

FINAL

BYRON SANITARY DISTRICT

**MUNICIPAL SERVICE REVIEW AND
SPHERE OF INFLUENCE UPDATE**

Report to the
**Contra Costa Local Agency
Formation Commission**

April 2005

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1. INTRODUCTION

This report regarding the Byron Sanitary District was prepared for the Contra Costa Local Agency Formation Commission (“LAFCO”) in accordance with Section 56430 of the California Government Code. It responds to the requirement that LAFCO conduct a Municipal Service Review (MSR) to study the delivery of municipal services and update spheres of influence.

The MSR evaluates services provided by the District and issues regarding its sphere of influence. MSR Guidelines prepared by the State Office of Planning and Research and local policies and procedures were referred to in developing this information, performing analysis and organizing this study.

This report describes service delivery and related issues for LAFCO to consider and presents determinations as required by law. The decision to approve or disapprove any determinations or policies rests entirely with the Commission.

Written determinations regarding the MSR and sphere of influence update are provided for the Commission’s consideration. This report is an informational document and does not substitute for discretionary decisions that can only be made by the Commission.

This report is subject to reconsideration and revision as directed by the LAFCO staff or by the Commission during the course of its deliberations.

2. MUNICIPAL SERVICE REVIEW

Description of District

The Byron Sanitary District was formed in 1948 and became operational in 1958. It operates pursuant to the Sanitary District Act of 1923 (Health & Safety Code, Section 6400 et seq.).

The District is located in eastern Contra Costa County, on both sides of Byron Highway at Camino Diablo. It encompasses the unincorporated community of Byron.

It is an independent special district. A five-member board of directors, elected at-large, governs the District. A General Manager is responsible for administrative functions. A District organizational chart is included as Exhibit A.

The District's boundaries and sphere of influence (SOI) are coterminous and include fewer than 250 acres. A map of the District and its sphere is included as Exhibit B.

The Request for Information as submitted by the District is included as Exhibit C.

District Services

The District collects, treats and disposes of wastewater. It services 173 connections, which represent about 367 Equivalent Residential Units (EDUs). It serves approximately 152 residences, 30 commercial facilities, a 540-student elementary school and a County-owned youth rehabilitation facility. Only a few homes are on individual disposal systems in the community of Byron.

The District has issued a franchise agreement with Garaventa Enterprises of Concord for refuse collection and recycling services in Byron. The FY 2005-06 budget projects the District will receive \$4,200 in franchise fees.

All District services are provided within its boundaries, except for an agreement to treat effluent from the Orrin Allen Youth Rehabilitation Facility, previously called Byron Boys Ranch, a nearby County-owned and operated juvenile correctional facility. This is the District's only out-of-agency service; it is also outside of the District's Sphere of Influence. This arrangement became effective in 1959, and was amended and renewed by the County in 1966, 1975 and 1979, all prior to the time LAFCO was required to pass on these types of agreements.

In October 2005 the County Administrator wrote the Town of Discovery Bay Community Services District (hereafter CSD), inquiring if that District were in a position to provide sanitation services to this facility should Byron Sanitary District services "be interrupted for any reasons."

The CSD responded, indicating it would be appropriate for the County to deposit funds or agree to reimburse the CSD for any expenditure in investigating this potential. We are aware of no response from the County.

3. MSR DETERMINATIONS

This report addresses the MSR factors specified in LAFCO's governing statute.

Infrastructure Needs and Deficiencies

The District's wastewater collection system serves only the community of Byron, plus sewage generated by the youth rehabilitation facility. It is sufficient to accommodate current demands and infill within Byron.

The District's wastewater treatment and disposal facility is located on 30 acres of land. It consists of an Imhoff Tank and disposal facilities consisting of four evaporation ponds with a surface area of 3.76 acres, two evaporation/storage ponds with 4.24 acres and 10 acres of land irrigated with treated effluent. The ponds have also been acting as treatment ponds due to solids carried over from the Imhoff Tank.

An April 5, 2006 letter from Pamela Creedon, Executive Officer of the Central Valley Regional Water Quality Control Board to County Supervisor Mary Piepho, reports that:

“. . . the Byron Sanitary District (BSD) wastewater treatment facility has a long history of compliance problems, which ultimately resulted in the Regional Water Quality Control Board adopting the Time Schedule Order [No. R5-2005-0900 in 2005].”

This letter provides a useful overview or summary of efforts by the District to resolve the situation that led to the Time Schedule Order and is therefore enclosed (Exhibit E)

Based on inspections and monthly monitoring reports the RWQCB is concerned about District facilities: Inadequate treatment through the Imhoff Tank, influent flows that exceed permitted capacity, structural integrity of pond berms and potential degradation of the groundwater.

The Time Schedule Order requires the District to improve its sewage treatment and disposal to avoid potential degradation of ground water. The District notes there have been no findings that the District has actually degraded the groundwater.

This situation came to LAFCO's attention by the St. Anne Catholic Church Annexation to the District (LAFCO 04-14). The Executive Officer Report dated January 12, 2005 concluded that:

The ability of the District to comply with these discharge requirements is a larger issue than the St. Anne Catholic Church Annexation. The violations

are referred to specifically as WDR Order 5-00-058 and Cleanup and Abatement Order R5-02-773.

A supplemental LAFCO staff report dated March 9 notes the District's problems:

“. . . concern the quality of the treatment, its potential to degrade the groundwater and the capacity of the District to serve additional customers.

“The Byron Sanitary District and its consulting engineer are studying alternative methods to bring the District into compliance with its discharge permit and to adequately treat effluent generated within Byron now and in the future. Three options have been identified [by the District's engineering consultant] and are being studied:

- Make improvements to the existing wastewater treatment plant (WWTP),
- Construct a new “package treatment plant” to serve Byron, and
- Construct a sewer transmission line and have the effluent treated in the Town of Discovery Bay CSD's WWTP.

“At the [January 12] meeting there were references to undeveloped parcels within the community of Byron that in order to be developed need community sewer service. It is clear that additional properties, including expanded uses at St. Anne Church, cannot be connected to the Byron sanitary system without authorization from the RWQCB.

“This is true because the District is not in compliance with its permit and the restriction applies regardless of whether the proposed use is within or outside of the Byron Sanitary District.”

For this reason, even though the District could not immediately connect the church to its collection and treatment system, the Commission approved the annexation in order to make the property eligible for District services when they became available.

The District indicates that additional alternatives have been identified since the time of the LAFCO hearing, including the following:

1. Improve the existing Wastewater Treatment Plant (WWTP) by expanding effluent disposal through increased land dispersal.
2. Improve the existing wastewater treatment system with expanded effluent disposal through increased land dispersal at onsite and offsite locations.
3. Construct a transmission line and have the effluent treated by the Town of Discovery Bay Community Services District or another agency.

4. Improve treatment at the existing facility with offsite re-use of treated effluent, primarily at a local sand quarry owned by the Unimin Corporation.

The District is working with a new consultant, Dauwalder Engineering Inc., to develop a comprehensive plan for long-term sewage treatment and disposal. The District indicates this plan is being developed in response to requirements issued by the RWQCB, to upgrade the system for “anticipated growth and changes in this community over the next twenty years” and to meet funding requirements for the USDA.

The need to secure adequate sewage treatment and disposal is immediate. The Regional Board has indicated it will in the very near future begin to levy significant civil liabilities, i.e., fines, against the District if the matter is not resolved.

The District does not at this time have a current adopted Capital Improvement Plan though it indicates one is in the process of being prepared in conjunction with evaluating options for sewage treatment and disposal.

Growth and Population Projections

The questions of land use planning, growth and population projections deserve comment. It appears there is an inconsistency between (1) the goals and aspirations of the Byron community, as described in what is called the “Byron Township General Plan” and as voiced by members of the District Board, and (2) the official, County-adopted General Plan, zoning and population projections for the Byron area.

The “Byron Township General Plan, 1999-2020” was prepared by the Byron Municipal Advisory Council (MAC). This document is not the official County Plan for the area but is cited frequently, even being appended to the District’s questionnaire for the Municipal Service Review and Sphere of Influence Update. It is, however, not the official General Plan of land uses for the community of Byron.

Based on ABAG population and job growth figures provided by the County for the Rural East Contra Costa County area, the Byron planning area had a population in 2000 of approximately 900 with very little population growth expected through the year 2015.

Population projected for the Byron area for 2005 is 911, for 2010 is 971 and for 2015 is 1000. Completed buildout after 2015 is projected to be 1,856.

The District boundaries and service area include only the community of Byron (and the County’s youth rehabilitation facility). It serves fewer than 200 connections. Its ability to serve significant numbers of additional customers is predicated upon it having improved disposal facilities and changes in adopted land use plans for the area.

The County General Plan’s Urban Limit Line encompasses only the developed townsite of Byron and not the surrounding open space area. Even the youth rehabilitation facility is situated outside of the Urban Limit Line.

Rather than view itself solely as a sanitation agency, the District sees one of its functions as “to plan for the community” along with the members of the Byron Municipal Advisory Council. The District states in reference to the Byron Township General Plan:

We realize that this plan was not officially adopted by the Board of Supervisors. We believe, however, that it is one of the functions of the BSD Board to plan for the community, along with MAC members. In reality the Byron Township General Plan is really what the leaders of that particular community envision, just as the General Plan completed by the County is what the County envisions.”

The enclosed County Community Development Department letter dated December 12, 2005 (Exhibit D), states that individuals should not rely upon the Byron Township General Plan for land use planning purposes.

In creating the Byron MAC, the Board of Supervisors established a large geographic area within which the MAC can voice its opinions regarding County land use matters. But that does not support the notion that this is an appropriate boundary for sewer services.

In response to questions about “anticipated geographic expansions” the District indicates that its boundaries are not correct at this time and should encompass the planning area determined by the East Contra Costa County Coalition in 1994. These are the boundaries established for the Byron MAC review area and designated as the Byron Community.

When asked about areas the District desires or plans to serve, the District indicated it is striving to serve the properties within its boundary but its eventual goal is to serve the entire planning area as previously designated by the East Contra Costa County Coalition.

While community members may see “Byron” as a large geographic planning area, the Byron Sanitary District and its Sphere of Influence is a much smaller area. The majority of the Byron area outside of the District is designated as Agriculture on adopted plans for the area, and as not currently requiring community sewer services.

Annexing agricultural land or including it in the District’s SOI is seen as growth-inducing and will require the appropriate environmental analysis prior to LAFCO approving such an expanded sphere. The District is a sanitation agency to provide sewage collection and disposal services for areas urbanized to the point of requiring community sewer services.

The MSR Request for Information submitted by the District states that its “...goal is to eventually service the entire planning area as designated by the East Contra Costa County Coalition.” This is not the official County land use plan for the area. The Commission’s review and update of the District’s SOI should be based on officially adopted plans, land use designations and population projections.

The Land Use Element of the County General Plan, specifically “Policies for the Southeast County Area” enclosed as Exhibit E states:

The Southeast County area is almost exclusively planned for agricultural, watershed or public purposes. New land uses within this plan area should be limited to those that are compatible with the primary agricultural and water shed purposes of the area...”

The County zoning map for most of the area surrounding the Byron townsite shows General Agriculture (A-2), Heavy Agriculture (A-3), Agricultural Preserve (A-4) and Exclusive Agriculture (A-40). The same is true for the County General Plan, 2005-2020 for the Byron area, copies of which are enclosed (Exhibits F & G) .

Financing Constraints and Opportunities

Financing constraints and opportunities compare an agency’s needs with the resources available to fund services. Considerations include revenue sources in comparison to anticipated costs, reserve levels and debt.

District revenue is derived primarily from service charges from users. This source represents \$164,800 (or 94%) of total projected District income of \$175,000 in the approved FY 2005-06 District budget. Other revenues are from solid waste franchise and other fees (\$5,900) and interest (\$3,800). The District has no long-term debt.

Current revenue sources are insufficient to fund the infrastructure improvements needed to bring the District into compliance with State water quality disposal requirements. The District audit for FY 2004-05 states that “to keep up with operations and maintenance costs an increase of \$10 month per EDU per customer is confirmed and will be effective for the 2006-2007 property tax roll.”

The District’s response to the MSR questionnaire noted that “Attempting to maintain reasonable fees for our rate payers will be an obstacle.”

In the past the District has funded its capital improvements through revenues received, on an annual “pay as you go” basis. That approach will not be sufficient to comply with the current requirements to significantly improve the treatment and disposal of effluent.

A Wastewater Facilities Plan Project Report prepared for the District in April 2005 estimates costs of alternatives to resolve the District’s disposal situation. Costs are on the magnitude of \$4,326,980 (without construction costs per the BSD), for the option of connecting to the Town of Discovery Bay CSD’s treatment and disposal facilities and are somewhat similar for other alternatives. The funds for such an expense are assumed to include State and/or Federal assistance.

The District is seeking State grants and/or loans to help pay for or finance necessary improvements related to RWQCB directives for proper treatment and disposal of waste. It appears to qualify for funding through the Small Systems Grant Program of the United

States Department of Agriculture due to the limited size of the community. No firm decision or grant offer has been made.

Cost-Avoidance Opportunities

There are no obvious cost avoidance opportunities for the collection of wastewater since the District's services are somewhat removed and isolated from other sewage collection systems.

There are significant costs to treat and discharge wastewater effluent. A legitimate question is whether the District should (1) construct a new stand-alone treatment and disposal facility for such a small community, or (2) if costs could be avoided by piping its effluent to an existing, qualified treatment plant.

There have been informal and formal discussions between the District and the Town of Discovery Bay Community Services District (hereafter CSD) relative to the CSD accepting and treating sewage from the District.

For a variety of reasons this option has thus far not been favored, at least with terms and conditions which would be acceptable to both parties.

With regard to Cost Avoidance Opportunities it appears that a "regional" treatment plant for the southeast portion of the County may be the most economic and efficient means to provide sewage treatment and disposal as discussed below.

The District contracts with the Byron-Bethany Irrigation District for weeding and related services to maintain the berms at the wastewater treatment ponds, which is less expensive than providing this service through District forces.

Opportunities for Rate Restructuring

The District indicates that it is the process of adjusting its service charges to cover the cost of operations. The District's monthly service fee for a single-family home is \$45.00 a month, which is collected annually on property tax bills.

Significant growth within the District is not occurring so connection fees and permits are not a significant revenue source in comparison with services charges. The District indicates that anticipated demand for District services within Byron will contribute increased revenue from permits and fees when the capacity to service those properties is available.

It reports that requests for service from individuals within the District waiting for facility upgrades is equivalent to 25-30 EDUs. It notes that based on new rates for service, these potential connections represent considerable connection and capacity fees and annual income to the District once the connections are allowed.

Opportunities for Shared Facilities

The District's sewage collection facilities are designed for its service area and do not offer opportunities to share facilities with other agencies or locales.

With respect to the treatment and disposal of liquid waste, there may be opportunities to share facilities with the nearby CSD, the only other liquid waste treatment facility in the area, provided the two agencies can reach an acceptable understanding or agreement.

The community of Discovery Bay has experienced much greater growth in recent years than Byron. There appears to be a concern by some in Byron that their community may be "subsumed" by the larger neighboring community if it shares services such as sewage treatment. Yet there are many examples where wastewater generated by individual communities is treated by a single "regional" treatment plant without diminishing the separate "identity" of each community.

It is clear from discussions with District Directors and others that the Byron community has a long history and they wish to maintain the "Byron identity." This concern reflects the fact the District is the only local governmental agency that includes only Byron. The local school district, for example, includes Bryon, Discovery Bay and other nearby areas, as does the Byron Post Office, zip code 94514.

Since it provides as specific utility service – collection and treatment of wastewater – it is to be expected that the District's boundaries are limited to those properties it serves, as is true with many other utility districts.

It is important that such non-technical concerns, while central to some members of the community not be so significant a factor as to prevent otherwise logical, economical and environmentally sound service arrangements.

That being said, it is equally important that a regional solution to treating and disposing of liquid waste not be supported unless it is economically sound for Byron. The costs to augment and operate a regional treatment facility should not exceed the projected costs for treating and disposing of waste by individual communities. Hence, a clear cost analysis and comparison is a prerequisite to choosing any alternative.

For example, if the fees to connect Byron's collection system to the CSD for treatment and disposal are too great, this "regional option" may not be achievable when considering the costs not only for residents and businesses but for the County's youth rehabilitation facility and the schools in Byron.

An option for the Commission is to encourage productive discussions between the District and CSD relative to the treatment and disposal of Byron wastewater. In this regard the Commission may wish to form an ad hoc committee of LAFCO staff and/or Commissioners to explore this matter with both agencies and the RWQCB to determine any obstacles to such an arrangement.

Government Structure Options

The District is a small, stand-alone agency that provides wastewater disposal and refuse collection for fewer than 200 connections. There are few governmental structure options available, other than possibly creating a relationship with the nearby CSD for treating and disposing of the District's liquid waste.

The District's response to the question of structural reorganizations does not identify any specific changes, but does refer to ensuring that onsite septic disposal systems in the Byron area are properly maintained so as not to degrade the groundwater.

Two possible governmental structure options to achieve the end of having sewage from Byron processed at the CSD's treatment plant would be:

- A service agreement between the District and the CSD to treat and dispose of the sewage from the Byron Sanitary District, or
- A reorganization to dissolve the District and concurrently annex its service area to the CSD. This may necessitate creating separate zones (a Byron Zone and a Discovery Bay Zone) in the CSD to insulate the costs to maintain and operate each collection system, while still allowing the economies of a common treatment and disposal facility.

A "consolidation" of the agencies may be legal under recent changes in the Government Code but does not appear to be the best option since the CSD provides a broader array of services than does the District.

While not a governmental structure option, the District is exploring methods to dispose of its sewage effluent in a manner acceptable to the RWQCB using an approach with an off-site property owner to utilize the treated effluent in a mineral extraction process.

Management Efficiencies

The term Management Efficiencies as used here relates to the effectiveness of the agency in providing quality public services economically. Efficiently managed agencies consistently implement plans to improve services, reduce waste and unneeded duplication of effort, contain costs, retain qualified personnel and develop adequate reserves.

Due to its small size the District may be able to operate efficiently with respect to some functions but changing water quality standards and increasing costs to adequately treat and dispose of liquid waste appears to make its small size a detriment.

Local Accountability and Governance

The District is a relatively compact government, which enhances the ability of the public to participate in its activities. The Board of Directors is elected by and accountable to the voters who reside in the District.

The District participates in annual Byron Town meetings, is represented at Byron MAC meetings and posts its agendas at the local post office and other sites in the community.

The District has adopted the following Mission Statement:

IT IS THE INTENT of the Byron Sanitary District to serve the Community of Byron and it's surrounding planning area and meet the needs of all concerned. The District strives to encourage the Board of Directors of this Community to follow excellent examples of natural resource conservation, stewardship and encompass to preserve educational initiatives with regard to our environment and surrounding habitat. It will be the goal of the District to attempt to achieve overall environmental improvement, cost effectiveness, efficiency and work towards a safer and effective way to service the people of our community.

4. SPHERE OF INFLUENCE REVIEW AND UPDATE

Description of Current Sphere of Influence

The District's boundaries and sphere of influence are coterminous. A map of the District and its sphere are included.

Prospective Sphere Change

In response to the portion of the MSR Request for Information that concerns the correctness of its boundaries, the District responded that its boundaries should encompass the planning area as determined by the East Contra Costa County Coalition in 1994.

When asked if there are areas the District plans to serve that are not now in its boundaries or its sphere of influence, it responded that its goal is to eventually serve the entire planning area as described by the East Contra Costa County Coalition.

Sphere of Influence Determinations

Given the County's adopted land use plan for the Byron area, no change in the District sphere of influence is recommended at this time, other than the following:

It is recommended that the District file a proposal with LAFCO to amend its Sphere of Influence and concurrently annex the Orrin Allen Youth Rehabilitation Facility that is

currently being served by the District and other areas the District feels are appropriate to serve the expansion of the middle school and existing homes and businesses.

5. ACKNOWLEDGEMENTS & REFERENCES

This draft report was prepared by Braitman & Associates. Contra Costa LAFCO Executive Officer Lou Ann Texeira oversaw preparation of the report and provided guidance and review. Responsibility for any errors or omissions rests with those who prepared the report.

The Byron Sanitary District provided the basic information and documents upon which the evaluation is based. The District Board was instrumental in providing data.

Available Documentation

The “Request for Information for Municipal Service Reviews” submitted by the District is enclosed as Exhibit C and all supporting documents referred to therein are available for inspection in the LAFCO office.

6. RECOMMENDATIONS

In consideration of information gathered and evaluated during the Municipal Service Review it is recommended that the District be requested to file a proposal to amend its Sphere of Influence and concurrently annex the Orrin Allen Youth Rehabilitation Facility that is currently being served by the District.

It is further recommended that consideration of other sphere changes be held in abeyance until the County General Plan for the Byron area is amended and an application to expand the sphere is received.

Last, it is recommended the Commission consider whether to create an ad hoc committee, of LAFCO Commissioners and/or staff to work with the District and CSD to determine the feasibility of connecting the District collection system to the CSD’s treatment plant.