

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



**WESTERN HILLS WATER DISTRICT**

***Prepared By:***

***Stanislaus Local Agency Formation Commission  
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***Adopted: January 26, 2022***

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# **Municipal Service Review and Sphere of Influence Update For the Western Hills Water District**

## **Introduction**

The Cortese/Knox/Hertzberg Local Government Reorganization Act of 2000 Act (CKH Act) requires the Local Agency Formation Commission (LAFCO) 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 Section 56430 of the CKH Act. The Act states, that "in order to prepare and to update spheres of influence in accordance with Section 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 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.
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 Western Hills Water District (WHWD). The previous Sphere of Influence (SOI) update for the WHWD was adopted in 2016 and proposed no changes to the District's SOI. The current update serves to comply with Government Code Section 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 CKH 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 the district is expected to provide and the extent to which they are actually able to do so. The Sphere of Influence will delineate the service capability and expansion capacity of the agency, if applicable.

## **Service Review – Western Hills Water District**

### **Authority**

The Western Hills Water District (WHWD) was organized under the California Water Code, Division 13, §34000-38501. The District is a “registered voter district,” as the board members are elected by registered voters residing within the District’s boundaries.

### **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. Some districts are responsible for one type of specific duty, while other districts provide multiple public services, as is the case of the Western Hills Water District.

### **Purpose**

Water districts are formed for purposes such as to: produce, store and distribute water for irrigation, domestic, industrial and municipal uses; drain and reclaim lands; collect, treat and dispose of sewage, waste and storm water; generate hydroelectric power; allocate water to crops and acreage; and protect groundwater from contamination.

### **Governance**

A five-member Board of Directors governs the District. Regular meetings are held on the second Wednesday of each month at 6:00 p.m. At this time, meetings are being held virtually via Zoom in accordance with Governor Newsom’s Executive Order N-42-20.

Western Hills Water District recently converted from a landowner-voting district to a registered voter district (pursuant to Water Code Section 35055). Historically, the District has had developer-owner representation on the Board of Directors. However, currently the Board consists entirely of voters who are residents of the District.

### **Formation**

The Western Hills Water District was formed on June 8, 1992.

### **Location and Size**

The District is located in the western foothills of the unincorporated area of Stanislaus County, west of Interstate 5, and approximately 5 miles southwest of the City of Patterson. According to the District, the WHWD encompasses approximately 5,070 acres and serves an estimated population of 1,500.

The District serves an area that is unincorporated and has two designations in the Stanislaus County General Plan - Agriculture, and Specific Plan (for the Diablo Grande project area). The Diablo Grande project includes areas planned for residential, commercial, open space, and recreational uses.

## **Characteristics**

The United States Census Bureau identifies Diablo Grande as a Census Designated Place (CDP). A CDP provides statistical information for settled concentrations of population that are not incorporated. According to the 2019 American Community Survey 5-Year Estimates, the annual median household income within the Diablo Grande CDP is \$102,458. This amount exceeds 80 percent of the statewide level. Therefore, Diablo Grande does not meet the definition of a disadvantaged unincorporated community as defined in Section 56033.5 of the CKH Act.

## **Sphere of Influence**

The District's Sphere of Influence is coterminous with its current boundaries. No amendments to the District's boundaries or sphere of influence are being proposed with this Municipal Service Review and Sphere of Influence Update.

## **Personnel**

The District currently has seven full-time employees. Staff consists of two system operators, three system maintenance employees, one lab technician and an office manager.

## **Services**

The District is authorized to provide the functions or classes of services (e.g. water, sewer, and storm drainage) as identified in this report. Due to changes in the CKH Act, the District would have to seek LAFCO approval to exercise other latent powers not currently provided. The District currently provides services to approximately 610 water and sewer accounts.

## **Water**

Water for the Western Hills Water District (WHWD) is delivered from the California Aqueduct via a metered turnout located near the corner of Lower Oak Flat Road and Interstate 5. The current delivery system consists of 4 pumping stations, a water treatment plant, a surface water reservoir (1 million gallons) and approximately 22 miles of water treated waterlines and 7 miles of raw water pipelines.

In June 2000, WHWD purchased up to 8,000 acre-feet per year supply of water from the Kern County Water Agency (KCWA). This water purchase was approved by the KCWA, the WHWD, and the State Department of Water Resources.

In 2010, the WHWD negotiated a water banking agreement with four districts of the Kern County Water Agency and the Dudley Ridge Water District (collectively known as the "Westside Districts"). The agreement allows the WHWD to transfer excess KCWA-contracted water to the Westside Districts. In return, the Westside Districts agree to credit Western Hills Water District with 500 acre-feet of water in a virtual water "bank account" in any year in which the Westside Districts receives at least 500 acre-feet from WHWD. "Banked" water is not physically stored for future use; rather, it is credited via an accounting system to be used for drought and other emergency situations. However, return water can be expensive depending on several factors. Since 2010 WHWD has received approximately \$3.6 million in water offset costs due to the water banking system and has approximately 5,000 acre-feet in banked water.

With the ongoing drought in California, issues related to water supply and delivery may continue



until the State experiences relief through sufficient rainfall levels. At this time, WHWD and other water districts throughout the state must plan accordingly and prioritize their usage. For 2021, the State Department of Water Resources has set the Table A allocation at 5%, or 400 acre-feet for WHWD. However, Kern County Water Agency (KCWA) has recently limited WHWD to 250 acre-feet per year through 2022 due to the District's ongoing financial issues, which will be discussed later in this report.

### Wastewater

The District determined that conveying the wastewater for treatment at the City of Patterson's facility, rather than treating it at smaller on-site facilities as originally planned, would result in more efficient provision of service, consolidation of sewer treatment in one location, and reduction in the likelihood of spills or other treatment difficulties.

In 2002, the WHWD and the City of Patterson entered into and approved a Memorandum of Understanding, wherein the City agreed to treat up to 750,000 gallons per day of wastewater from Diablo Grande and the District agreed to construct a sewer line from Diablo Grande to the City's collection facility and shared proportionately in the cost of the expansion of the City's treatment plant.

Wastewater flows from the WHWD are discharged into the District's Diablo Grande to Patterson Trunk Sewer line that flows down to the valley floor and to the City of Patterson's facilities. Wastewater service for the WHWD has over 22 miles of pipeline ranging in size from 4 to 18-inches. This service operates without the use of pumping stations.

The agreement with the City of Patterson along with the current facilities has provided sufficient wastewater service for Diablo Grande. The allowable 750,000 gallons per day is enough to provide service to the entire Diablo Grande community. At this time, no additional capacity or facilities are needed.

### Storm Water

Storm drain facilities are designed to carry flows from the developed portions of a basin into the natural creeks, Salado Creek and an unnamed tributary creek. Specifically, existing creek channels are utilized as the main conveyance facilities and pipelines located in the major street alignments and convey runoff into detention ponds and creek channels. Detention basins are sized so that there is no increase in peak flow off-site due to development. The facilities include various diameter pipelines, box culverts, and combine the use of small reservoirs, ponds, and conventional storm drains to handle drainage. At this time, no additional capacity or facilities are needed.

### Support Agencies

The District maintains collaborative relationships with other agencies, such as: Stanislaus County, City of Patterson, Kern County Water Agency, Department of Public Health, Regional Water Quality Control Board, and Department of Water Resources.

## **Funding Sources**

Rates and fees for services are established during the District's annual budget review process. The budget process is designed to screen out unnecessary costs and is submitted to the Board of Directors for review and approval. The District's source of revenue is derived from connection and service fees.

The District is currently in a dire financial situation and has limited financial resources or reserves. Historically, the District's expenses have been greater than its revenue. Revenue deficits had been covered by World International LLC, the prior developer under a master funding agreement. World International LLC stopped subsidizing the District in 2019 and transferred certain land development and funding obligations to Angel's Crossing LLC. Angel's Crossing has similarly stopped providing funds to the District and continues to remain delinquent on water payments to the District. As a result, the District is unable to establish operating or capital reserves.

The District's annual operating costs and underlying contractual obligations were premised on a much larger development. Presently, the District only receives its income from residential customers and this revenue is limited due to a small customer base. Previously, the District received additional income from two golf courses; however, World International LLC closed the Legends Golf Course in 2014. The current developer (Angel's Crossing LLC) is delinquent for water payments on the remaining course (for which water service was terminated), and does not appear to be actively developing current properties. To the extent residential and commercial development occurs, the District's revenue is expected to increase as a result of additional ratepayers.

Due to the lack of existing ratepayers or subsidies, the District is delinquent approximately \$3.7 million with the Kern County Water Agency (KCWA) and City of Patterson. Unless a long-term financial solution is implemented, the nature of its water supply arrangement with KCWA is in jeopardy.

Currently, the District is looking at a number of options. The first and most pressing is a rate increase. A rate increase would help bring the District out of debt and become less dependent on external factors, e.g. reliance on a developer to build additional units to increase revenues. To the extent existing rates are increased, the District could revisit future rates to help alleviate the burden on current residents as additional units are built. Other revenue options are the potential to renegotiate existing water and sewer service contracts to reflect Diablo Grande as it is currently situated, as opposed to the projected growth patterns as they existed in the 1990s. In either case, the District would still be liable for paying its outstanding debt with KCWA and the City of Patterson.

## **Municipal Service Review Determinations**

The following provides an analysis of the seven categories or components required by Section 56430 for a Service Review for the Western Hills Water District (WHWD):

### **1. Growth and Population Projections for the Affected Area**

The Western Hills Water District serves the Diablo Grande area which consists of approximately 5,070 acres. The Diablo Grande area is currently in its first phase of development. The County has issued approximately 595 building permits for single family homes. Phase 1 of the Diablo Grande Specific Plan in its entirety anticipates over 2,000 residences, associated commercial uses, open space, and recreational areas. At this time, no additional growth beyond what has been identified in the Diablo Grande Specific Plan has been proposed.

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

No disadvantaged unincorporated communities have been identified within or contiguous to the District's Sphere of Influence as defined in Section 56033.5 of the CKH Act.

### **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.**

Currently, the Western Hills Water District (WHWD) has both the ability and the capacity to serve its service area and has no unmet infrastructure needs or deficiencies. The District has indicated that it has no immediate plans to expand current facilities or capacity. As mentioned previously, there are no disadvantaged unincorporated communities within or contiguous to the Sphere of Influence of the WHWD.

The District is facing difficult financial constraints. The District is currently considering usage rate increases as well as exploring other options concerning its agreement with the Kern County Water Agency.

### **4. Financial Ability of Agencies to Provide Services**

The District adopts Annual Operating and Capital Budgets as well as Audited Annual Financial Reports. As mentioned previously, the District is facing serious financial constraints. Much of the constraints are associated with the delinquent accounts with the current developer of Diablo Grande and the need for more connections, which would increase the amount of ratepayers. As a result, the District's expenses and liabilities are greater than its revenue. This will continue to be the case until residential and commercial projects are developed within the District and rates are potentially increased resulting in a greater source of revenue from assessments.

### **5. Status of, and Opportunities for, Shared Facilities**

Since 2002, the District has had a Memorandum of Understanding with the City of Patterson, wherein the City treats up to 750,000 gallons per day of wastewater from Diablo

Grande. At this time there are no additional proposals for shared facilities.

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

It is reasonable to conclude that the Western Hills Water District has the infrastructure to adequately serve the areas under its jurisdiction. However, the District's financial situation puts significant constraints on the District's ability to operate presently and in the future.

A five-member Board of Directors, elected by the landowners, governs the District. The Board is subject to the provisions of the Brown Act requiring open meetings. The District has a website ([www.whwdist.org](http://www.whwdist.org)) that provides up to date information, meeting videos, presentation materials, and reports on its current financial situation.

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

The District is currently in a crucial situation. The District is facing mounting debt to Kern County Water Agency and the City of Patterson. Should the district fail to meet its financial obligations and cease providing services, the results could be severe for the Diablo Grande Community. The Board is working diligently to resolve the issues and get the District back on track financially.

## **Sphere of Influence Update**

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 Western Hills Water District's (WHWD) Sphere of Influence update are made in conformance with Government Code §56425 and local Commission policy.

### **Determinations:**

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

The Western Hills Water District's Sphere of Influence (SOI) includes approximately 5,070 acres and is coterminous with the District's current boundary. The present land uses within the District's SOI include agricultural rangeland, vineyards, two developed golf courses (not in operation), a clubhouse/restaurant, several residential units, and a municipal water storage and distribution system. Some of these uses are no longer receiving service due to lack of payments or delinquent accounts.

Planned future land uses are expected to include additional residential units, commercial and/or employment areas, and open space and recreational lands.

The land uses within the District boundaries are governed by the Stanislaus County General Plan and the Diablo Grande Specific Plan and are not expected to change. In addition, the District does not have the authority to make land use decisions, as the responsibility for land use decisions within the District boundaries is retained by the County.

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

The Stanislaus County Board of Supervisors approved a Specific Plan for the Diablo Grande area in 1999. Phase 1 of the Specific Plan anticipates over 2,000 residences, associated commercial, open space and recreational uses. The District currently has 610 water and sewer accounts.

Although development has slowed dramatically since the previous service review, the probable need for public facilities and services within the approved Specific Plan area is expected to increase in the future.

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

The District has the infrastructure and personnel in place to provide water, sewer and storm water services. However, like many other water districts throughout the State, due to severe drought conditions, water supply is scarce and is of crucial concern.

The current infrastructure can serve immediate and near future demands. The District identified that storage and lift station improvements would enable the District to provide water service at a higher level of efficiency; however, the District currently lacks any significant reserves to support system improvements. The District has limited financial resources due to a shortage of customers and a delinquent developer resulting in revenue unable to cover expenses. The District will likely see an increase in revenue with further development.

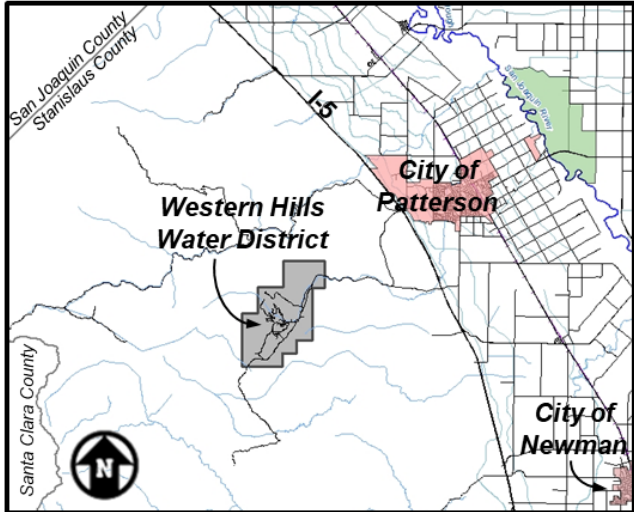
**4. The existence of any social or economic communities of interest in the area if the Commission determines they are relevant.**

Western Hills Water District serves the Diablo Grande area which is located approximately 5 miles southwest of the City of Patterson and is surrounded by rural area. There are no communities of interest within the District boundaries, Sphere of Influence or surrounding area.

**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.**

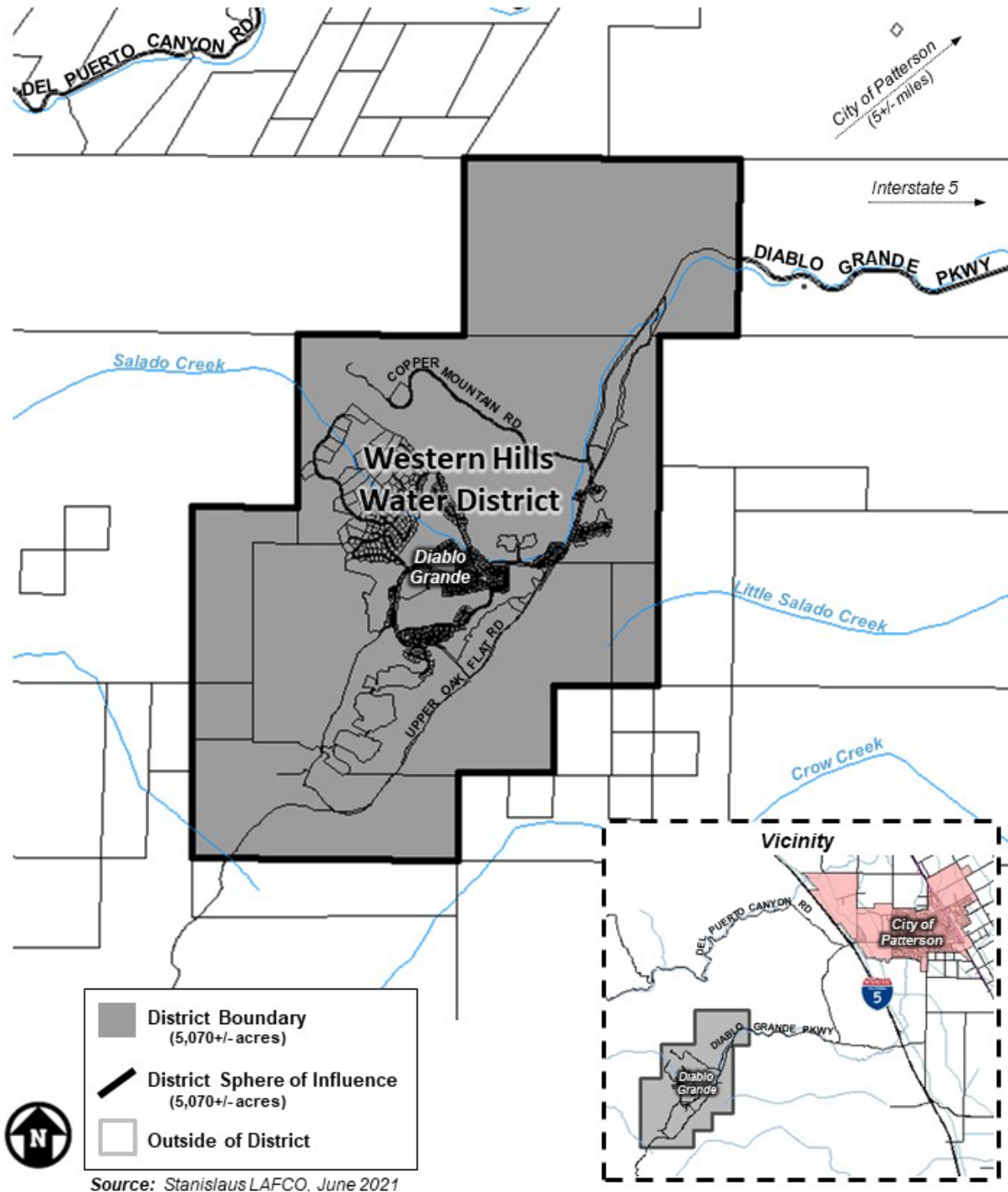
No disadvantaged unincorporated communities have been identified within or contiguous to the District's Sphere of Influence as defined in Section 56033.5 of the CKH Act.

## DISTRICT SUMMARY PROFILE

District:	<b>WESTERN HILLS WATER DISTRICT</b>			
Contact Information:	9501 Morton Davis Dr. Bldg. B, Diablo Grande, CA 95363 Ph. (209) 895-9493			
Location:	In the western foothills of Stanislaus County, west of Interstate 5, approximately 5 miles southwest of the City of Patterson.			
Service Area:	Approximately 5,070 acres			
Population*:	1,500			
Land Use:	Residential, commercial, open space, recreational			
Date of Formation:	June 2, 1992			
Enabling Act:	California Water Code, Division 13, §34000 et. seq. (Water District Act)			
Governing Body:	Five Board of Directors, elected by landowners within the District boundaries			
Administration:	Seven full-time employees			
District Services:	Water, sewer, and storm drainage			
Budget:	<u>Fiscal Year 2019-2020</u>			
	Revenues:	\$2,449,717.00		
	Expenses:	\$4,789,700.86		
Revenue Sources:	Service and connection fees, Mello Roos assessments			

*\*Source: 2021 District Estimate*

# WESTERN HILLS WATER DISTRICT BOUNDARIES AND SPHERE OF INFLUENCE





## REFERENCES & AGENCIES CONTACTED

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### REFERENCES

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2. California State Controller's Office. *Special Districts Annual Report*, November, 2011.
3. Diablo Grande Community Development Team Letter dated March 19, 2014.
4. Letter from Angel's Crossing re: Assumption of Liabilities dated April 24, 2020.
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6. Letter from Kern County Water Agency re: KCWA/WHWD Transfer Contract Invoices and Notice of Claim dated December 1, 2020.
7. Stanislaus County. *Board of Supervisors Resolution No. 2004-975*, Adopted December 14, 2004.
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12. Western Hills Water District *Financial Statements, June 30, 2020 and 2019*.
13. Western Hills Water District website (<http://www.whwdist.org>)

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### INDIVIDUALS AND AGENCIES CONTACTED

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1. David Hobbs, Counsel, Western Hills Water District
2. Kristen Anaya, Stanislaus County Department of Planning and Community Development