



July 30, 2021

Submitted via email

Attn: Merced City Council
City of Merced
678 W 18th Street
Merced, CA 95340

CC: Ken Elwin, P.E., Public Works Director

RE: Comments on the City of Merced Urban Water Management Plan Draft June 2021

Dear Mayor and Council Members,

Leadership Counsel for Justice and Accountability works alongside low income communities of color in the San Joaquin Valley and the Eastern Coachella Valley. As is most relevant here, we work in partnership with community leaders both in the City of Merced and unincorporated areas of south Merced to advocate for local, regional and state government entities to address the community's needs for the basic elements that make up a healthy community, including access to sustainable, safe and affordable drinking water.

We submit these comments to elevate our concerns regarding the Urban Water Management Plan (UWMP) Draft, which are consistent with the concerns in our previous letter regarding the City's Wastewater Collection Sewer Master Plan Update Draft Environmental Impact Review dated October 29, 2020, and ask the City again to take the appropriate steps to comply with SB 244 (2011) and conduct a formal analysis and identify the disadvantaged unincorporated communities (DUCs) within its sphere of influence/Specific Urban Development Plan (SOI/SUDP) to address deficient infrastructure needs and access to vital public services within these communities.

The City Must Complete an SB 244 Analysis Prior to Developing a Sustainable UWMP

The UWMP states that the City's SOI/SUDP covers 44.7 square miles, which is almost twice the size of the City itself (23.1 square miles). The number of disadvantaged, low-income households in these areas not serviced by the City are highly vulnerable to dry wells caused by drought, drinking water contamination from sewers, chemicals and improperly maintained septic tanks, and other public health risks, particularly as the Merced Subbasin is a high priority basin and critically overdrafted. The lack of reliable and adequate drinking water and/or wastewater



services further disenfranchises these communities from accessing other critical resources and perpetuates the exclusion and marginalization of disadvantaged communities. Furthermore, the UWMP references future UC Merced growth outside of current City boundaries, yet fails to reference or incorporate historically excluded and disadvantaged unincorporated communities south of the current City boundaries.

To reduce sprawl and ensure responsible development, the City must prioritize connecting existing DUCs with essential municipal services such as drinking water and wastewater over expansion to new development areas. Before the City approves the Draft UWMP, it must comply with SB 244 (2011). Specifically, cities must complete all of the following when they update their housing element, which the City failed to do so in 2016:

- (1) In the case of a city, an identification of each island or fringe community within the city's sphere of influence that is a disadvantaged unincorporated community. ... This identification shall include a description of the community and a map designating its location.
- (2) For each identified community, an analysis of water, wastewater, stormwater drainage, and structural fire protection needs or deficiencies.
- (3) An analysis, based on then existing available data, of benefit assessment districts or other financing alternatives that could make the extension of services to identified communities financially feasible. (Government Code § 65302.10(b).)

As stated in our previous letter, the City has failed to comply with Gov. Code 65302.10 by failing to identify disadvantaged unincorporated communities (DUCs) in its SOI and analyze service deficiencies in the identified communities. Rather than committing to the completion of a DUC analysis that SB 244 requires, the City instead committed that “[w]hen the City receives annexation applications for areas adjacent to the potential DUC’s noted in [the LAFCo map], the City will require the project applicants, under City direction, to prepare detailed studies of the census data to determine if indeed those areas qualify as a DUC under State Law” in its Sewer Master Plan Update. Requiring the applicant to prepare studies for the purpose of identifying DUCs does not fulfill the requirements of SB 244 because (a) it is the City’s responsibility to conduct the analysis, and (b) it does not include any analysis of municipal services, as required by a Municipal Services Review. Thus, the City of Merced is not in compliance with SB 244 requirements.



The City must identify disadvantaged communities and analyze service deficiencies in compliance with SB 244, and offer annexation of or extension of water and wastewater services to unserved or underserved disadvantaged communities and low-income households within or adjacent to the City's SOI/SUDP. The UWMP Draft is insufficient and incomplete until such an analysis is completed, and the City therefore cannot approve the current UWMP Draft.

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Thank you for your consideration of our comments. Should you wish to discuss this in more detail, please do not hesitate to reach out. We look forward to ensuring that all eligible households are connected to the City's municipal services to create an equitable and inclusive community.

Sincerely,
Sheng Xiong
Policy Advocate