).....	9
b) “Prime Agricultural Land” As Defined In The Act.....	9
c) Flood Plain	10
Plat #3 (100-Year Flood Plain)	11
d) Williamson Act Parcels	11
Plat #4 (Williamson Act Parcels – shown in green – SOI boundary in blue).....	11
2. Planned Uses	12
a) Continued Agricultural Uses Within NBID’s Sphere of Influence.....	12
b) No Plan Of Detachment of Existing Commercial Uses	12
c) The City of Tracy’s Planned Uses in the Area.....	12
Plat #4 (Plans of the City of Tracy).....	13
B. <u>Present And Probable Need For Public Facilities And Services</u> (Gov. Code § 56425(e)(2)) ...	14
1. Public Safety And Utilities	14
2. Levees.....	14
3. Irrigation And Drainage	14
4. Future Urban Uses Within The City Of Tracy’s Sphere of Influence.....	15

C. <u>The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide</u> (Gov. Code § 56425(e)(3)).....	15
1. Facilities & Adequacy Of Facilities	15
a) NBID Facilities	15
Plat #5 (NBID Facilities).....	16
b) IMWC And FIA Facilities.....	17
Plat #6 (FIA & IMWC Facilities)	17
2. Services & Adequacy Of Services	18
D. <u>The existence of any social or economic communities of interest</u> (Gov. Code § 56425(e)(4)).....	18
4. <u>Municipal Service Review</u>	19
A. <u>Growth and population projections for the affected area</u> (Gov. Code § 56430(a)(1)).....	19
Table #1 (1990 and 2000 Census, Tract 52.03, Block Groups 1, 2 & 3).....	19
Table #2 (California Dept. Of Finance, Population Estimates)	20
Table #3 (SJCOG Population Projection)	20
Table #4 (Projected Maximum Population Growth From 2000 To 2030 Within Area)	20
B. <u>The present capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies</u> (Gov. Code § 56430(a)(2))	21
C. <u>Financial ability of agencies to provide services</u> (Gov. Code § 56430(a)(3)).....	22
Table #5 (Assessments Levied By The District Or Company And Paid By Landowners).....	22
D. <u>Status of, and opportunities for, shared facilities</u> (Gov. Code § 56430(a)(4))	22
E. <u>Accountability for community service needs, including governmental structure and operational efficiencies</u> (Gov. Code § 56430(a)(5))	23
1. Governmental Structure.....	23
2. Accountability For Community Service Needs	24
3. Operational Efficiencies	25
5. <u>Plat Of The Updated Sphere Of Influence Of Naglee Burk Irrigation District:</u>	25

1. Executive Summary

One of the key responsibilities of a Local Agency Formation Commission (LAFCo) is to determine the sphere of influence of local governmental agencies, in this instance the sphere of influence of the Naglee Burk Irrigation District (NBID). A sphere of influence (SOI) designates the probable physical boundary and service area of a local agency. NBID is proposing to annex the irrigated lands of two private water companies, the Fremont Irrigation Association (FIA) and the Independent Mutual Water Company (IMWC). The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Gov. Code § 56000 *et seq.* – “the Act.”) requires that a Municipal Service Review (MSR) be prepared prior to or concurrent with an update of an SOI. An MSR provides information upon which LAFCo can base its action on an SOI.

Sphere of Influence:

a. Present And Planned Uses In The Area

NBID currently contains a total of 2,644.59 acres, predominantly comprised irrigated “prime” agricultural lands (2,271.78 acres) with some rural residential, public (114.12 acres) and commercial (258.69 acres - West Valley Mall and Tracy Auto Plaza) uses through which NBID’s facilities pass. The areas proposed for annexation from FIA and IMWC are comprised of 693.28 and 1,269.16 acres respectively of irrigated “prime” agricultural land and dairies. The planned uses for the area are to retain the agricultural uses within NBID and the areas proposed for annexation from FIA and IMWC. If the annexation is approved the total lands within the expanded NBID would be 4,607.03 acres. No Williamson Act parcels would change in use. The City of Tracy future plans include the expansion of commercial uses by 123.30 acres immediately west of the West Valley Mall and Tracy Auto Plaza. If this occurs, the irrigated agricultural uses will shrink by that number of acres.

Determination: Present uses in the area are: the farming of prime agricultural lands (4,234.22 acres), commercial uses (258.69 acres) through which some of NBID’s facilities pass, and public uses (114.12 acres) comprised of NBID’s canals and the City of Tracy’s storm water retention basin. The City of Tracy plans to expand the commercial uses westward in the future, which would further reduce the prime agricultural land uses by 123.30 acres. NBID’s primary purpose is to serve agricultural irrigation and drainage needs and its services support the continued use of lands for agricultural purposes. No Williamson Act contracts would be affected.

b. Present And Probable Need For Public Facilities And Services

No additional public facilities (levees, roads, gas, electric and telephone transmission lines) or public safety services (police and fire protection) are necessary to sustain the agricultural uses within the present or proposed SOI. The only “need” is the continued maintenance of those public

facilities within the area and the continued provision of public safety services by the County of San Joaquin, Reclamation District 1007 and the Tracy Rural Fire District. NBID has not and does not maintain the public facilities or provide these services.

The irrigation and drainage needs within the proposed expanded boundaries of NBID have historically been met by NBID and by the two private water companies it proposes to annex. No new irrigation or drainage facilities are necessary or planned in connection with this proposed annexation. No improvement or upgrading of structures (pumps, pipelines, ditches or canals), access roads, or other irrigation or drainage facilities, are necessary or planned.

Determination: There is no present or probable need for public facilities or services for the agricultural uses. The facilities of NBID are, and upon annexation of the FIA and IMWC lands will be, adequate to serve the irrigation and drainage needs of the constituent landowners within the district.

c. The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide

NBID has the pumping capacity to cover *each* acre within NBID with 9.5 ft of water for a 257-day growing season with around-the-clock pumping. IMWC has the pumping capacity to provide cover its acreages with 16.3 feet of water during such growing season with around-the-clock pumping. FIA has the pumping capacity to provide cover its acreage with 9.8 feet of water under similar conditions. This is sufficient capacity to supply the necessary water to grow the crops typically grown within the present NBID boundaries and within areas proposed for annexation from FIA and IMWC.

Determination: The capacity of NBID's present and future facilities (those acquired from FIA and IMWC with the proposed annexation) are adequate, and the services that it provides, or is authorized to provide, are adequate to supply needed irrigation and drainage to the prime agricultural lands in the area.

d. The existence of any social or economic communities of interest

There are no social or economic communities of interest with the present or proposed boundaries of NBID.

Determination: No social or economic communities of interest exist in the area.

Municipal Service Review:

a. Growth and population projections for the affected area

The affected area (within this updated SOI) is unincorporated territory within San Joaquin County, predominantly devoted to prime farmland uses, zoned A-40 with a handful of parcels zoned A-10, and mostly within the 100-year floodplain. These characteristics suggest a minimal increase, if

any, in residential use in the future. As a result, population growth in this area should be far less than is projected for the county as a whole, or for the entire unincorporated area of the county (which includes rural lands where the soils are less than “prime” and flood plains do not constrain further residential development). SJCOG has projected growth rates between now and the year 2030 of between 1.75% and 1.53% annually. Given the constraints on residential development, it is as likely, if not more likely, that population growth will remain flat (631) or even decline with changes from rural residences to commercial uses in the area west of the Tracy Auto Plaza and the West Valley Mall proposed for commercial use in the City of Tracy General Plan. If the SJCOG population projection is accurate, the population would increase from 631 to 696 persons by 2030.

Determination: The population of the affected area will remain steady at about 631 persons, or at the most grow by rates projected by the San Joaquin Council of Governments (between to the years 2000 and 2030) to about 696 persons.

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

No additional public facilities (levees, roads, gas, electric and telephone transmission lines) or public safety services (police and fire protection) are necessary to sustain the agricultural uses within the present or proposed SOI. The only “need” is the continued maintenance of those public facilities within the area by the entities that maintain them now and the continued provision of public safety services by the County of San Joaquin and the Tracy Rural Fire District. NBID has not and does not maintain these public facilities or provide these services.

The irrigation and drainage needs within the proposed expanded boundaries of NBID have historically been met by NBID and by the two private water companies it proposes to annex. No new irrigation or drainage facilities are necessary or planned in connection with this proposed annexation. No improvement or upgrading of structures (pumps, pipelines, ditches or canals), access roads, or other irrigation or drainage facilities, are necessary or planned. There are no infrastructure needs or deficiencies.

Determination: There is no present or probable need for public facilities or services for the agricultural uses. The facilities of NBID are, and upon annexation of the FIA and IMWC lands will be, adequate to serve the irrigation and drainage needs of the constituent landowners within the district. There are no infrastructure needs or deficiencies.

c. Financial ability of agencies to provide services

NBID’s sources of revenue are property taxes and assessments levied upon the lands within the district. It has no long-term debt and there is no expected need for future debt. Because the district has riparian and appropriative water rights predating 1914 and FIA and IMWC have riparian

rights, the district has no water purchase costs and will have none after the proposed annexation. It does not have a long-range capital improvements plan or a system master plan. It identifies capital projects in its annual budget in order to maintain the system and ensure reliability. The major expenses are maintenance and operations. The landowners of all three entities have historically been willing to assess themselves in amounts sufficient to pay their respective operating and maintenance costs, and it is expected that they will continue to do so in the future. There has never been a time when any of these entities has failed to provide sufficient irrigation water and drainage to their constituent members.

Determination: NBID has the financial ability to provide irrigation and drainage services to the agricultural lands it now serves and those which it proposes to annex from FIA and IMWC.

d. Status of, and opportunities for, shared facilities

The irrigation and drainage facilities presently serving NBID, FIA and IMWC are separate and distinct facilities located in different areas of the updated SOI. None of the present facilities of any of these entities are shared among them. In the future it may be possible to share irrigation and drainage facilities. This may eliminate the need for one or more pumps and the costs associated with the pump operation and maintenance. Once annexation is achieved NBID plans to explore whether further economies can be achieved by sharing of these facilities in this fashion.

Determination: There are presently no shared facilities within the area. There is the possibility that some of the irrigation and drainage facilities can be combined once the FIA and IMWC lands are annexed to NBID.

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

NBID is governed by a five member board of directors, elected for a 4-year term from each of the five divisions within the district. Its board meets monthly and there is an annual meeting for election of officers (President and Vice President) and adoption of an annual budget. District meetings are open to the public and conducted according to the provisions of the Brown Act, and the public may address any concern to the board at those open meetings. Meeting notices, agendas, and supporting documentation are posted at least 72 hours in advance at the district offices located at 23950 S. Chrisman Road, Tracy, California, 95304, telephone (209) 835-3232. The board annually elects the President and Vice President from its ranks. They are not paid for their services except for their attendance as board members at meetings of the board. The Secretary/Treasurer is a non-board member appointed by the board to serve at its pleasure who prepares and maintains the districts records, handles correspondence, administers the office and staff, and levies and collects the

assessments. An audit of the books and records of the district is performed by certified public accountants annually. The district employs 3 ditch tenders to operate and maintain its facilities.

There is direct and immediate accountability for the services provided by NBID. Farmers order water by directly contacting the district's employees or officers and requesting it. If there is any problem with delivery of water, or if there is a problem with drainage of water, or a leak in a pipeline or ditch, that problem is immediately made known to those same employees and officers by those farmers in order to minimize the potential damage to the farmers' land or crops.

Determination: NBID is governed by a 5-member board of directors, elected from within 5 divisions. It meets monthly at the district offices in Tracy. Meetings are governed by the Brown Act and open to the public. Because farmers must contact district staff to request irrigation water deliveries, there is ongoing direct communication between the constituent farmers and the employees and officers of the district. Any problem with delivery of water, or any problem with drainage is immediately made known to those same employees and officers.

2. Introduction

This Municipal Services Review and Sphere of Influence plan is prepared by the Naglee Burk Irrigation District for the San Joaquin County Local Agency Formation Commission in compliance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 – “the Act.”

“Sphere of Influence” is defined in the Act as “a plan for the probable physical boundaries and service area of a local agency, as determined by the commission.” (Gov. Code § 56076) “Local agency” by definition includes a “district.” (Gov. Code § 56054) The Act requires LAFCo to “determine the sphere of influence of each local government agency within the county and enact policies designed to promote the logical and orderly development of areas within the sphere.” (Gov. Code § 56425(a)) In determining the sphere of influence (SOI) of each local agency, LAFCo must consider and prepare a written statement of its determinations with respect to each of the following:

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

(Gov. Code § 56425(e))

The Act requires LAFCo to conduct a municipal service review (MSR) before, or in conjunction with, but not later than the time it is considering an action to establish or update a sphere of influence in accordance with Section 56425. (Gov. Code § 56430(c)) Such MSR must contain a written statement of LAFCo’s determinations with respect to each of the following:

- (1) Growth and population projections for the affected area;
- (2) Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies;
- (3) Financial ability of agencies to provide services;
- (4) Status of, and opportunities for, shared facilities; and
- (5) Accountability for community service needs, including governmental structure and operational efficiencies; and

(Gov. Code § 56430(a))

NBID has recently proposed the annexation of the irrigable lands of two adjacent private water companies, the Fremont Irrigation Association (FIA) and the Independent Mutual Water

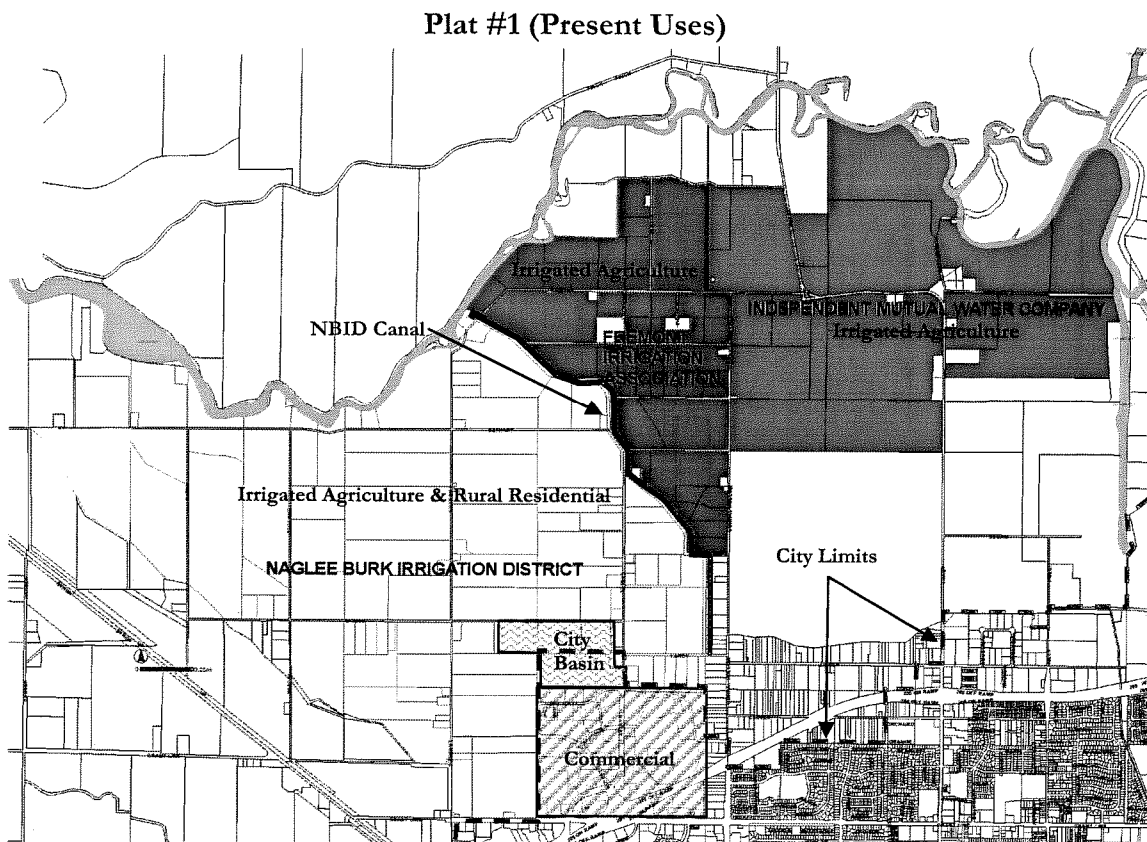
Company (IMWC). This reorganization necessarily involves the establishment of a SOI encompassing the proposed lands from FIA and IMWC to be annexed to NBID, which in turn requires an MSR. The subsequent parts of this MSR and amended SOI plan address the foregoing determinations required of LAFCo.

3. Sphere Of Influence Plan

A. Present And Planned Uses In The Area (Gov. Code § 56425(e)(1))

1. Present Uses

The following plat shows the present uses within NBID, and the proposed areas to be annexed from FIA and IMWC:



The areas attributable to the uses within the present NBID boundaries are as follows:

<u>Acres</u>	<u>Use</u>
2,271.78	Irrigated agricultural land, including some rural residences and some dairies
114.12	Public Uses (NBID's canal, City of Tracy's storm water detention basin)
<u>258.69</u>	Commercial Uses (Grant Line Rd S/W of I-205, Mall and Auto Plaza)
2,644.59	Total Acres

The areas proposed for annexation from FIA and IMWC are as follows:

<u>Acres</u>	<u>Use</u>
693.28	Irrigated agricultural lands within FIA;
<u>1,269.16</u>	Irrigated agricultural land and dairies within IMWC
1,962.44	Additional Acres (to be annexed)

Total acres within NBID after the proposed annexation would be **4,607.03** acres.

Small rural residential properties that are not served with irrigation water are excluded from the proposed annexation of FIA and IMWC lands. (See Appendix #1 and #2, listing the San Joaquin County Assessor's parcel numbers within these entities proposed for annexation.)

Small rural residential parcels not served with agricultural irrigation exist within the present NBID because historically, when the lands presently within NBID were initially subdivided as a part of the Naglee Burk Tract in 1911, all of the lands were larger, rural and agricultural uses. When NBID was formed in 1921 to take over the functions of its predecessor, the Naglee Burk Irrigation Association, it included all of those lands. Over time residences were built on larger parcels devoted to agricultural uses as was permitted by then existing County codes and without involvement of NBID. Eventually some of the residences were split from the larger parcels, again as permitted by then existing County codes and without NBID involvement. Those separate smaller parcels were eventually sold for use as residences only, without a connection to adjoining larger parcels that remained in agricultural use by others. They simply arose over time, as permitted by law, and were within the original boundaries of the district.

NBID's facilities were in place when the commercial areas were annexed to the City of Tracy without detachment from the district. Storm waters from the commercial areas were at one time drained by NBID facilities, and agricultural uses were irrigated and drained by NBID after annexation and development approval but prior to actual construction and use of the commercial uses.

a) "Prime Farmland" As Defined By The U.S. Dept. Of Agriculture

"Prime farmland" is defined by the Natural Resources Conservation Service (NCRS) – formerly the Soil Conservation Service – of the U.S. Department of Agriculture (USDA) as "the land that is best suited to food, feed, forage, fiber, and oilseed crops." It "produces the highest yields with minimal expenditure of energy and economic resources, and farming it results in the least damage to the environment." (USDA, Soil Conservation Service, "Soil Survey of San Joaquin County, California," c. 1992 – hereafter called "the Soil Survey" – "Prime Farmland" at p. 147 and

“Appendix A – Prime Farmlands” at p. 268, reprinted in Appendix #3.)

All of the irrigable lands contained within this updated SOI (soils number 118, 146, 153, 166, 197, 211 and 274 – see Plat #2 below) meet this definition of “prime farmland.” (Soil Survey, “Table 6 – Prime Farmland” at pp. 304-305; reprinted in Appendix #4.)

Plat #2 (USDA NCRS Soil Types)



(Combined boundaries of NBID, FIA and IMWC – i.e. area of updated SOI – bounded in yellow)

(from http://soildatamart.nrcs.usda.gov/manuscripts/CA077/0/maps/san%20joaquin_map23.pdf)

b) “Prime Agricultural Land” As Defined In The Act

The Act defines “prime agricultural land” as land meeting *any* of five criteria: (1) Class I or Class II rated soils in the USDA NCRS land use capability classification (Gov. Code § 56064(a)); (2) a Storie Index Rating of 80 through 100 (Gov. Code § 56064(b)); (3) land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least 1 animal-unit per acre as defined in the National Range and Pasture Handbook, rev. 1, Dec.

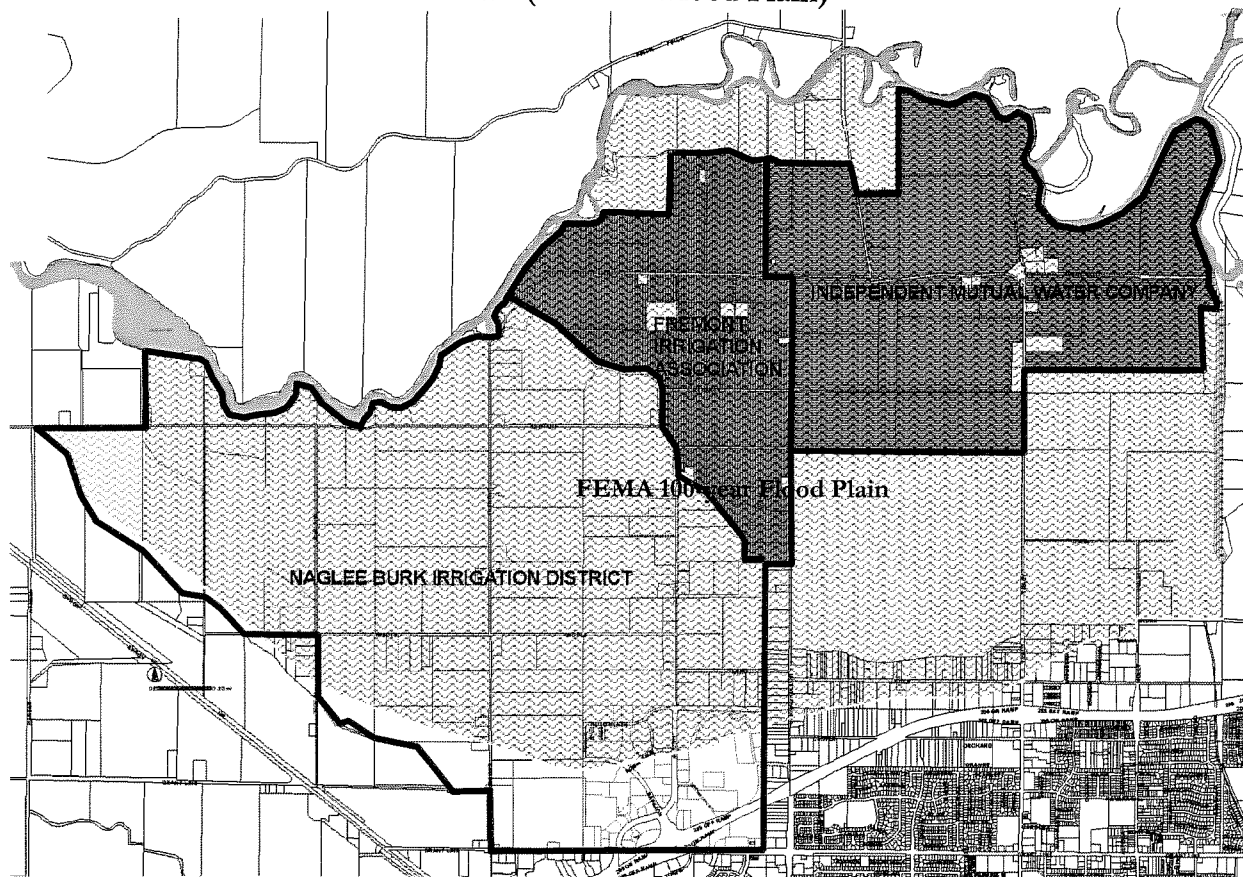
2003 (Gov. Code § 56064(c)); (4) land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years that will return during the commercial bearing period at least \$400 per acre in annual unprocessed plant production (Gov. Code § 56064(d)); or (5) land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than \$400 per acre for 3 out of the previous 5 years (Gov. Code § 56064(e)).

Of the 7 soils within this updated SOI, 4 are rated Class II (118, 153, 166 and 197), while 3 are rated class III (146, 211 and 274). (Plat #2 above and the Soil Survey, "Table 8 – Land Capability" at pp. 315-323, reprinted in Appendix #5.) The class III soils are shown in red hatching in Plat #2. None of the soils are rated Grade 1 (80 through 100) on the Storie Index. (Soil Survey, "Storie Index Rating" at pp. 157-159, and Table 9 at pp. 324-334, reprinted in Appendix #6) But, all lands within the updated SOI can produce at least 9,490 pounds of dried forage (1 animal-unit-year) per acre "without inducing permanent or long term damage to vegetation or related resources." (See: Glossary, pp. 3, 9 and pp. 6-8 to 6-9 of that handbook, reprinted in Appendix #7; see Soil Survey, "Table 7 – Yields Per Acre Of Crops," at pp. 306-314, reprinted in Appendix #8, alfalfa: Soils 153 and 197 (8 tons), soils 118 and 166 (7 tons), and soils 146, 211 and soil 274 (6 tons)). And, crops that are grown in this area typically include alfalfa, asparagus and annual row crops such as grain corn, silage corn, sweet corn, tomatoes, beans, safflower, melons, onions and pumpkins. Listed in Appendix #9 is a table of the *average* gross price per acre of these crops for the past 5 years (2003 through 2007) as reported by the San Joaquin County Agricultural Commissioner's annual reports. Except for safflower, the average annual gross value per acre of *all* these crops exceeded \$400 in all years, and safflower exceeded \$400 in 3 out of the last 5 years. Thus, all the lands within NBID and those proposed for annexation from FIA and IMWC meet the third criteria (Gov. Code § 56064(c)) and the fifth criteria (Gov. Code § 56064(e)) and are "prime agricultural land" under the Act.

c) Flood Plain

Most of the lands within this updated SOI are within the preliminary 100-year FEMA flood plain, the approximate location of which is shown on Plat #3 below. (Source: preliminary FEMA, FIRM Panels 590F and 595F, San Joaquin Co. Dept. of Pub. Wks., reprinted in Appendix #10).

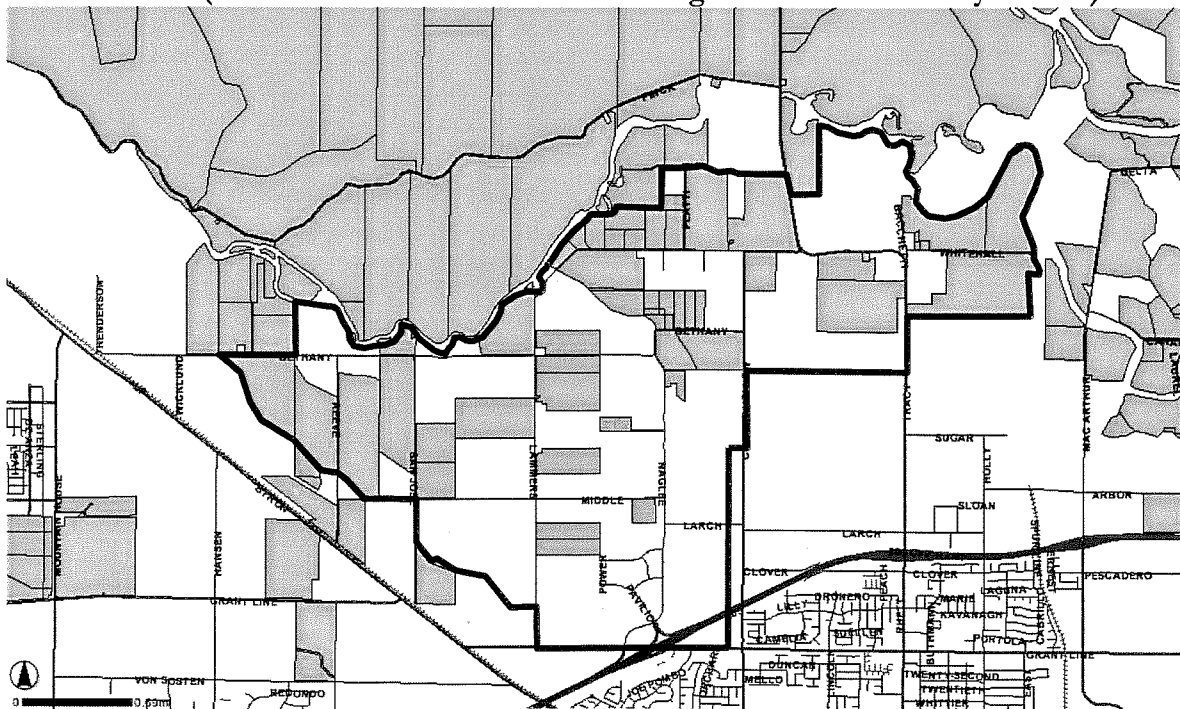
Plat #3 (100-Year Flood Plain)



(floodplain shown in wave hatching on the above plat)

d) Williamson Act Parcels

Plat #4 (Williamson Act Parcels – shown in green – SOI boundary in blue)



2. Planned Uses

a) Continued Agricultural Uses Within NBID's Sphere of Influence

NBID does not propose to change any of the uses within its present or planned boundaries after the proposed annexation. It is a district that provides irrigation water and drainage of irrigation water to the irrigable agricultural lands within it, and plans to continue to do so into the foreseeable future. Because continued agricultural use is planned within NBID, Williamson Act parcels will not be affected by this planned continuation of that use.

b) No Plan Of Detachment of Existing Commercial Uses

NBID's current facilities (pipelines, canals and ditches) remain within the now-established commercial areas. With the exception of its main intake canal, which is not located in and does not pass through the commercial areas, NBID has no expressly described rights or easements to its pipelines, canals or ditches anywhere within the district. Since commercial zoning and development approvals occurred in the 1980s with annexation to the City of Tracy without dedications of any rights or easements to NBID, and since there is no current entitlement being sought by these now-established commercial lands, NBID cannot now require the dedication of rights and easements to as a condition to development approval.

If the commercial areas were now detached from NBID, NBID would have no assurance that it could protect its implied rights and easements to its facilities, and probably could not acquire these rights and easements by eminent domain. Code of Civil Procedure § 1240.050 states that: "A local public entity may acquire by eminent domain *only* property within its territorial limits except where the power to acquire by eminent domain property outside its limits is expressly granted by statute or necessarily implied as an incident of one of its other statutory powers." (emphasis added) Water Code § 22456, while giving an irrigation district such as NBID the right to acquire property by eminent domain, does *not* expressly give it the power to do so outside of its boundaries, which is where the commercial areas would be after any detachment.

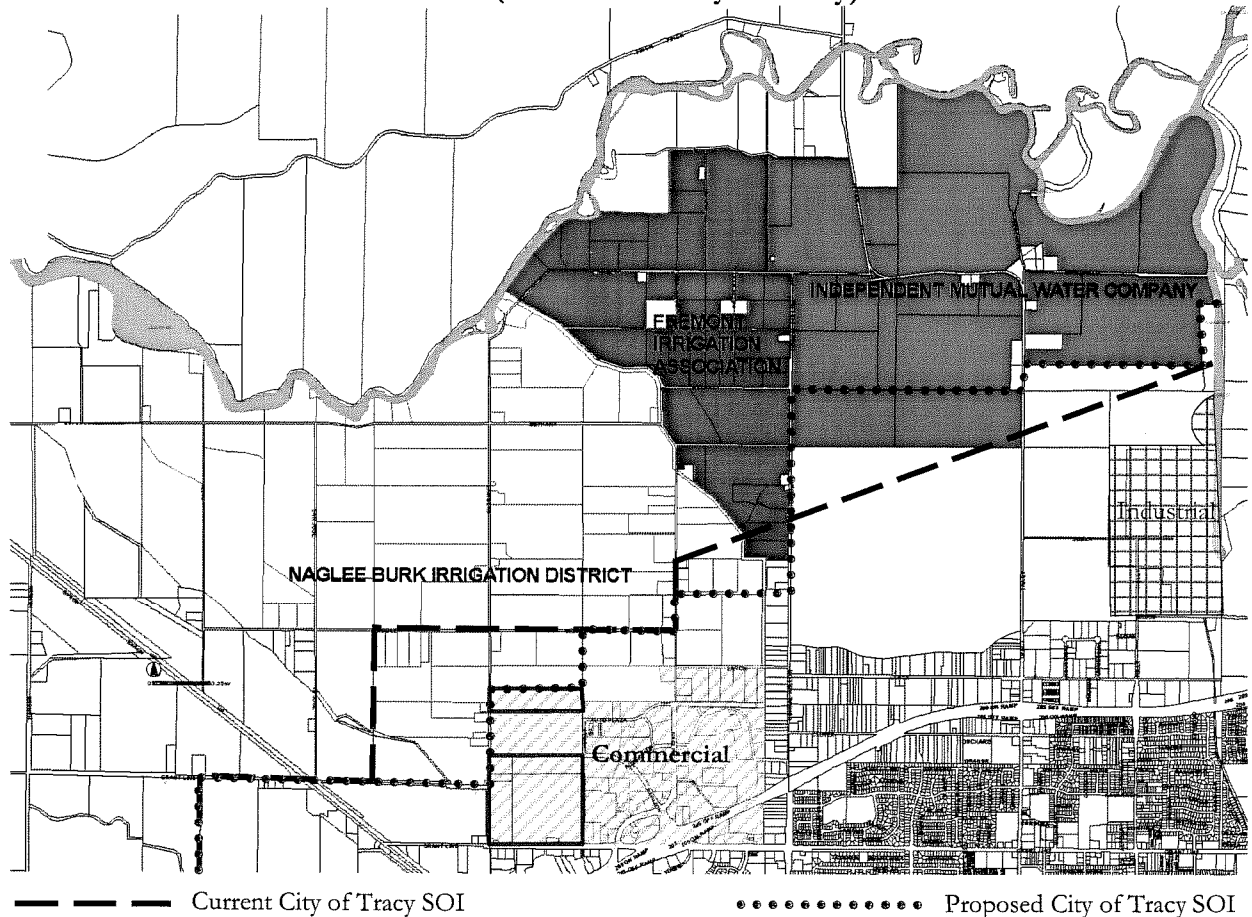
c) The City of Tracy's Planned Uses in the Area

The city's current and proposed SOIs overlap parts of this amended NBID SOI. The boundaries of the city's current SOI, and its proposed SOI accompanying the MSR it is presently preparing for submission to LAFCo, are shown transecting the NBID's current and proposed boundaries on Plat #4 below. (Source: City of Tracy, current SOI, proposed SOI and General Plan Land Use Designations, reprinted in Appendix #11.)

The industrial and commercial areas shown on Plat #4 below correspond to the industrial

and commercial uses as shown on the current (2006) General Plan of the City of Tracy. All *other* land uses shown on that General Plan in the area where this updated NBID SOI overlaps the City's current and proposed SOIs are *agricultural* uses and thus consistent with the proposed continuity of those uses within NBID and its proposed expansion to include the FIA and IMWC lands and will require service from the NBID after the proposed annexation of the FIA and IMWC lands.

Plat #4 (Plans of the City of Tracy)



The only areas where the City of Tracy's planned future expansion of commercial uses as shown in its General Plan conflict with current agricultural uses within NBID are the hatched commercial areas shown bounded in red on Plat #4 above. This would reduce the current irrigable lands within NBID by 123.30 acres. (The white area, APN 212-040-13, containing 49.53 acres and located between these areas bounded in red, is not currently within NBID and is not included in the acreage reported herein for NBID as a whole or in its irrigable lands.)

Determination: Present uses in the area are: the farming of prime agricultural lands (4,234.22 acres), commercial uses (258.69 acres) through which some of NBID's facilities pass, and public uses (114.12 acres) comprised of NBID's canals and the City of Tracy's storm water retention basin. The City of Tracy plans to expand the commercial uses westward in the future, which would

further reduce the prime agricultural land uses by 123.30 acres. NBID's primary purpose is to serve agricultural irrigation and drainage needs and its services support the continued use of lands for agricultural purposes. No Williamson Act contracts would be affected.

B. Present And Probable Need For Public Facilities And Services

(Gov. Code § 56425(e)(2))

1. Public Safety And Utilities

Needed public facilities (roads, gas, electric and telephone transmission lines) serving the agricultural lands within the proposed expanded boundaries of NBID have long since been established. No additional public facilities of this kind are necessary to sustain these agricultural uses. The only "need" is the continued maintenance of the public facilities within the area. NBID does not have a role in providing or maintaining such facilities.

Likewise, needed public safety services (police and fire protection) have historically been provided to the area by the County of San Joaquin and the Tracy Rural Fire District. The continued provision of those services will be required in the future. NBID does not provide these services and will continue to rely upon the San Joaquin County for police protection and the Tracy Rural Fire District for fire protection.

2. Levees

All of the area within NBID and proposed for annexation to NBID from FIA and IMWC are protected from flooding from Old River by the levees located on the south side of Old River which have been in existence since the early 1900s. These are "non-project" levees (i.e., built and maintained without assistance from the U.S. Army Corp of Engineers or the State Reclamation Board). Cross-sections of these levees have been surveyed and submitted to the Reclamation Board and are periodically updated. There has been no failure or breach of these levees that is known to NBID. As with the public safety and public utilities issues addressed above, the only need is for the continued maintenance of those levees by Reclamation District 1007 (Pico and Naglee).

3. Irrigation And Drainage

The irrigation and drainage needs within the proposed expanded boundaries of NBID have historically been met by NBID and by the two private water companies it now proposes to annex. NBID distributes water diverted from Old River, north of Tracy, California, for irrigation to agricultural lands within its boundaries. It also provides for the drainage of those waters from those lands. IMWC and FIA are adjacent private water companies comprised of shareholders who own lands north of Tracy, California, who also divert waters from Old River. The purposes of these companies are similar to those of NBID, to provide a system of agricultural irrigation and drainage

to their shareholder/landowners.

The boards of all three entities believe that the members of FIA and IMWC will achieve a savings in operating costs by economies of scale when annexed to NBID. This is the motivating force behind the proposed annexation.

Upon inclusion within NBID those lands now served by those private water companies would transfer their facilities and water rights to NBID and the private water companies would be dissolved, leaving only NBID to provide irrigation and drainage to the combined areas. No new irrigation or drainage facilities are planned in connection with this proposed annexation. No improvement or upgrading of structures (pumps, pipelines, ditches or canals), access roads, or other irrigation or drainage facilities, are planned with the proposed annexation. As the discussion of the "present capacity" of these systems, *infra*, shows the present facilities are adequate to supply sufficient irrigation to grow the crops typically grown in the area within this updated SOI.

4. Future Urban Uses Within The City Of Tracy's Sphere of Influence

Any expansion of the commercial uses west of the West Valley Mall and the Tracy Auto Plaza as shown on the City of Tracy's General Plan will require improvement of existing boundary roads, extension of interior roadways and utilities, and the provision of municipal services to the territory annexed to the city for purposes of such development. NBID expects that the City of Tracy will require these improvements and/or dedications as a condition to any subdivision or improvement plan in that area. NBID does not expect to provide any of those facilities or to provide any services to such new commercial development. Any uses that remain agricultural after future annexation will continue to be served by irrigation and agricultural drainage by NBID, and NBID's facilities will still occupy the annexed area to serve the adjacent agricultural lands served by NBID.

Determination: There is no present or probable need for public facilities or services for the agricultural uses. The facilities of NBID are, and upon annexation of the FIA and IMWC lands will be, adequate to serve the irrigation and drainage needs of the constituent landowners within the district.

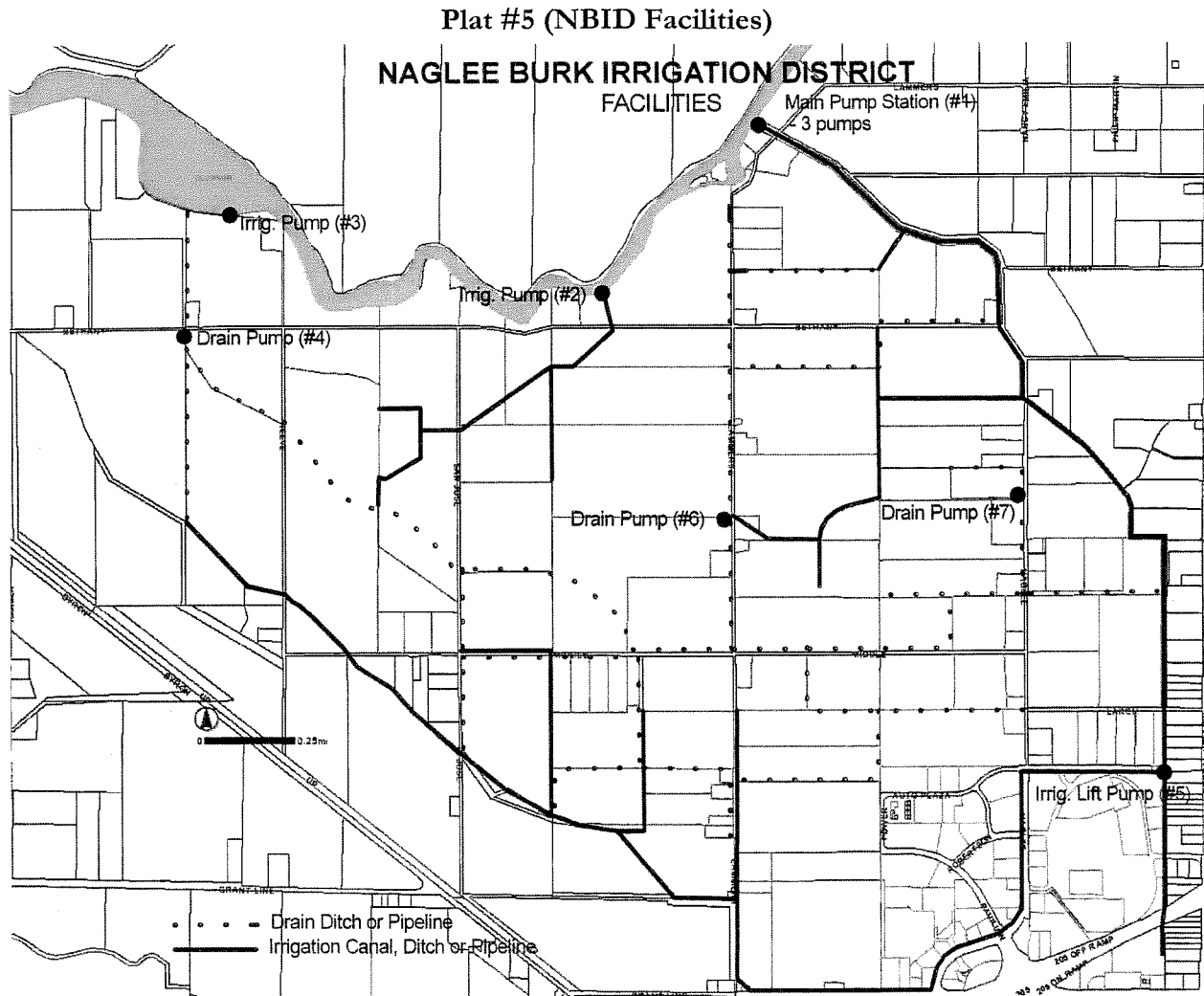
C. The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide (Gov. Code § 56425(e)(3))

1. Facilities & Adequacy Of Facilities

a) NBID Facilities

NBID diverts water from Old River under riparian rights held by the lands included within the original Naglee Burk Tract prior to its subdivision in 1911. It also has appropriative water rights

under a pre-Water Commission Act notice of appropriation (recorded September 13, 1912, at Book G, Volume 28, Page 165, Miscellaneous records of San Joaquin County) to 10,000 miners inches from Old River; the equivalent of 250 cubic feet per second (cfs). There is no requirement to obtain permission to exercise either of those rights from any governmental authority. The only limit is the constitutional limit of the reasonable beneficial use of the water. (Cal. Constitution, Art. X, Sec. 2)



The appropriative water rights alone would theoretically provide *each* acre within NBID about 56 feet of water during a hypothetical 257-day growing season ¹ if the full 250 cfs were diverted for 24 hours per day on each day of the growing season. The current *effective* limit of NBID's capacity to deliver water is determined by its pumping capacity. It has 5 closed impeller turbine irrigation pumps totaling 150 horsepower with a combined capacity of about 19,000 gallons

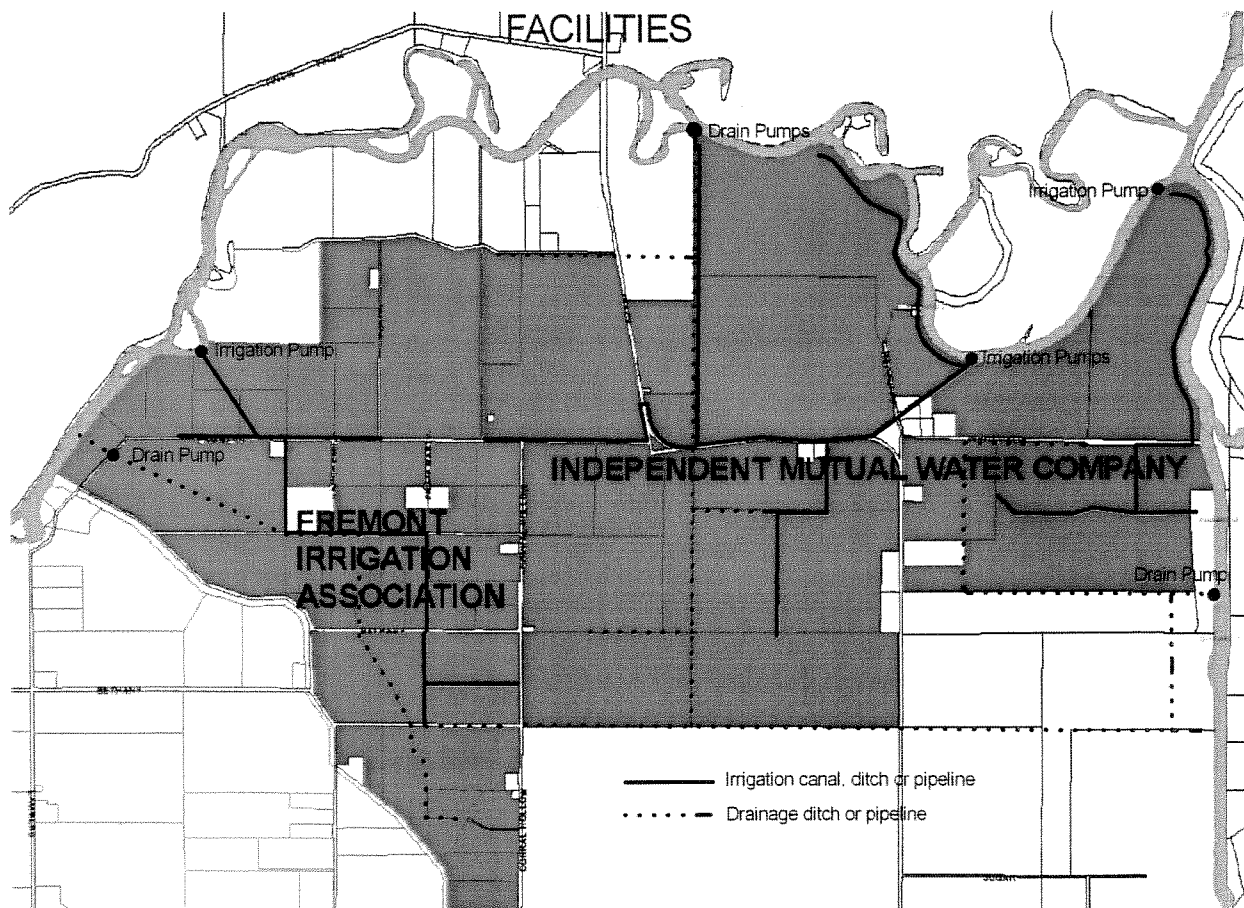
¹ This is based upon the number of days in 8 out of 10 years during the period between 1950 and 1990 in the Tracy-Carbona area that minimum daily temperatures were above freezing (32° F) as reported in Table #3 of the Soil Survey.

per minute (gpm). This is sufficient capacity to provide about 9.5 ft of water to *each* acre within NBID during the hypothetical 257-day growing season with around-the-clock pumping, which is sufficient capacity to supply the necessary water to grow the crops typically grown within the district. The facilities of NBID are therefore sufficient to meet the irrigation needs of its constituents. The system of pipelines and canals and ditches is sufficient to serve and does serve the entire area within NBID.

b) IMWC And FIA Facilities

The entire acreage contained within FIA and IMWC was originally a part of the Rancho El Pescadero land grant, and as to the FIA lands riparian to Old River, and as to the IMWC lands riparian to Old River and Tom Paine Slough. The properties within these two water companies have used their riparian water rights since at least 1913 for irrigation of the lands now within those two private water companies. Those riparian rights, appurtenant to the lands within those companies, were transferred to these non-profit mutual water companies when they were formed.

Plat #6 (FIA & IMWC Facilities)



The facilities of FIA and IMWC are shown on Plat #6 above. Like NBID the distribution

systems (pipelines and canals and ditches) are sufficient to and do serve all of the agricultural lands within their present boundaries.

IMWC has three propeller irrigation pumps totaling 75 horsepower with the capacity to pump about 18,240 gallons per minute. This is sufficient capacity to provide about 16.3 feet of water to each acre within its boundaries during a 257-day growing season with around-the-clock pumping. FIA has one 30 horsepower mixed flow propeller irrigation pump capable of pumping about 6,000 gallons per minute. This is sufficient to provide about 9.8 feet of water to each acre within its boundaries during a 257-growing season with around-the-clock pumping, and is also adequate to meet the needs of the irrigable lands within it. As in the case of NBID, the facilities of IMWC and FIA are sufficient to meet the irrigation needs of its constituents.

2. Services & Adequacy Of Services

As discussed in greater detail section 4.B. of the MSR portion of this report, *infra*, NBID is already providing irrigation services to FIA and IMWC under contract with those entities, and if annexation is approved it will provide the complete range of services (irrigation and drainage operations as well as maintenance of facilities) to the combined area presently within NBID, FIA and IMWC (i.e., the entire updated SOI area). Based upon the analysis found in that section, the services are, and will be, adequate to serve the irrigation and drainage needs within the updated SOI.

Determination: The capacity of NBID's present and future facilities (those acquired from FIA and IMWC with the proposed annexation) are adequate, and the services that it provides, or is authorized to provide, are adequate to supply needed irrigation and drainage to the prime agricultural lands in the area.

D. The existence of any social or economic communities of interest (Gov. Code § 56425(e)(4))

There are no social or economic communities of interest within NBID presently or within the proposed territory to be annexed.

Determination: No social or economic communities of interest exist in the area.

4. Municipal Service Review

A. Growth and population projections for the affected area (Gov. Code § 56430(a)(1))

The affected area (within this updated SOI) is unincorporated territory within San Joaquin County, predominantly devoted to prime farmland uses, zoned A-40 with a handful of parcels zoned A-10, and mostly within the 100-year floodplain. These characteristics suggest a minimal increase, if any, in residential use in the future. As a result, population growth in this area should be far less than is projected for the county as a whole, or for the unincorporated area of the county generally (which includes rural lands where the soils are less than “prime” and flood plains do not constrain further residential development). A comparison of the population change in the 1990 and 2000 census tracts that encompass this SOI supports these general observations.

The affected area is located within census “block groups” 1, 2 and 3 within census tract 52.03 of the 1990 and 2000 decennial censuses. (See plats of these block groups reprinted in Attachment #13) The growth *rate* within those block groups is calculated from the population counted at the beginning and end of that 10-year period. These block groups encompass rural residential areas (“Lammersville” and “Larch/Clover”) outside of NBID, FIA or IMWC, thus the total population is greater than the population within this updated SOI. The total change within these block groups between 1990 and 2000 and the average annual growth rate (calculated here) is shown on the following Table #1:

Table #1 (1990 and 2000 Census, Tract 52.03, Block Groups 1, 2 & 3)

<u>Census</u>	<u>Tract 52.03</u>			<u>Total Population</u>
	<u>Block Group 1</u>	<u>Block Group 2</u>	<u>Block Group 3</u>	
1990	575	1267	971	2813
2000	<u>502</u>	<u>1296</u>	<u>1003</u>	<u>2801</u>
Change:	- 73	+ 29	+ 32	- 12
(% Change/Year)	-1.27%	0.23%	0.33%	-0.04%

(Source: US Census Bureau, reprinted in Appendix #12, change and % change calculated here)

During the same 10-year period the population of San Joaquin County as a whole grew at an average annual rate of 1.73%. (See Selected Demographic Characteristics, San Joaquin County, from the US Census, reprinted in Appendix #13) And since 2000 the California Department of Finance has estimated population growth rates averaging 1.36% per year. Table #2 below shows the Department of Finance’s estimates for the unincorporated territory of the county. The annual percentage increases and the average annual growth rate set forth below are calculated here.

Table #2 (California Dept. Of Finance, Population Estimates)

	<u>4/1/00</u>	<u>1/1/01</u>	<u>1/1/02</u>	<u>1/1/03</u>	<u>1/1/04</u>	<u>1/1/05</u>	<u>1/1/06</u>	<u>1/1/07</u>	<u>1/1/08</u>
Unincorp.:	130,066	132,192	133,699	135,242	135,897	138,113	139,075	141,798	144,897
Annual % Increase:		1.63%	1.14%	1.15%	0.48%	1.63%	0.70%	1.96%	2.19%
Average Annual Rate of Growth:	1.36%								

(Source: http://www.dof.ca.gov/HTML/DEMOGRAP/ReportsPapers/documents/2000_SF3_CA.pdf, excerpt of San Joaquin County reprinted in Appendix #14)

The San Joaquin County Council of Governments (SJCOG) and has projected the following growth rates for the unincorporated areas of the county through the year 2030:

Table #3 (SJCOG Population Projection)

	<u>2000</u>	<u>2005</u>	<u>2010</u>	<u>2015</u>	<u>2020</u>	<u>2025</u>	<u>2030</u>
	130,087	141,278	153,657	166,696	180,478	194,564	209,443
Annual % Increase:		1.72%	1.75%	1.70%	1.65%	1.56%	1.53%

(Source: <http://www.sjco.org/docs/pdf/RFC%20Projections.pdf>, reprinted in Appendix #15)

In light of the overall decline in the in Block Groups 1, 2 and 3 of Tract 52.03 between 1990 and 2000 (-0.04% per year) when compared to the growth in the county as a whole (1.73% per year), and in light of the average annual growth rate estimated by the Dept. of Finance in the 8 years since 2000 for the unincorporated county (1.36% per year), SJCOG’s projected growth rates (between 1.53% to 1.75% per year) for the unincorporated county seem optimistic. The SJCOG rates are considered to be the maximum possible growth rate within the proposed SOI and this MSR. The last best count of the actual population within the area most nearly corresponding to the area contained in this updated SOI and MSR is the 2000 Census count in Tract 52.03 for blocks 1001 through 1006, blocks 2000 through 2008, and blocks 3013 and 3049. (Individual Block Maps are reprinted in Appendix #16) The total population counted within these blocks in the 2000 Census, all of which was counted as “rural” population, was 631. (Source: US 2000 Census, tables reprinted in Appendix #17) With the count of 631 as the starting point for the projection based on the SJCOG rates, Table #4 shows the projected *maximum* population growth within the affected area (this SOI) for the period 2000 to 2030.

Table #4 (Projected Maximum Population Growth From 2000 To 2030 Within Area)

	<u>2000</u>	<u>2005</u>	<u>2010</u>	<u>2015</u>	<u>2020</u>	<u>2025</u>	<u>2030</u>
	631	642	653	664	675	686	696
% Increase/Yr:		1.72%	1.75%	1.70%	1.65%	1.56%	1.53%

Determination: The population of the affected area will remain steady at about 631

persons, or at the most grow by rates projected by the San Joaquin Council of Governments (between to the years 2000 and 2030) to about 696 persons.

B. The present capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies (Gov. Code § 56430(a)(2))

The facilities and the capacity of the facilities of NBID, FIA and IMWC are discussed in Section 2.D.1 above in detail. The pumps, pipelines, canals and ditches of these entities are clearly of sufficient capacity to provide agricultural water and drainage to the area considered in this MSR. There are no infrastructure needs or deficiencies.

The water rights of NBID, FIA and IMWC are not subject to delivery reductions during water shortages including regulatory-restricted and drought years. There is no cost to any of these entities of the water itself, the only costs associated with the delivery of its irrigation water is the cost of operation (ditch tenders and pumping costs) and maintenance of its facilities. These are the services which NBID presently provides to its landowners and expects to provide to the territory proposed for annexation and within the updated SOI. No services are provided *on* the lands of individual farmers other than providing an outlet for irrigation water, delivery of the water to that outlet, and providing an inlet for drainage of those waters to the district's drainage facilities. When a farmer calls and reserves a delivery of water to irrigate his field or fields, NBID ditch tenders turn on the necessary pumps (if they are not already running) to serve the list of water reservations, open the necessary valves or gates to provide that water on a first come, first served basis proceeding down the reservation list, standby while the water is delivered, and then shut the necessary valves and gates and turn off the pumps at the conclusion of the process. Routine maintenance of the pumps, canals, ditches, pipelines, valves and gates is also done by the NBID ditch tenders.

NBID is presently providing limited irrigation (but not drainage) services to FIA and IMWC by contract with those entities as permitted in Water Code §§ 22228, 22234. Under these contracts the district's ditch tenders operate the irrigation systems of FIA and IMWC, but not their drainage systems. And no maintenance is performed or provided under these contracts. If the proposed annexation is approved NBID will provide the complete range of services which it provides to its constituent landowners in the annexed territory as well, and expects to be able to deliver adequate supplies or irrigation water to the enlarged territories within the updated SOI.

Determination: There is no present or probable need for public facilities or services for the agricultural uses. The facilities of NBID are, and upon annexation of the FIA and IMWC lands will be, adequate to serve the irrigation and drainage needs of the constituent landowners within the district. There are no infrastructure needs or deficiencies.

C. Financial ability of agencies to provide services (Gov. Code § 56430(a)(3))

NBID's sources of revenue are property taxes and assessments levied upon the lands within the district. It has no long-term debt and there is no expected need for future debt. There are no present long term plans for capital improvements within NBID or within the territory proposed for annexation from FIA and IMWC. It does not have a long-range capital improvements plan or a system master plan. It identifies capital projects in its annual budget in order to maintain the system and ensure reliability. Because the district has riparian and appropriate water rights predating 1914 and FIA and IMWC have riparian rights, the district has no water purchase costs and will have none after the annexation. The major expenses of the district are for maintenance and operations.

The annual assessments levied upon and paid by landowners of NBID, IMWC and FIA for the years ending 2004 through 2007 are shown in Table #5 below.

**Table #5
(Assessments Levied By The District Or Company And Paid By Landowners)**

	Year:	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	Average	
NBID		\$140,475.69	\$97,175.63	\$114,228.75	\$95,261.24		
Acres:	2271.78	\$61.84	\$42.78	\$50.28	\$41.93	\$49.21	per ac.
IMWC		\$99,749.70	\$101,809.96	\$98,410.91	\$206,610.17		
Acres:	1,269.17	\$78.59	\$80.22	\$77.54	\$162.79	\$99.79	per ac.
FIA		\$49,056.80	\$43,392.79	\$43,989.22	\$24,754.84		
Acres:	693.28	\$70.76	\$62.59	\$63.45	\$35.71	\$58.13	per ac.

NBID's assessment rates are set annually by resolution of the Board of Directors. The rates factor in anticipated demand and costs to provide service. NBID expects that with economies of scale the per acre assessments of the lands to be annexed from IMWC and FIA will more nearly approach the lower per acre assessments paid by the landowners within NBID. In any case, the landowners of all three entities have historically been willing to assess themselves in amounts sufficient to pay their respective operating and maintenance costs, and it is expected that they will continue to do so in the future. There has never been a time when any of these entities has failed to provide sufficient irrigation water and drainage to their constituent members.

Determination: NBID has the financial ability to provide irrigation and drainage services to the agricultural lands its now serves and those which it proposes to annex from FIA and IMWC.

D. Status of, and opportunities for, shared facilities (Gov. Code § 56430(a)(4))

The irrigation and drainage facilities presently serving NBID, FIA and IMWC are separate and distinct facilities, located in different areas of the proposed SOI, and sufficient to deliver the

necessary irrigation water to the lands within the present boundaries of those entities. None of the present facilities are shared among these entities. Other than providing for agricultural irrigation of lands historically within NBID, FIA or IMWC that are now annexed or proposed for annexation to the City of Tracy, no other sharing of uses is presently contemplated or has been proposed.

Currently the City of Tracy irrigates its parks and landscaping with water supplied through its potable water supply system. Any provision of agricultural, recycled or other non-potable water for irrigation of City parks or landscaping to areas not presently within the boundaries of NBID, FIA and IMWC and served by their water conveyance facilities would require the installation of pipelines or other conveyance facilities (ditches or canals) to transport such water to the point of application. This is unlikely given the distances that such facilities would have to span and the costs of building such facilities. "Wheeling" of water (i.e., the transfer from NBID, FIA or IMWC via the Delta Mendota Canal to the City of Tracy's water treatment plant situated on that canal and about 7.6 miles south of the NBID, FIA and IMWC intakes), is not possible because none of these entities borders upon the Delta Mendota Canal.

In the future it may be possible to provide irrigation to current FIA lands from NBID's main canal located on the southwest boundary of FIA. It may also be possible to extend the westernmost reach of the current IMWC irrigation line along Lammers Road westward and provide irrigation water to lands currently within FIA from that extended line. It may also be possible to extend the southernmost irrigation line of FIA beyond Corral Hollow Road, to provide water to the lands within the present IMWC area. One or more of these possibilities may eliminate the need for one or more pumps and the costs associated with the pump operation and maintenance. Once annexation is achieved NBID plans to explore whether further economies can be achieved by sharing of these facilities in this fashion.

Determination: There are presently no shared facilities within the area. There is the possibility that some of the irrigation and drainage facilities can be combined once the FIA and IMWC lands are annexed to NBID.

E. Accountability for community service needs, including governmental structure and operational efficiencies (Gov. Code § 56430(a)(5))

1. Governmental Structure

NBID is an irrigation district formed in 1921 and operating under Division 11 of the California Water Code (commencing with § 20500). It is a state agency formed and existing for governmental purposes (Water Code § 20570), that exercises a constitutionally declared "public

use.” (California Const., Art. X, sec. 5) All of its functions are exclusively governmental, and all of its property is owned by the state to be held only for governmental purposes. (Anderson-Cottonwood Irrig. Dist. v. Klukkert (1939) 13 Cal.2d 191, 197) It’s predecessor was the Naglee Burk Irrigation Association formed in 1912 to which the water rights and the irrigation and drainage facilities within the Naglee Burk Tract were conveyed by the owner of that tract when it was subdivided in 1912. Those water rights and facilities were conveyed by that association to NBID when it was formed in 1921.

NBID is governed by a five member board of directors, elected for a 4-year term from each of the five divisions within the district. Its board meets monthly and there is an annual meeting for election of officers (President and Vice President) and adoption of an annual budget. District meetings are open to the public and conducted according to the provisions of the Ralph M. Brown Act (commencing with Gov. Code § 54950), and the public may address any concern to the board at those open meetings. Meeting notices, agendas, and supporting documentation are posted at least 72 hours in advance at the district offices located at 23950 S. Chrisman Road, Tracy, California, 95304, telephone (209) 835-3232.

The board annually elects the President and Vice President from its ranks. They are not paid for their services except for their attendance as board members at meetings of the board. The Secretary/Treasurer is a non-board member appointed by the board to serve at its pleasure (Water Code § 21376) who prepares and maintains the districts records, handles correspondence, administers the office and staff, and levies and collects the assessments. An audit of the books and records of the district is performed by certified public accountants annually.

The district employs 3 ditch tenders to operate and maintain its facilities.

FIA and IMWC are private “mutual water companies” created by the agreement of their constituent landowners to operate and maintain the necessary facilities for agricultural irrigation and drainage. They are not public entities. They are run by separate three-member boards of directors. There are no employees because irrigation services are provided by NBID by contract with these entities.

2. Accountability For Community Service Needs

There is direct and immediate accountability for the services provided by NBID. Farmers order water by directly contacting the district’s employees or officers and requesting it. If there is any problem with delivery of water, or if there is a problem with drainage of water, or a leak in a pipeline or ditch, that problem is immediately made known to those same employees and officers by

those farmers in order to minimize the potential damage to the farmers' land or crops.

3. Operational Efficiencies

The staffing of NBID is minimal, but sufficient to service the needs of its constituent landowners. The services provided by the directors, officers and employees are efficient and effective. There are no plans for reduction in staff or services, and no area has been identified by the board which would effect greater operational efficiency without sacrificing the services required by its landowners.

Determination: NBID is governed by a 5-member board of directors, elected from within 5 divisions. It meets monthly at the district offices in Tracy. Meetings are governed by the Brown Act and open to the public. Because farmers must contact district staff to request irrigation water deliveries, there is ongoing direct communication between the constituent farmers and the employees and officers of the district. Any problem with delivery of water, or any problem with drainage is immediately made known to those same employees and officers.

5. Plat Of The Updated Sphere Of Influence Of Naglee Burk Irrigation District:

