

***MUNICIPAL SERVICE REVIEW AND
SPHERE OF INFLUENCE UPDATE FOR THE:***



EMPIRE SANITARY DISTRICT

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STANISLAUS

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Municipal Service Review and Sphere of Influence Update For the Empire Sanitary District

Introduction

The Cortese/Knox/Hertzberg Local Government Reorganization Act of 2000 Act (CKH Act) requires the Local Agency Formation Commission (LAFCO) to update the Spheres of Influence (SOI) for all applicable jurisdictions in the County. A Sphere of Influence is defined by Government Code §56076 as "...a plan for the probable physical boundary and service area of a local agency, as determined by the Commission." The Act further requires that a Municipal Service Review (MSR) be conducted prior to or, in conjunction with, the update of a Sphere of Influence (SOI).

The legislative authority for conducting Service Reviews is provided in Government Code §56430 of the CKH Act. The Act states, that "in order to prepare and to update spheres of influence in accordance with §56425, the commission shall conduct a service review of the municipal services provided in the county or other appropriate area..." A Service Review must have written determinations that address the following factors:

Service Review Factors to be Addressed

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

This Service Review will analyze the Empire Sanitary District. The most recent Sphere of Influence (SOI) update for the Empire Sanitary District was adopted in 2017 and proposed no changes to the District's SOI. The current update serves to comply with Government Code §56425 and will reaffirm the SOI for the District.

Sphere of Influence Update Process

A special district is a government agency that is required to have an adopted and updated Sphere of Influence. Section 56425(g) of the Cortese Knox Hertzberg Act calls for Spheres of Influence to be reviewed and updated every five years, as necessary. Stanislaus LAFCO processes the Service Review and Sphere of Influence Updates concurrently to ensure efficient use of resources. For rural special districts, which do not have the typical municipal level services to review, this Service Review will be used to determine what type of services each district is expected to provide and the extent to which they are actually able to do so. For these special districts, the spheres will delineate the service capability and expansion capacity of the agency, if applicable.

Service Review – Empire Sanitary District

Authority

This review will cover the Empire Sanitary District, which was organized under the Sanitary District Act of 1923, Health and Safety Code, Section 6400 et. seq.

Background

Special districts are local governments that are separate from cities and counties, yet provide public services such as fire protection, sewer, water, and street lighting. In California, there are over 3,300 special districts with a great diversity of purposes, governance structures, and financing mechanisms. There are 50 major types of special districts ranging from airports and fire protection to mosquito abatement and water conservation. Some districts are responsible for multiple public services or one specific type of public service, as is the case of the Empire Sanitary District.

Purpose

The Empire Sanitary District was formed for the purpose of providing sanitary sewer services to the unincorporated community of Empire.

Governance

In 2015, as part of an extended agreement, the City of Modesto became the ex-officio Board of the District. The extended agreement will be later discussed in this review.

Formation

The Empire Sanitary District was formed on June 8, 1948.

Location and Size

The District is located in central Stanislaus County, east of the City of Modesto. The District encompasses an area of approximately 428 acres. Of note, there is a residential tract approximately 1 acre in size, which, although it is within the District's Sphere, according to LAFCO records, it has not been annexed to the District.

Sphere of Influence

The District's Sphere of Influence is approximately 428 acres. The entire District's boundaries are within the City of Modesto's Sphere of Influence. When the District's SOI was initially established by LAFCO in November 1984, the following alternatives were proposed:

1. A LAFCO policy that no annexation of District territory except the entire District at once will be approved.
2. The inclusion of LAFCO conditions of annexation approval that require the City to provide sewer service to any problem areas left in the District.

3. An agreement between the City and District under which the City operates the District's collection system. This would be similar to the agreement between the City of Ceres and the Ceres Fire District to alleviate a similar problem.

The Modesto Urban Area General Plan includes the Empire Sanitary District, and designates the area for residential and commercial land uses, which is consistent with the County's General Plan designations. At this time, the City has no plans in the foreseeable future to annex the area.

If and when the District territory is entirely annexed to the City, the District may be formally dissolved and merged with the City or continue as a subsidiary district, in which the City Council is designated and remain empowered to act as, ex-officio Board of Directors.

Personnel

The District does not have employees at this time. Outside services are completed through contractors.

Classification of Services

The District is authorized to provide the functions or classes of services (e.g. sewer services) as identified in this report. Due to recent changes in the Cortese-Knox-Hertzberg Act, the District would have to seek LAFCO approval to exercise other latent powers not currently provided

Services

The District was formed for the purpose of providing sanitary sewer services to approximately 1,488 residential and commercial customers within the unincorporated community of Empire. However, since 1969, the District has had a contractual agreement with the City of Modesto for sewer disposal services. Under the terms of the agreement, the City agreed to accept and treat the sewage collected in the District's system and the District agreed to pay a service charge for said service.

In 2003, the City of Modesto conducted a six-week capacity study, which determined that the District's collection system was at 90-percent capacity. Daily volumes of sewage collected from the system during the study time period averaged 168,761 gallons per day. The City's study at that time revealed that the District's main pipeline, which connects to the City's system, was at 90% flow capacity, which could potentially result in sanitary sewer overflows. In addition, the majority of the sewage is distributed through old and undersized pipelines. Therefore, the District is required to receive prior written consent from the City before allowing additional users to connect to the District's system.

On December 15, 2015, the City of Modesto approved an expanded agreement with the Empire Sanitary District (ESD). Under the terms of the agreement, the City accepted the transfer of all ESD sewer infrastructure and took over maintenance, repair, and replacement obligations of all such infrastructure. ESD customers continue to pay charges and rates to the City of Modesto.

Empire Sanitary District (ESD) remitted the District's Reserve Fund of approximately \$500,000 to the City. The funds have been dedicated to existing ESD infrastructure repairs and rehabilitation.

Support Agencies

The District is now being managed by the City of Modesto which maintains a collaborative relationship the Empire Municipal Advisory Council (MAC) and Stanislaus County.

Funding Sources

The District's main source of revenue is derived from monthly service charges and connection fees. Empire sewer customers pay the same rate as Modesto customers per the dissolution agreement. The District also receives a small portion of the shared property tax revenues from Stanislaus County. A final audit was completed before the Empire District Board was dissolved but since then, the City has retained all of the Empire District's financial records and no financial records are being managed by the District.

Service Review Determinations:

The following provides an analysis of the six categories or components required by Section 56430 for a Service Review for the Empire Sanitary District.

1. Growth and Population Projections for the Affected Area

The District serves approximately 1,488 residential and commercial customers with sanitary sewer service in the unincorporated community of Empire. According to the County's 2023-2031 Draft Housing Element Update, the town of Empire has the potential to add an estimated 30 dwelling units, based on current vacant and/or underutilized parcels. However, due to limited infrastructure and resources, it is not expected that any significant population growth will occur within the District boundaries at this time.

2. The Location and Characteristics of Any Disadvantaged, Unincorporated Communities Within or Contiguous to the Sphere of Influence.

Based on annual median household income, the area within the Empire Sanitary District is identified as a Disadvantaged Unincorporated Community (DUC) as defined in Section 56033.5 of the Cortese-Knox-Hertzberg Act of 2000. No additional DUCs have been identified within or contiguous to the District's sphere of influence.

3. Present and Planned Capacity of Public Facilities and Adequacy of Public Services, Including Infrastructure Needs or Deficiencies Including Needs or Deficiencies Related to Sewers, Municipal and Industrial Water, and Structural Fire Protection in Any Disadvantaged, Unincorporated Communities Within or Contiguous to the Sphere of Influence.

The present condition of the District's sewer system has improved since the City took over the ESD. The main sewer connection line to the City of Modesto's sewer trunk which aligns along Yosemite Boulevard and 1st Street was upsized in 2019 with a 15-in pipe to provide more capacity for existing and future growth within the District. The City also replaced and upsized a sewer pipe in South Avenue. The City is currently evaluating capacity concerns regarding the 8-inch main in Santa Fe Avenue. Additional connections to the District's sewer system still require prior written consent from the City of Modesto (e.g. Will Serve Letter) since this area is in the County; however, the major capacity constraint on the existing sewer system has been resolved.

The Empire Sanitary District provides sewer services. Additional services, such as water and structural fire protection are provided through the City of Modesto, other special districts, or by way of private systems.

4. Financial Ability of Agencies to Provide Services

Under the terms of the agreement with the City of Modesto, the City accepted the transfer of all Empire Sanitary District (ESD) infrastructure, and took over maintenance, repair, and replacement obligations of all such infrastructure. Current ESD customers are effectively Modesto out-of-boundary customers. ESD residential ratepayers are charged the same rate as Modesto customers. Commercial ratepayers are charged for sewer service based on metered water use. In addition, the ESD has remitted the District's reserve fund of

approximately \$500,000 to the City to be dedicated to existing ESD infrastructure repairs and rehabilitation.

5. Status of, and Opportunities for, Shared Facilities

The District does not currently share any facilities with other districts or agencies. However, as mentioned previously, the District has transferred management of the District to the City of Modesto.

6. Accountability for Community Service Needs, Including Governmental Structure and Operational Efficiencies

The City of Modesto is the ex officio Board of the District and, therefore, sits as the Board of the Empire Sanitary District (ESD). At a later date, the City could and most likely will file an application with LAFCO seeking approval of full dissolution of the ESD pursuant to the provisions of the Cortese-Knox Hertzberg Local Government Reorganization Act of 2000. However, at this time there is no plan to dissolve the District.

7. Any Other Matter Related to Effective or Efficient Service Delivery, as Required by Commission Policy

None

Sphere of Influence Update for the Empire Sanitary District

In determining the Sphere of Influence (SOI) of each local agency, the Commission shall consider and prepare determinations with respect to each of the following factors pursuant to Government Code Section 56425:

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.
4. The existence of any social or economic communities of interest in the area if the Commission determines they are relevant.
5. For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

This document proposes no changes to the District's existing Sphere of Influence. Rather, it serves to reaffirm the existing SOI boundary. As part of this process, Staff researched the history of the establishment of the District's SOI. A map of the current District boundary and Sphere of Influence is attached in Appendix "A".

The following determinations for the Empire Sanitary District's Sphere of Influence update are made in conformance with Government Code §56425 and Commission policy.

Determinations:

1. The present and planned land uses in the area, including agricultural and open-space lands

The District's Sphere of Influence (SOI) includes approximately 428 acres. Territory within the District's boundaries consists of residential and commercial land uses. The District does not have the authority to make land use decisions, nor does it have authority over present or planned land uses within its boundaries. The responsibility for land use decisions within the District boundaries is retained by Stanislaus County.

2. The present and probable need for public facilities and services in the area

The District was formed to provide sewer service within its boundary. The present and probable need for this service is not expected to diminish, as the residents within the District are dependent on the sewer services they receive.

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

The present capacity of the District facilities has improved since the City took over the District. In 2019, the City replaced the existing 10-inch main with a 15-inch pipe in Yosemite Avenue that conveys sewer from the Empire community to the City's sewer system. The City also replaced a deficient pipe in South Avenue in 2019 to improve sewer conveyance.

4. The existence of any social or economic communities of interest in the area if the Commission determines they are relevant.

The unincorporated community of Empire is considered a community of interest within the District's boundaries.

Further, the City of Modesto is also considered to be a Community of Interest, as the entire District's boundaries are located within the City's Sphere of Influence. As previously mentioned, the City of Modesto is now managing all Empire Sanitary District (ESD) activity. In addition, there has been no indication by the City of their intent to annex all or a part of any territory within the District's boundaries in the near future.

5. For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

There are no proposals to change the District's existing Sphere of Influence. The District's area covers the town of Empire, which is identified as a Disadvantaged Unincorporated Community (DUC) as defined in Section 56033.5 of the Cortese-Knox-Hertzberg Act of 2000.

The Empire Sanitary District provides sewer service for the District. Additional services, such as water and structural fire protection, are provided through the City of Modesto, other special districts, or by way of private systems.

APPENDIX “A” DISTRICT SUMMARY PROFILE

District: **EMPIRE SANITARY DISTRICT**

Location: Approximately 3 miles southeast of the City of Modesto

Service Area: Approximately 428 acres

Population*: 4,202 persons

Land Use: Low Density Residential and Commercial

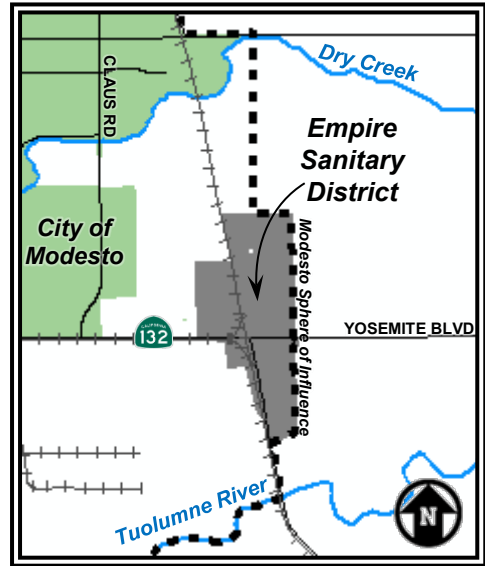
Date of Formation: June 18, 1948

Enabling Act: Sanitary District Act of 1923, Health and Safety Code, Section 6400 et seq

Governing Body: City of Modesto (Ex-Officio Board)

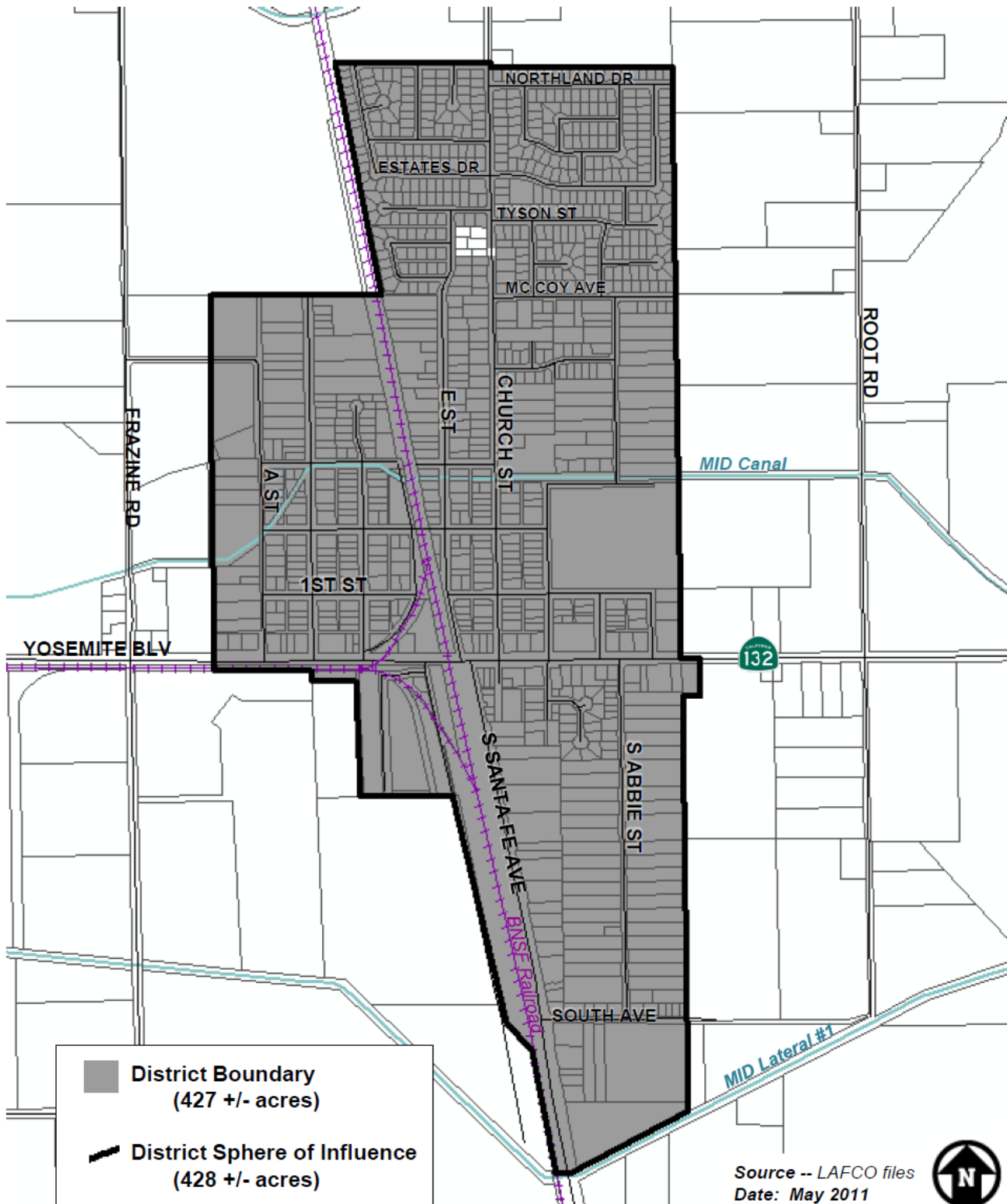
District Services: Domestic sewer service to the unincorporated community of Empire

Revenue Sources: Monthly service and connection fees; property taxes



**Source: Census.gov, 2020 Decennial Census*

MAP 1: EMPIRE SANITARY DISTRICT BOUNDARIES AND SPHERE OF INFLUENCE



APPENDIX “B”

REFERENCES

1. Previous MSR/SOI Update for the Empire Sanitary District, Adopted August 23, 2017.
2. Extended Agreement for Sewer Service signed in December 2015.
3. GEOTivity Letter dated January 29, 2003, regarding a capacity study, which monitored an existing Empire Sanitary District sewage pipe located on Hwy 132 & Codoni Road.
4. City of Modesto letter dated November 25, 2003, regarding “Sewer Connections to the City of Modesto’s Collection System”.
5. Stanislaus County Draft 2023-2031 Housing Element Update, August 2023.
6. 2009/2010 Stanislaus County Civil Grand Jury Report regarding the Empire Sanitary District, June 25, 2010.
7. Auditor-Controller Response to the 2009-2010 Stanislaus County Civil Grand Jury Report – Empire Sanitary District, dated July 16, 2010.
8. Empire Sanitary District’s Grand Jury Response Letter dated September, 8, 2010.
9. California State Controller’s Office, “Special District’s Annual Report”, April 26, 2011.
10. City of Modesto Council Agenda Report, November 30, 2015

INDIVIDUALS AND AGENCIES CONTACTED

1. Jim Alves, Senior Civil Engineer, City of Modesto