



**Local Agency Formation Commission of Napa County**  
Subdivision of the State of California

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

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**December 3, 2012**  
**Agenda Item No. 6a (Public Hearing)**

November 27, 2012

**TO:** Local Agency Formation Commission

**FROM:** Keene Simonds, Executive Officer  
Brendon Freeman, Analyst

**SUBJECT: Lake Berryessa Resort Improvement District Sphere of Influence Update**

The Commission will consider taking two separate actions relating to the agency's scheduled sphere of influence update on the Lake Berryessa Resort Improvement District. The first proposed action is for the Commission to formally receive and file a final report on the sphere update. The second proposed action is for the Commission to adopt a draft resolution enacting the final report's central recommendation to affirm the District's existing sphere designation with no changes.

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The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 ("CKH") directs Local Agency Formation Commissions (LAFCOs) to establish, amend, and update spheres of influence ("spheres") for all cities and special districts. LAFCOs use spheres to designate the territory it independently believes represents the appropriate future service areas and jurisdictional boundaries of the affected agencies. Importantly, all jurisdictional changes and outside service extensions must be consistent with the affected agencies' spheres with limited exceptions. Sphere updates are prepared in concurrence with municipal service reviews and must be performed for all local agencies every five years.

**A. Discussion**

Staff has prepared a final report representing LAFCO of Napa County's ("Commission") scheduled sphere update on Lake Berryessa Resort Improvement District (LBRID); the governmental entity responsible for providing water and sewer services for the unincorporated Berryessa Estates community. The basic objective of the report – which was initially presented in draft form at the October 1<sup>st</sup> meeting for discussion and review – is to independently identify and evaluate areas warranting consideration for inclusion or removal from LBRID's sphere relative to the policies and goals codified in CKH and adopted by the Commission. The report follows the last comprehensive sphere update for LBRID adopted by the Commission in December 2007. The report also draws on information collected and analyzed in the Commission's recently completed municipal service review on the Lake Berryessa region, which included evaluating the adequacy and capacity of services provided by LBRID.

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Lewis Chilton, Chair  
Councilmember, Town of Yountville

Brad Wagenknecht, Vice Chair  
County of Napa Supervisor, 1st District

Brian J. Kelly, Commissioner  
Representative of the General Public

Joan Bennett, Commissioner  
Councilmember, City of American Canyon

Bill Dodd, Commissioner  
County of Napa Supervisor, 4th District

Gregory Rodeno, Alternate Commissioner  
Representative of the General Public

Juliana Inman, Alternate Commissioner  
Councilmember, City of Napa

Mark Luce, Alternate Commissioner  
County of Napa Supervisor, 2nd District

Keene Simonds  
Executive Officer

## **B. Summary/Analysis**

### *Policy Focus*

The final report and its analysis has been oriented to focus on a central policy question as to whether it is appropriate to expand LBRID's current sphere to include the District's entire jurisdictional boundary. This central consideration is drawn from the Commission's previous action to include only 10 percent of LBRID's jurisdictional boundary in establishing the sphere in 1985 for reasons detailed in this report and summarized in the succeeding paragraphs. The report, accordingly, evaluates the merits of adding this lone study category consisting of approximately 1,850 acres of remaining jurisdictional land to the sphere relative to current considerations (i.e., legislative directives, adopted policies, and member preferences). The report further divides this lone study category into three distinct subareas labeled "A-1," "A-2," and "A-3" based on ownership factors. An enlarged map of the study category and its subareas is attached.

### *Central Conclusions*

The final report concludes there is equal merit in taking one of three actions with respect to updating LBRID's sphere at this time. These three options – which were also outlined in the initial draft presented on October 1<sup>st</sup> – are subject to Commission preferences in administering LAFCO law in Napa County. The three options are identified below with an expanded discussion provided in the report's Executive Summary.

- **Option One: Expand the Sphere to Match the Jurisdictional Boundary**  
This option would be appropriate if it is the Commission's preference to assign overriding deference to the affected lands' existing social and economic ties with LBRID in choosing to add the subareas to the sphere.
- **Option Two: Retain Current Sphere and Pursue Detachment Alternatives**  
This option would be appropriate if it is the Commission's preference to emphasize the affected lands' limited land use and service planning compatibilities with LBRID in choosing to continue to exclude the subareas from the sphere. This option would, notably, serve to reaffirm the Commission's policy statement the affected lands be detached and be memorialized by taking one or both of the following actions. The first alternative is for the Commission to formally request the LBRID Board take action to initiate a proposal to detach the subareas. The second alternative is for the Commission to direct the Executive Officer to initiate a proposal to reorganize LBRID to establish a new community services district with a jurisdictional boundary that excludes the subareas.
- **Option Three: Retain Current Sphere and Table Considerations**  
This option would be appropriate if it is the Commission's preference to maintain the status quo and table all related policy considerations to the next scheduled update. This option would be appropriate if the Commission believes more information is warranted with regards to future LBRID operations and community needs before taking any new action.

### ***Public Comments***

A notice of review on the draft report prepared on LBRID's sphere update and presented at the October 1<sup>st</sup> meeting was issued on October 12<sup>th</sup>. The notice summarized the report's key conclusions and invited written comments through November 12<sup>th</sup> as well as in initiation to provide verbal testimony at today's hearing. The notice was posted on the Commission's website and mailed to LBRID as well as all landowners within the three subject subareas. Three written comments were received and are summarized below.

- **LBRID**

LBRID's General Manager Phillip Miller provided an email response on the sphere update to the Commission on October 25<sup>th</sup>. Mr. Miller requests the Commission defer making any changes to LBRID's sphere at this time given the existing flux permeating the District's operations and highlighted by the current construction of new facilities.

- **Land Trust of Napa County / Affected Landowner**

The Land Trust's Chairman Rob Andreae provided a written response on the sphere update to the Commission on October 29<sup>th</sup>. The Land Trust is the owner of three lots totaling 237 acres in Subarea A-3 and requests the properties remain outside LBRID's sphere at this time. The Land Trust notes there is no plan to develop the properties – which have been under conservation as a wildflower preserve since 2000 – and therefore LBRID's services are not needed.

- **Carlos Fischer / Affected Landowner**

Mr. Fisher provided an e-mail response on the sphere update to the Commission on November 2<sup>nd</sup>. Mr. Fischer is the owner of two lots located in Subarea A-1 and notes he and others within Unit One are committed to remaining in LBRID and establishing water services with the District.

### ***Recommendation***

The final report recommends the Commission retain LBRID's current sphere designation and table all related policy considerations to the next scheduled update; actions identified in the preceding section as Option Three. These actions – most notably – would be consistent with the preferences initially provided by Commissioners during the draft review of the report at October 1<sup>st</sup> meeting. These actions would also follow a referenced request by LBRID for more time before the Commission makes a decision on the outstanding policy considerations identified in the report.

### **C. Recommendation**

Staff recommends the Commission formally accept the final report as presented. Staff also recommends the Commission adopt the attached draft resolution confirming the determinative statements in the final report to update LBRID's sphere with no changes.

### **D. Alternatives for Action**

The following alternative actions are available to the Commission.

#### **Alternative Action One (Recommended):**

Approve by motion to (a) accept the final report as presented and (b) adopt the draft resolution confirming the determinative statements therein in updating LBRID's sphere as specified by members.

#### **Alternative Action Two:**

Approve by motion a continuance to a future meeting and provide direction to staff with respect to additional information requests as needed.

### **E. Procedures for Consideration**

This item has been agendized as a noticed public hearing. The following procedures are recommended with respect to the Commission's consideration of this item:

- 1) Receive verbal report from staff;
- 2) Open the public hearing (mandatory); and
- 3) Discuss item and consider action on recommendations.

Respectfully submitted,

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Keene Simonds  
Executive Officer

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Brendon Freeman  
Analyst

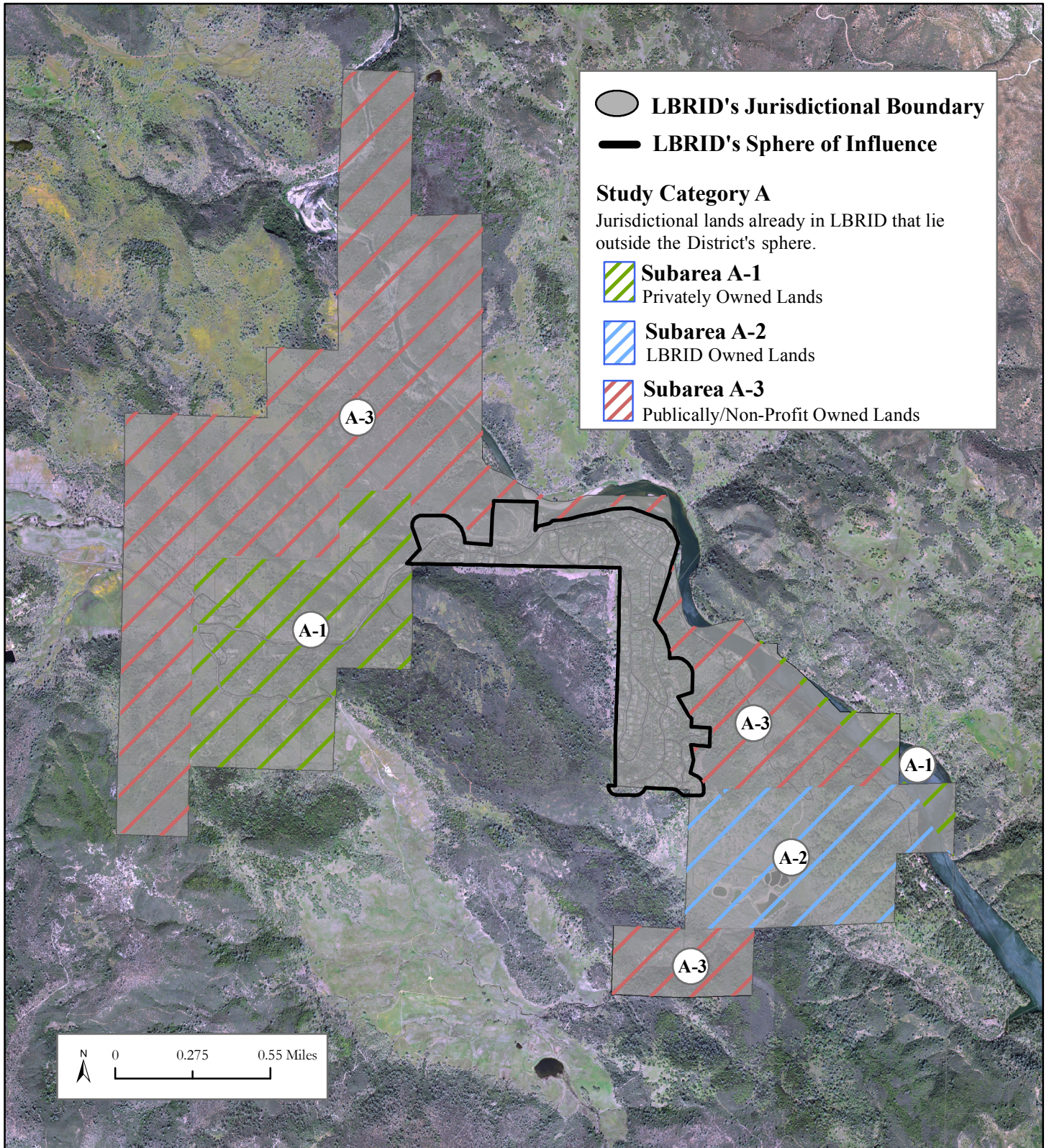
#### **Attachments:**

1. Map of Study Category and Subareas
2. ~~Final Report~~ (Final Report is available for viewing on the "Studies" page)
3. Draft Resolution
4. Written Comments on Draft Report
  - a) LBRID
  - b) Land Trust of Napa County / Landowner
  - c) Carlos Fischer / Landowner



# LAKE BERRYESSA RESORT IMPROVEMENT DISTRICT

## Study Categories



Local Agency Formation Commission of Napa County

Political Subdivision of the State of California

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



**RESOLUTION NO. \_\_\_\_****RESOLUTION OF THE  
LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY  
MAKING DETERMINATIONS****LAKE BERRYESSA RESORT IMPROVEMENT DISTRICT  
SPHERE OF INFLUENCE UPDATE 2012**

**WHEREAS**, the Local Agency Formation Commission of Napa County, hereinafter referred to as the “Commission”, adopted a schedule to conduct studies of the provision of municipal services in conjunction with reviewing the spheres of influence of the local governmental agencies whose jurisdictions are within Napa County;

**WHEREAS**, the Executive Officer of the Commission, hereinafter referred to as the “Executive Officer”, prepared a comprehensive review of the sphere of influence of the Lake Berryessa Resort Improvement District pursuant to said schedule and California Government Code Section 56425;

**WHEREAS**, the Executive Officer prepared a written report of the review, including his recommendation to update the current sphere of influence designation with no changes;

**WHEREAS**, said Executive Officer’s report has been presented to the Commission in the manner provided by law;

**WHEREAS**, the Commission heard and fully considered all the evidence presented at a public hearing held on December 3, 2012; and

**WHEREAS**, the Commission considered all the factors required under California Government Code Section 56425.

**NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE, DETERMINE, AND ORDER** as follows:

1. This sphere of influence update has been appropriately informed by the Commission’s earlier municipal service review on the Lake Berryessa region; a study that included an independent evaluation of the level and range of governmental services provided by Lake Berryessa Resort Improvement District and formally accepted by the Commission on April 4, 2011.
2. Lake Berryessa Resort Improvement District’s sphere of influence is updated with no changes as depicted in Exhibit “One.”
3. The Commission updates and affirms Lake Berryessa Resort Improvement District’s sphere of influence with no changes with the explicit expectation the outstanding policy considerations identified in the accompanying final report prepared by the Executive Officer will be revisited at the next scheduled review and may warrant changes at that time.

4. The Commission, as lead agency, finds the approved update to Lake Berryessa Resort Improvement District's sphere of influence is exempt from further review under the California Environmental Quality Act pursuant to California Code of Regulations Section 15061(b)(3). This finding is based on the Commission determining with certainty the update will have no possibility of significantly effecting the environment given no new land use or municipal service authority is granted.
5. Lake Berryessa Resort Improvement District provided written confirmation during the review of its sphere of influence that its services are currently limited to water and sewer. Accordingly, the Commission waives the requirement for a statement of services prescribed under Government Code Section 56425(i).
6. This sphere of influence update is assigned the following distinctive short-term designation:

**LAKE BERRYESSA RESORT IMPROVEMENT DISTRICT  
SPHERE OF INFLUENCE UPDATE 2012**

7. Pursuant to Government Code Section 56425, the Commission makes the statements of determinations in the attached Exhibit "Two."
8. The Executive Officer shall revise the official records of the Commission to reflect this update of the sphere of influence.

The foregoing resolution was duly and regularly adopted by the Commission at a meeting held on December 3, 2012 by the following vote:

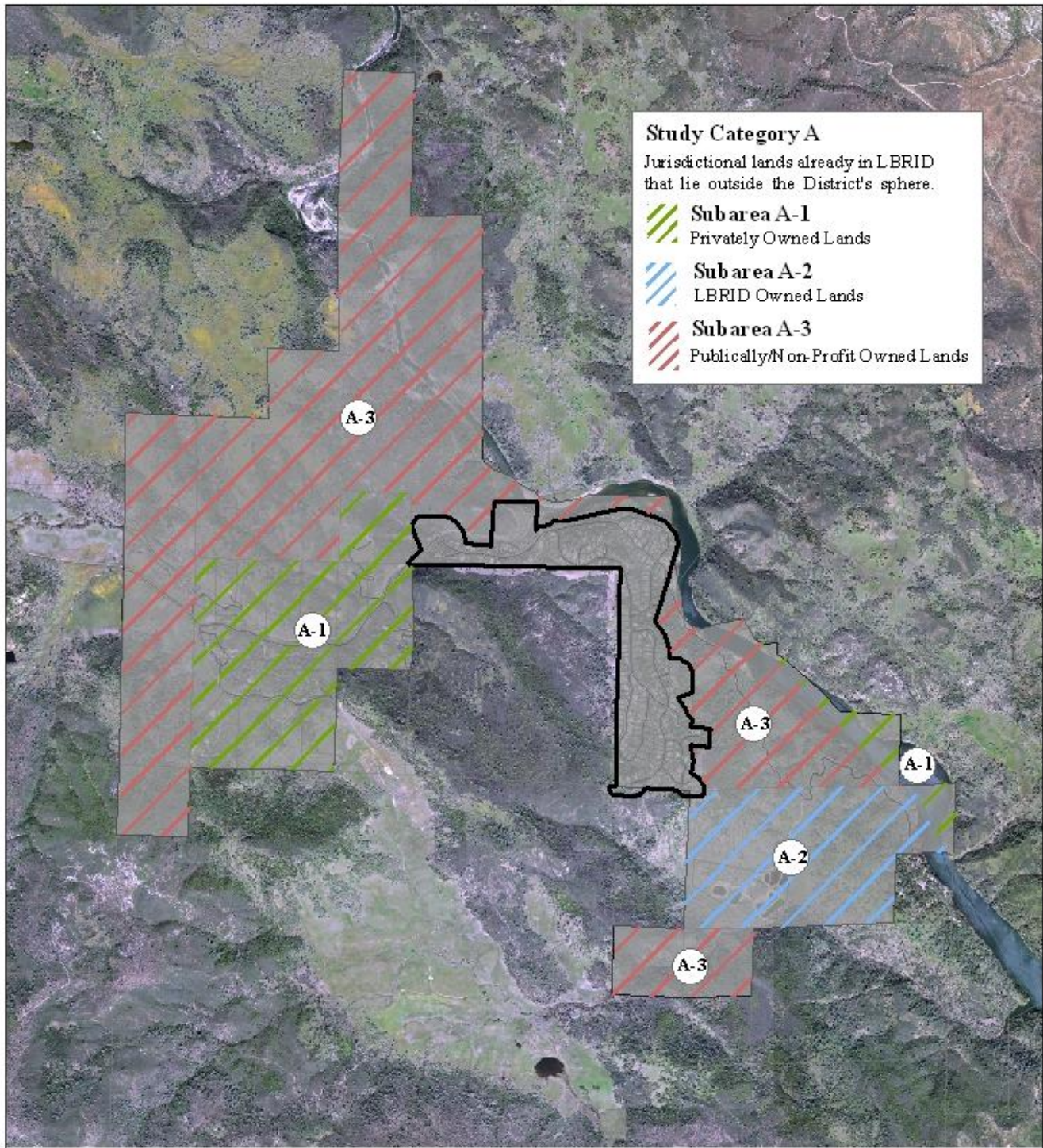
AYES:	Commissioners	_____
NOES:	Commissioners	_____
ABSENT:	Commissioners	_____
ABSTAIN:	Commissioners	_____

ATTEST: Keene Simonds  
Executive Officer

Recorded by: \_\_\_\_\_  
Kathy Mabry  
Commission Secretary

EXHIBIT ONE

LAKE BERRYESSA RESORT IMPROVEMENT DISTRICT  
Study Categories



**Study Category A**  
Jurisdictional lands already in LBRID that lie outside the District's sphere.

- Sub area A-1**  
Privately Owned Lands
- Sub area A-2**  
LBRID Owned Lands
- Sub area A-3**  
Publically/Non-Profit Owned Lands



Local Agency Formation Commission of Napa County  
Political Subdivision of the State of California

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

**BOUNDARIES**

- LBRID Boundary
- LBRID Sphere



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**EXHIBIT TWO**  
**STATEMENT OF DETERMINATIONS**

**LAKE BERRYESSA RESORT IMPROVEMENT DISTRICT**  
**SPHERE OF INFLUENCE UPDATE 2012**

**1. The Present and Planned Land Uses in the Area**

The County of Napa's adopted land use policies provide for the current and future residential uses characterizing the majority of the recommended sphere. These present and planned uses are compatible with Lake Berryessa Resort Improvement District's water and sewer services. There are no agricultural lands and limited open-space lands within the recommended sphere as defined under Commission law.

**2. The Present and Probable Need for Public Services in the Area**

There is a present need for Lake Berryessa Resort Improvement District's water and sewer services throughout the recommended sphere to support the existing and continued development of the Berryessa Estates community and its estimated 485 residents.

**3. The Present Capacity and Adequacy of Public Services Provided by the Agency**

The Commission's recently completed municipal service review on the Lake Berryessa region indicates Lake Berryessa Resort Improvement District's water services are sufficiently capacitated to meet both existing and projected needs in the recommended sphere. The municipal service review indicates sewer services, however, are not adequately capacitated and require immediate and substantial improvements to meet existing needs in the recommended sphere. The ability of the District to address these and other improvements are constrained by the agency's ongoing fiscal distress tied – among other reasons – to operating aging infrastructure in a confined and economically depressed area.

**4. The Existence of Relevant Social or Economic Communities of Interest**

The affected territory within the recommended sphere has established strong social and economic interdependencies with Lake Berryessa Resort Improvement District that are distinct from neighboring areas and agencies. These ties are affirmed and strengthened by this update.

**5. If the Agency Provides Water, Sewer, or Fire Protection, the Present and Probable Need for the Services for Any Disadvantaged Unincorporated Community within the Area**

Lands within the recommended sphere for Lake Berryessa Resort Improvement District do not qualify as disadvantaged unincorporated communities under Commission law.

# LAKE BERRYESSA RESORT IMPROVEMENT DISTRICT

ADMINISTRATION OFFICE

1195 Third Street, Suite 201  
Napa, CA 94559-3092  
Main: (707) 253-4351  
Fax: (707) 253-4627

FIELD OFFICE

2446 Stagecoach Canyon Rd.  
Pope Valley, CA 94567  
Main: (707) 965-9186  
Fax: (707) 965-9186

October 25, 2012

VIA E-MAIL

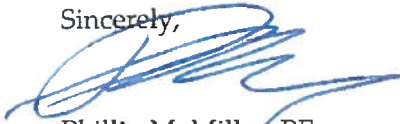
Local Agency Formation Commission  
Attention: Keene Simonds  
1700 Second Street, Suite 268  
Napa, CA 94559

Re: Response to Sphere of Influence Update on Lake Berryessa Resort Improvement District

In response to the Local Agency Formation Commission's (LAFCO's) October draft report regarding whether it is appropriate to expand the Lake Berryessa Resort Improvement District's (LBRID's) current sphere to include the District's entire jurisdictional boundary, staff of LBRID would suggest that the Commission approve Option Three which retains the current sphere. At this time, LBRID operations and community needs are in a state of flux. LBRID is in the middle of upgrading its water and sewer facilities, having only recently completed a new water plant and upgrades to the sewer facilities are still needed. The community has suffered as a result of the recession with home prices plummeting and monthly bills increasing to cover the cost of facility upgrades and operations. Expanding the sphere at this time, would not serve any purpose. I would respectfully request that you delay this action until the next scheduled update which would provide time to make facility improvements and allow the community to recover from the recent financial crisis.

If you have any questions concerning our comments please feel free to contact me.

Sincerely,



Phillip M. Miller, PE  
District Engineer

Cc: Board of Directors, LBRID  
Janice Killion, District Counsel  
Steve Lederer, Director of Public Works





October 25, 2012

Local Agency Formation Commission of Napa County

1030 Seminary Street, Suite B

Napa, California 94559

**RECEIVED****OCT 29 2012****NAPA COUNTY  
LAFCO**

Dear Commissioners:

The Land Trust of Napa County has received notice dated October 12, 2012 regarding the Sphere of Influence Update on Lake Berryessa Resort Improvement District (LBRID). We have also received a copy of the staff report that shows that one of our preserves may be included in the Sphere of Influence for LBRID.

The preserve at issue is our Snell Missimer Wildflower Preserve ("Preserve"). This Preserve was purchased by the Land Trust with funds donated by Dale and Sue Missimer in 1999. The Preserve is known for the diversity and display of wildflowers that occur in the extremely rare serpentine grassland habitat in the spring. The wildflower fields have long been recognized by Bay Area botanists as a gem of the regional flora of the North Coast Ranges. The property contains over 290 native species representing almost one quarter of all known Napa County native species, an exception for such a small area. Several of the species are listed as threatened or endangered by the California Native Plant Society, including the narrow-leaved daisy, Napa western flax and *Colusa lavia*.

It is the intent of the Land Trust to preserve these resources in perpetuity. The Land Trust has no intent to develop the property.

The LAFCO staff report regarding LBRID indicates that the properties in A-3 already have the services that they need and that LBRID is probably incapable of providing water and sewer to these properties.

Excerpts from the staff report at pages 25 and 26 read as follows:

It appears the present need for public services within the subarea is limited given its existing and future land uses to include only a basic level of fire protection and law enforcement; all of which are adequately provided at this time by the County.

The municipal service review, however, notes LBRID's existing sewer collection and storage capacities are already significantly overtaxed in meeting existing demands during peak wet periods within the current service area and require immediate improvements. Providing new sewer service to the subarea appears infeasible given these existing capacity limitations.

Therefore, based on the lack of need of services, and infeasibility of LBRID providing services, we would request that our Property is not included in the sphere of influence of LBRID at this time.

Thank you for the opportunity to comment on this issue. Please feel free to contact Karin Troedsson, Staff attorney for The Land Trust with any questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rob Andreae', with a large, sweeping flourish extending to the right.

Rob Andreae

Chair of the Board of Trustees

**Simonds, Keene**

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**From:** Carlos Fischer [REDACTED]  
**Sent:** Friday, November 02, 2012 11:17 AM  
**To:** Simonds, Keene  
**Subject:** LBRID Sphere

Dear Mr Simonds,

I am a property owner of Units 1 & 2 of LBRID and have worked with Lafco in the past with any proposed changes, as you are I am sure aware Unit 1 has a right to the water as it paid off on the general obligation bond created to finance the 800,000 water and sewer plant in the 60s, myself and a group of owners worked with the County, and board of supervisors in order to extend the water svc, our rights to the water was never questioned, however erosion control, engineering cost, burocracy made it unfeasible at that particular time, I as a broker worked with the various owners who foreclosed on both units and the fringe lands, sold over 100 lots, and as many homes, I also worked with Ken Johansen the head of public works in the 70s and 80s, the successors to him have always considered extension a win win for LBRID as more use is more money and better quality of water, I am now in Austin TX, and not always able to fly out for meetings, my son and friends are owners of both units, I ask to be kept informed, also the County wants to use our road, Spanish Valley Tr. which is private, to access Spanish Valley now in county ownership, I dont know where they would get potable water for their "intended"? use as wells have not produced in that area, thanks for your time Carlos Fischer [REDACTED] cell [REDACTED]