

Regular 7.

LAFCO

Meeting Date: 12/07/2017

Information

SUBJECT

Commission Discussion and Direction Regarding Levee Maintaining Agency Draft Governance Recommendations for LAFCo's Municipal Service Review

RECOMMENDED ACTION

Following a staff overview, discuss and provide direction regarding Levee Maintaining Agency governance recommendations for LAFCo's Municipal Service Review (MSR). Staff will incorporate the Commission's direction into the draft MSR, tentatively scheduled for a public hearing on January 25, 2018.

FISCAL IMPACT

None.

REASONS FOR RECOMMENDED ACTION

LAFCo staff have been working on this MSR for the fourteen (14) agencies that provide levee maintenance, flood protection, and in some cases, irrigation and/or drainage for several years. One of the state-mandated determinations for MSRs is "accountability for community service needs, including governmental structure and operational efficiencies" (Government Code Section 56430). Therefore, LAFCo is required to make a determination regarding district governance and making recommendations to that end.

As staff engaged with the districts regarding governance, it became readily apparent that any recommended changes could have potentially significant ramifications and would, understandably, be controversial (see attachment B for agency correspondence). Staff thought that an iterative approach would be useful in this case, providing a two-step process with the Commission: (1) discussing and providing direction on governance issues at the December 7, 2017 meeting; and (2) holding the public hearing for consideration and potential adoption of the MSR at the January 25, 2018 meeting.

BACKGROUND

Please see attachment A. The report contains maps and tables that do not import into the agenda software well.

Attachments

[ATT A-LMA Governance Draft Staff Report](#)

[ATT B-Agency Correspondence](#)

[ATT B Supplemental-Agency Correspondence](#)

Form Review

Inbox

Christine Crawford (Originator)

Form Started By: Christine Crawford

Final Approval Date: 11/30/2017

Reviewed By

Christine Crawford

Date

11/30/2017 02:22 PM

Started On: 11/27/2017 02:34 PM

BACKGROUND

Levee maintenance along the Sacramento River System in Yolo County is currently carried out mostly by reclamation districts, but also by a drainage district, levee district, and county service area. These may be different types of districts, but they have flood protection functions in common and are collectively referred to by the Department of Water Resources (DWR) as Local Maintaining Agencies (LMAs) and have been grouped accordingly for the purposes of this municipal service review (MSR).

The name “reclamation district” is not immediately understood in modern times and it’s helpful to understand that basically they were created to “reclaim” swamp land for agriculture or other purposes. Reclamation districts are typically responsible for protecting development in floodplain lands through levee operations, maintenance, design, and construction. Reclamation districts may also perform other duties, and in some cases enterprise activities, including irrigation, drainage, and recharge needs. The origin of reclamation districts began in 1850 when the U.S. Congress passed the Reclamation Act authorizing lands to be purchased and placed into reclamation holdings for preservation and use. A series of new laws in California followed, including allowing counties to sell “swamp land” for \$1 per acre for reclamation purposes (1855) and authorizing the local County Board of Supervisors to apply assessments on property for improvement and maintenance (1861). From 1866 to 1911, the authority for oversight of reclamation districts changed from the Swamp Land Commission to each of the County Board of Supervisors and then to the State Board of Reclamation. When the Legislature created LAFCos, reclamation districts came under the oversight of LAFCos to establish service boundaries and spheres of influence (SOI).

Over one hundred years passed without substantial change in flood protection planning. The old plan consisted of a levee and bypass system, which successfully reduced the frequency of flooding to primarily agricultural lands. These levees, however, did not have a sophisticated design or seepage controls, resulting in failures from time to time. Over the years, rural homes, urban subdivisions, and high-value permanent crops were developed on these lands. A new flood protection plan for California’s Central Valley was long overdue. After Hurricane Katrina in 2005, the U.S. Army Corps of Engineers evaluated much of California’s Central Valley flood control system and determined that it was substandard. In 2007, the State Legislature directed the Department of Water Resources and the Central Valley Flood Protection Board to prepare a new flood protection plan.

Central Valley Flood Protection Plan (2012/2017 Update)

The Central Valley Flood Protection Plan (CVFPP) was adopted by the Central Valley Flood Protection Board in 2012 and updated in 2017. The goal of the CVFPP is to improve flood risk management with the following supporting goals:

- Improve operations and maintenance
- Promote ecosystem functions
- Improve institutional support
- Promote multi-benefit projects

Below is an excerpt from the 2017 CVFPP Update which provides context to LAFCo’s governance recommendations for this MSR:

3.2.6 Effective Governance and Institutional Support

Overlapping authorities and conflicting mandates that sometimes occur can complicate flood system improvements and maintenance, and is partially a consequence of existing governance structures that are inadequate to support the broad range of actions included in the CVFPP at federal, State, and local levels. (con’t)

Central Valley flood management is affected by a complex framework of public agencies (over 300 in the Sacramento Basin and over 200 in the San Joaquin Basin). At the local level, governance is complicated by multiple small levee maintaining agencies (LMAs) with limited resources, including staff, revenues, and authorities. Enhanced regional governance can empower groups of local agencies to more effectively pool and leverage funding and resources, enhance collaboration and coordination, coordinate political advocacy, and create shared ownership of the flood system. Regional planning and project implementation is greatly improved through enhanced regional governance. Regional governance not only improves collaboration among local agencies within a region, but also facilitates more effective partnering with State and federal governments, greatly helping to define and achieve a shared regional vision.

Strong regional governance and shared understanding of roles and responsibilities will support a shift toward system-scale, long-term, outcome-driven resource management that balances a broad array of public values and priorities. Dialogues should be fostered within a structured, transparent process that includes schedules, actionable recommendations, and stakeholder engagement.

At the local level, levee maintenance along the Sacramento River System in Yolo County is currently carried out by sixteen (16) separate local agencies¹ including: thirteen (13) reclamation districts (RDs); one (1) drainage district; one (1) levee district; and one (1) county service area. In addition, the California Department of Water Resources (DWR) has one Maintenance Area (MA #4) in West Sacramento and also maintains the Bypass and the Cache Creek levee system with the exception of the Huff's Corner reach, which is maintained by the County. The United States Army Corps of Engineers (USACE) also maintains the Navigation Levee constructed in association with the Deep Water Ship Channel. Needless to say, governance is complicated.

Regional Flood Management Plans (2014)

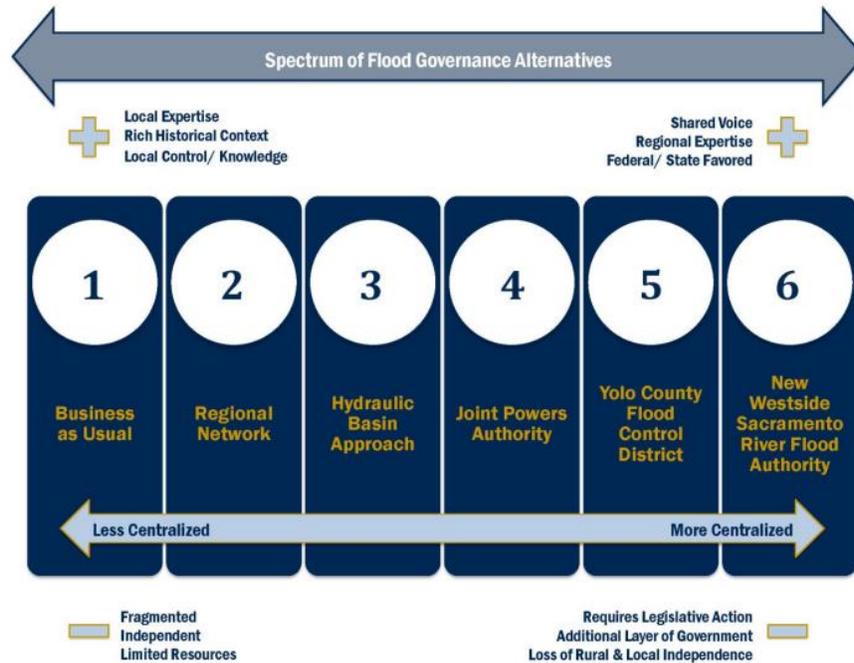
Following adoption of the 2012 CVFPP, the Department of Water Resources funded six regionally-led Regional Flood Management Plans (RFMPs) that describe local and regional flood management priorities, challenges, and potential funding mechanisms along with site-specific improvement needs. The six regions span from Chico to Stockton and Yolo County is included in two regions: (1) the Mid Sacramento River region (just north of Knights Landing into Colusa County) and (2) the Lower Sacramento River/Delta North region (from Knights Landing south to Rio Vista). These Regional Flood Management Plans were completed in 2014 and were developed by a regional working group comprised of the counties, cities, flood management agencies, local maintaining agencies (LMA), water agencies, emergency response agencies, citizen groups, tribes, and other interested stakeholders in the Region.

The West Side Coordinating Committee, the regional working group for the Lower Sacramento River/Delta North region, is made up of stakeholder representatives from relevant agencies on the west side of the Sacramento River. The Committee includes the Counties of Yolo and Solano; the Cities of West Sacramento, Woodland, Rio Vista, and Davis; Solano County Water Agency; West Sacramento Area Flood Control Agency (WSAFCA); Yolo County Flood Control and Water Conservation District; DWR Maintenance Areas; and Reclamation Districts (RD) 108, 900, 501, 536, 2060, 730, 1600, 2035, 827, 537, 765, 785, 307, 150, 999, 2068, 2093, 2098, 2104, 2084; and Knights Landing Ridge Drainage District.

¹ Sixteen represents the total number of agencies that have territory in Yolo County. Several are multi-county districts that contain more assessed value in either Colusa or Solano County. Only 14 districts are overseen by Yolo LAFCo as the principal LAFCo and included in this MSR.

UC Davis Flood Governance Study (2014)

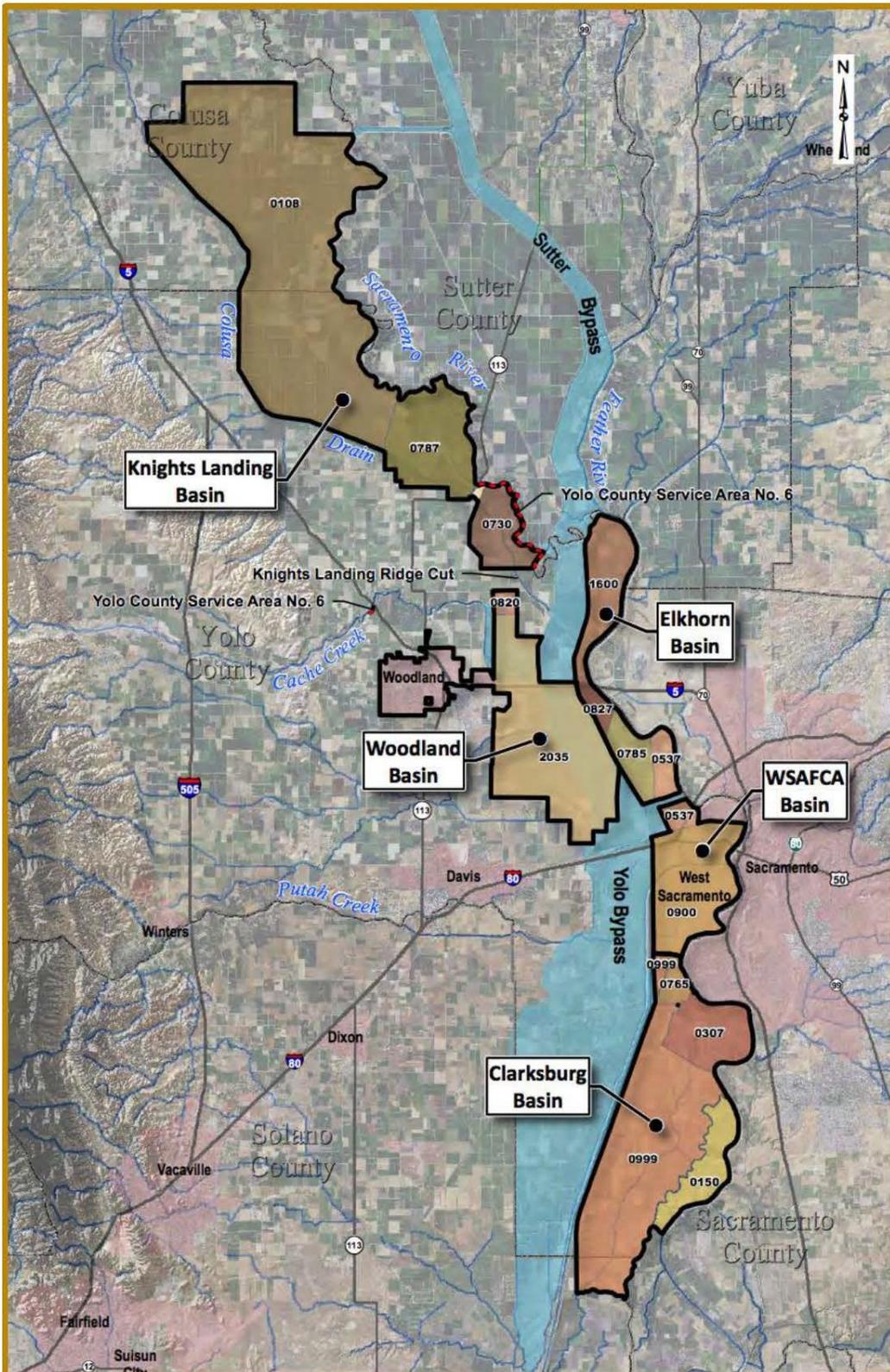
In addition to the RFMPs, funding was requested from DWR to conduct a flood governance study to analyze and make recommendations on governance for the agencies in Yolo County. This study was undertaken by the UC Davis Collaboration Center and was completed in August 2014. The authors engaged with the districts and considered a wide range of existing flood governance models in the nation. The study considered a broad range of six alternatives, from maintaining the status quo to consolidating all the agencies into one new agency.



Ultimately, the Study recommended a combination of the “regional communication and collaboration network” (Alternative 2) and a “hydrologic basin” approach (Alternative 3). The reclamation districts/local maintaining agencies within Yolo County have been loosely divided into five (5) hydrologic basin areas: 1) North County/Knights Landing; 2) Elkhorn; 3) Woodland/Conaway; 4) West Sacramento; and 5) Clarksburg. These five distinct basins are protected by essentially “ring” levees along the Sacramento River/Yolo Bypass system, and each basin is, in essence, one hydrologically connected flood zone. Currently, the ring levee system around each basin is managed and maintained by several agencies and districts. The hydrologic basins are loosely defined by their geography, community connections, and interdependence of levees and structural flood control needs.

The study recommends that each of the five hydrologic basins develop their own version of coordinated governance. These designations are consistent with current engineering logic, and formally coordinate areas that are either already working together, and/or depend on each other’s compliant flood infrastructure management. The Study found that while reclamation districts are best suited to conduct routine operations and maintenance (O&M) and on-site emergency response, some flood management activities would be better accomplished at the regional level. According to the Study, Yolo County residents would be better served if each basin provided a consistent level of maintenance and flood response and either functioned as one entity or in a coordinated manner to accomplish this objective.

Yolo County Flood Governance Study Hydrologic Basin Map



"Recommended Hydraulic Basin Approach," © J.Loux, M.Beryl & MBK Engineers, 2014

LAFCo Draft Municipal Service Review (2017)

LAFCo staff's goal is to build off of these plans and studies that came before and continue to refine and advance the governance strategy for these agencies. The MSR can only make recommendations, but the more specific they can be, they can hopefully provide a targeted roadmap to encourage results.

Below are the draft governance recommendations including an overall recommendation/approach for all agencies and a more specific recommendation for each hydrologic basin. A map and a matrix of agencies for each basin is provided. The purpose of the matrix is to provide snapshot of the capacity of each organization.

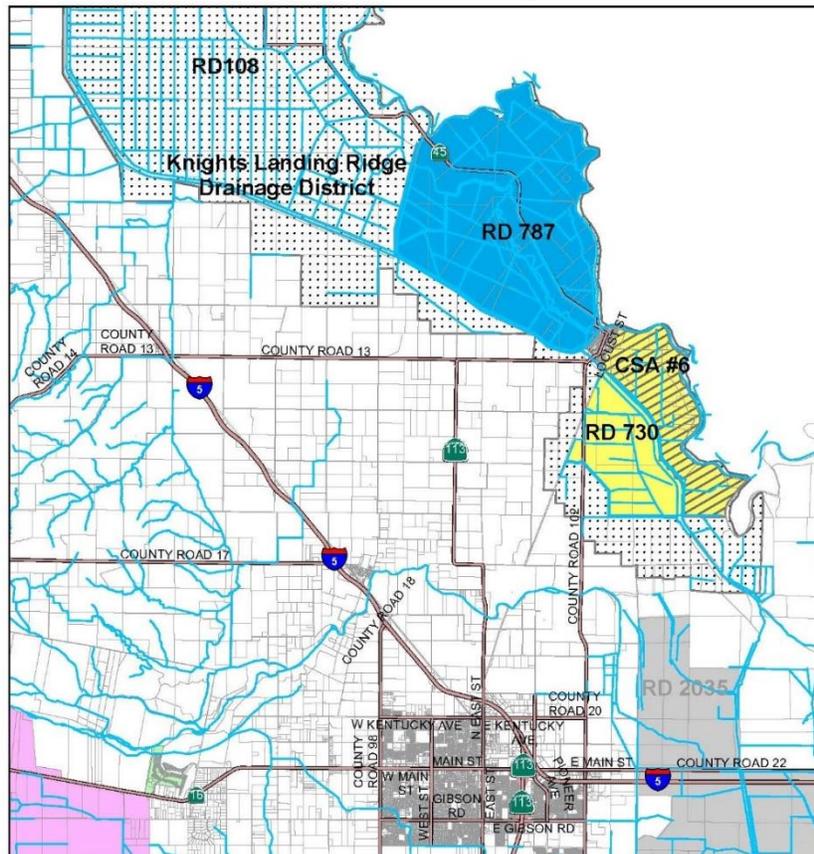
GOVERNANCE RECOMMENDATIONS

Overall Recommendation/Approach:

LAFCo recommends that the agencies responsible for levee O&M in each hydrologic basin develop governance solutions that will provide for a uniform level of operation and maintenance so that the protected area is not a risk due to inconsistent maintenance or flood response capabilities. The governance solution for each basin could take a variety of forms including: agency merger/consolidation, contracts for shared services, MOUs, or JPAs. The goal for each basin is to achieve equal service standards, consistent maintenance standards (which may require consistent fee/assessment structures), and improved coordination during flood events. Because each hydrologic basin is unique, a discussion specific to each individual basin is provided below.

North County/Knights Landing Basin

North County/Knights Landing Basin



Agencies Per Basin	Services Provided By	Principal LAFCo	Services Provided			Annual Budget	# staff positions	DWR Rating	Approx # Landowners
			Levee Miles Maintained	Drainage	Pumping/Irrigation				
North County/Knights Landing Basin									
CSA 6	Yolo County	Yolo	5.87			\$ 25,964	-	U	400
Knights Landing Ridge Drainage District	RD 108	Yolo	12.39			\$ 335,000	0	M	
RD 108 (River Farms)	Itself	Colusa	90	X	X		26	M*	300-500
RD 730	Itself	Yolo		X		\$ 60,282	0	n/a	
RD 787 (Fair)	Itself	Yolo	4.4	X	X	\$ 31,300	0	A	3
Sacramento River Westside Levee District	RD 108	Colusa	49.64				0	M*	

For the DWR rating, each Area received one of three possible ratings based on inspection of the state of its levees:

- *Acceptable (A) – No immediate work required, other than routine maintenance. The flood protection project will function as designed and intended with a high degree of reliability, and necessary cyclical maintenance is being performed adequately.*
- *Minimally Acceptable (M) – One or more deficient conditions exist in the flood protection project that needs to be improved or corrected. However, the project will essentially function as designed with a lesser degree of reliability than what the project could provide. An asterisk means that 90% or more of the LMA levee miles would be rated A, however U rated miles are present, so the overall unit rating is M instead of A.*
- *Unacceptable (U) – One or more deficient conditions exist that may prevent the project from functioning as designed, intended, or required.*

For the North County/Knights Landing Hydrologic Basin, the 2014 Flood Governance Study found that the North County/Knights Landing basin is functioning well in many ways. RD 108 is a large reclamation district that already holds several inter-agency contracts and maintains much of the levee system in the North County area (specifically Knights Landing Ridge Drainage District and the Sacramento River Westside Levee District). The Study recommended that these contracted agreements be formalized into several MOUs to strengthen and institutionalize the already existing coordination process. The Study also suggested that the Districts could enter into a JPA, but that may be an unnecessary layer of government. RD 787 is a well-functioning agency that maintains a 4.5-mile section of levee on the left bank (relative to the view downstream) of the Colusa Basin Drain. RD 730 does not maintain any levees and its sole purpose is to pump surface drainage into the Knights Landing Ridge Cut. The remaining governance challenge in the area is CSA#6, which is responsible for maintaining a 5.8-mile section of levee along the right bank of the Sacramento River. The District is underfunded and it is unlikely that a Proposition 218 election to increase the assessment would succeed. While it may be logical that RD 108 provide services to CSA#6 as it does for other districts already, contracting is not possible without adequate funding. The Study suggested that some type of incentive is needed to motivate resolution for CSA#6.

The small community of Knights Landing is located at the confluence of the Knights Landing Ridge Cut, the Colusa Basin Drain, and the Sacramento River. The community is surrounded on three sides by levees and/or high ground. Small communities like Knights Landing that are protected by a large levee system struggle to afford the necessary improvements to meet Federal Emergency Management Agency (FEMA) 100-year certification requirements. The town of Knights Landing has restrictions on development and rebuilding, as it has been remapped in the FEMA 100-year floodplain. FEMA is also in the process of increasing flood insurance premiums in response to changes in law that govern the National Flood Insurance Program. These two issues have led to increases in flood insurance premiums that are likely to continue to grow into the future and may become cost prohibitive for some residents. One of the primary goals of the Central Valley Flood Protection Plan (CVFPP) and the Lower Sacramento Delta North (LSDN) Regional Flood Management Plan (RFMP) is to manage flood risk in small communities, such as Knights Landing, with the goal of providing 100-year protection where feasible. This is intended to preserve the community and sustain the agricultural economy

without encouraging urban development. However, a solution for Knights Landing has not been determined.

As part of the CVFPP, the Department of Water Resources (DWR) created the Small Communities Flood Risk Reduction program to help small communities achieve 100-year protection, where feasible. The Small Communities Program is a cost-share funding program that provides local assistance to communities with 200 to 10,000 residents that are protected by the State Plan of Flood Control (SPFC). In 2015, DWR awarded Yolo County \$1,500,000 for feasibility studies for Knights Landing, Yolo, and Clarksburg. Yolo County selected MBK engineers as the County's consultant to prepare the Small Communities Flood Risk Reduction Feasibility Studies. Funding for design and construction will be awarded in subsequent phases.

The Knights Landing feasibility study will develop an array of alternatives consisting of both structural and nonstructural measures. The team will formulate structural solutions that include improvements to existing levees to meet 100-year requirements as well as other alternatives such as a cross or ring levee. The study will take into consideration the recommendations of the Agricultural Floodplain Ordinance Task Force (AFOTF) that proposes modifying the FEMA policy that would promote a sustainable agricultural economy in the floodplain. The non-structural alternatives that will be considered are:

- changes to the National Flood Insurance Program,
- a levee relief cut plan,
- an emergency flood fight plan,
- a flood evacuation plan,
- a flood evacuation warning system,
- a voluntary structure elevation and flood-proofing program, and
- use of agricultural conservation easements purchased from willing sellers.

The RFMP estimate of the structural improvements varies from approximately \$32,800,000 to \$185,000,000.

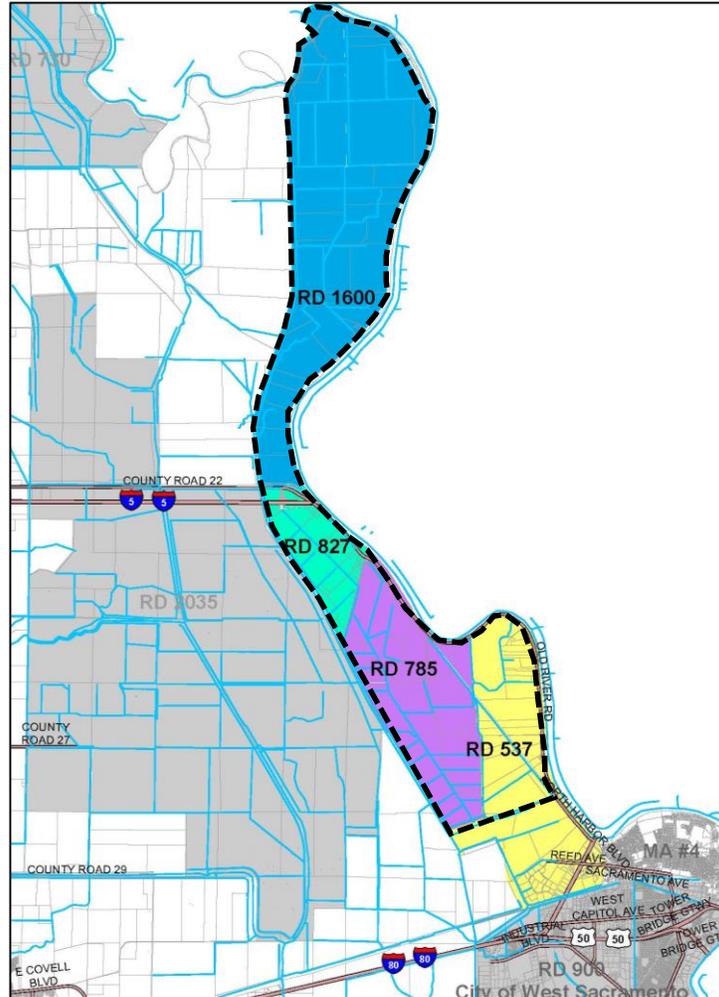
Work is anticipated to begin on the Knights Landing Small Communities Feasibility Study in early 2018 and be completed in late 2019. While the goal of the study is to evaluate alternatives to reduce flood risk, potential governance alternatives including improved coordination and/or consolidation of district maintenance and flood fight response will be discussed with the community and districts as part of the analysis. The districts should actively participate in the Feasibility Study process for the Knights Landing Basin and seek to build consensus on an alternative to achieve the goal of a common levee maintenance practice and levee flood fight capabilities in the most cost efficient manner for the benefit of the residents and property owners in the basin.

North County/Knights Landing Basin Recommendation

- The Knights Landing Basin districts and local maintaining agencies should actively participate in the Small Communities Feasibility Study process for the Knights Landing Basin and implement any future recommendations from the Study. The Study should address and make a recommendation on governance to achieve the goal of providing a consistent level of maintenance and flood response across the Knights Landing Basin and have the districts function as one entity.

Elkhorn Basin

Elkhorn Basin



Agencies Per Basin	Services Provided By	Principal LAFCo	Services Provided			Annual Budget	# staff positions	DWR Rating	Approx # Landowners
			Levee Miles Maintained	Drainage	Pumping/Irrigation				
Elkhorn Basin									
RD 537 (Lovdal) - northern portion	Itself/RD 900	Yolo	5.93	X	X	\$ 280,398	2	M	40-50
RD 785 (Driver)	Itself	Yolo	5.57	X		\$ 55,000	0	U	20
RD 827 (Elkhorn)	Itself	Yolo	4.12	X		\$ 70,900	0	M*	10
RD 1600 (Mull)	Itself	Yolo	14.69	X		\$ 133,000	0	U	30-40

For the Elkhorn Basin, the 2014 Governance Study found that the Elkhorn basin is undergoing significant change due to proposed improvements to the Yolo Bypass. Significant portions of the land within the Elkhorn Basin districts is proposed for Bypass expansion. This action will significantly decrease assessment revenue, making it nearly impossible to conduct required O&M. At the time of the 2014 Governance Study, the Elkhorn Basin districts were actively working with the County and the Lower Sac/Delta North Region to express their concerns on how their Districts would be adversely affected by the proposed bypass expansion. The districts expressed a willingness to consider

consolidation, although they had concerns regarding liability, uncertainty over the new assessments, and how the new RD would be managed.

The Department of Water Resources (DWR) is currently designing the proposed Lower Elkhorn Basin Levee Setback (LEBLS) Project along the east side of the Yolo Bypass between I-5 and the Sacramento Bypass. The LEBLS project is the first multi-benefit flood management project to be implemented by the California Department of Water Resources (DWR) that is an outgrowth of the Central Valley Flood Protection Plan (CVFPP). LEBLS' primary feature is a new, 7-mile long setback levee that is intended to increase the flood carrying capacity of both the Yolo Bypass and Sacramento Bypass, thereby enabling future improvements to the flood system such as widening the Fremont and Sacramento Weirs and setback levees in the Yolo Bypass. These projects are being proposed to be accomplished in a manner that will not only lower flood stages in the Sacramento River, but also benefit the rural areas and small communities adjacent to the Yolo Bypass.

The LEBLS project spurred discussion amongst the Elkhorn Basin RDs regarding governance in the basin. At the request of the RDs, MBK Engineers prepared the Elkhorn Basin Draft Governance Study for Reclamation Districts 537, 785, 827, and 1600 in November 2016. This study represents a collaborative effort to engage the Districts in identifying and weighing alternative governance options that could enhance local flood management entities and encourage a unified local voice as well as assess whether alternative governing methods might lead to more effective operations, maintenance, and implementation of flood management.

The Elkhorn Basin Draft Governance Study considered four (4) alternatives: 1) Maintaining the current condition; 2) Creating a Joint Powers Authority (JPA) of all four reclamation districts; 3) Combining all four reclamation districts; and 4) Combining only 827, 785, and 537.

The Reclamation Districts have indicated that they support consolidation of the four districts into one new large district. This combined district would be issued a new Reclamation District number. It provides opportunities for economies of scale by consolidating maintenance and management activities, it improves the ability to ensure a standard level of maintenance for the levees protecting this hydrologic basin, and ensures that this group of landowners with similar concerns will speak with one voice. The urbanized portion of RD 537 that lies south of the Sacramento Bypass would not be included in this combination and would remain as a smaller RD 537 (as discussed in the West Sacramento Hydrologic Basin Section of this MSR).

While DWR is implementing the LEBLS project in Yolo County, the Sacramento Area Flood Control Agency (SAFCA) is undertaking actions to support its implementation. The LEBLS project will reduce flood stages on the Sacramento River, benefiting the area SAFCA has responsibility for. As a result, SAFCA is partnering with Yolo County and the RDs on implementation of the LEBLS project taking on responsibility for certain aspects of the project, including funding the portion of the levee O&M associated with the newly constructed levee. SAFCA's commitment to contribute to the maintenance of the LEBLS also makes this consolidation financially feasible. A consolidated reclamation district will reduce administrative costs by reducing the number of districts which have to maintain records and the number of administrative boards as well as increased efficiency in conducting maintenance. It also offers the opportunity to identify a paid general manager to oversee the maintenance activities for this levee system to ensure that needed activities are accomplished in a similar manner for the entire basin.

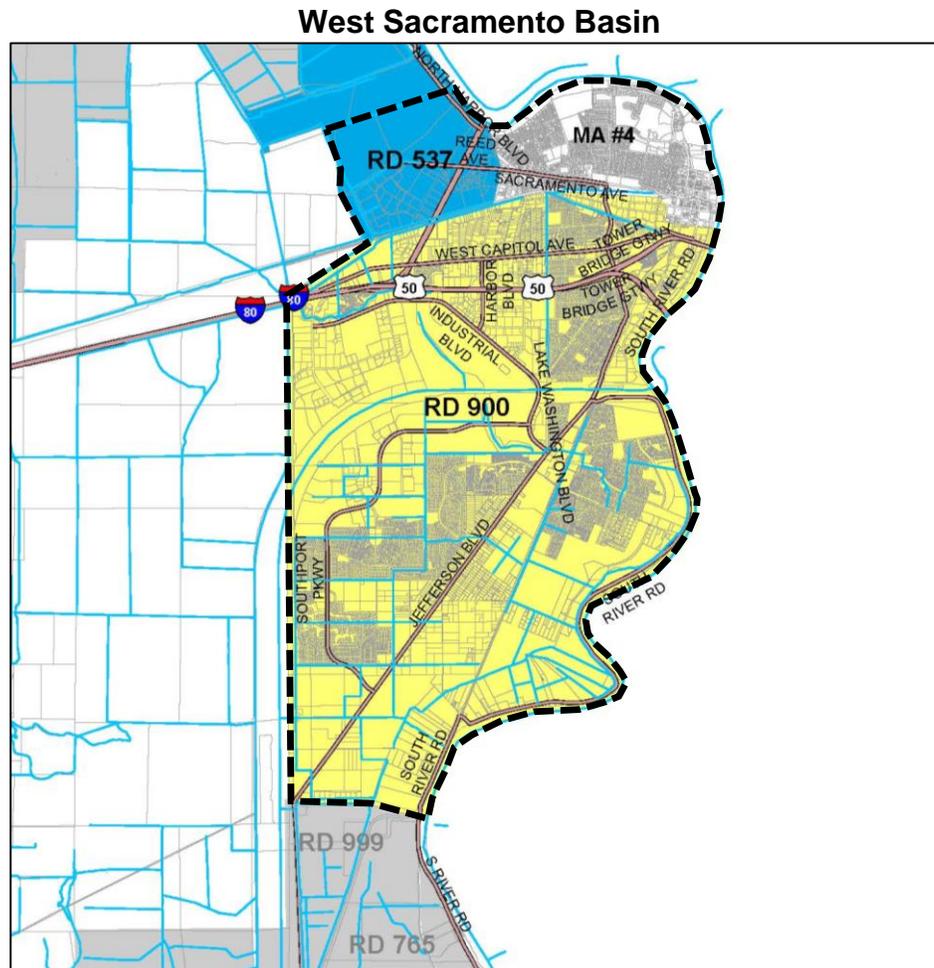
Before the RDs can submit an application to LAFCo for consolidation, LEBLS project approvals are needed from DWR, which is anticipated to occur in 2018. After DWR approves the project, SAFCA will then be able to commit to ongoing funding of the LEBLS O&M. These steps are necessary in order to make the consolidation financially feasible. Consolidation will also need to be contingent on a new Prop 218 assessment being approved by the landowners. The 218 election is anticipated to be completed in 2019.

RD 2035 is technically its own, separate hydrologic basin and its boundaries do not overlap with any other local maintaining agencies. There are no recommended changes to the District's governance structure.

Woodland/Conaway Basin Recommendation

- RD 2035 is central to the discussions around expansion and improvement of the Yolo Bypass and it is critical that the District continue to be involved with the regional dialogue.

West Sacramento Basin



Agencies Per Basin	Services Provided By	Principal LAFCo	Services Provided			Annual Budget	# staff positions	DWR Rating	Approx # Landowners
			Levee Miles Maintained	Drainage	Pumping/Irrigation				
West Sacramento Basin									
MA #4	DWR	DWR	3.47			-	-	M*	-
RD 537 (Lodval) - southern portion	Itself/RD 900	Yolo	5.93	X	X	\$ 280,398	2	M	50-75
RD 900	Itself	Yolo	12.96	X	X	\$ 1,131,076	6	A	10,809

For the West Sacramento Basin, the 2014 Governance Study found that the West Sacramento Area Flood Control Agency (WSAFCA) is an already well-functioning JPA and no major recommendations

are needed for this area. The Study also recommends that WSAFCA should show political support for better and/or consolidated management in the Clarksburg and Elkhorn basins and continued cooperation with other regional flood management agencies on actions that will reduce flood stages in the system, such as the actions proposed for the Yolo Bypass in the Sacramento Basin Wide Feasibility Study. However, LAFCo's understanding is that the JPA, while well-functioning, is set up to implement flood protection projects and does not have a roll in operations and maintenance. The WSAFCA JPA does not include Maintenance Area #4, which is managed by DWR or the Navigation Levee, which is maintained by the USACE. WSAFCA in its current form is not set up to serve as the lead entity for the West Sacramento Basin providing a uniform level of maintenance and flood fighting capability. It also does not appear to be a cost effective option to augment WSAFCA to also provide internal drainage services currently provided by the City and the RDs.

Additional action is needed to continue to work towards a more comprehensive solution, which could include one of the following alternatives detailed below. To characterize these alternatives in simple terms, the goal is to have each basin function as one entity. For the West Sacramento Basin, the lead entity could be either RD 537, RD 900 or the City of West Sacramento as detailed in the options below:

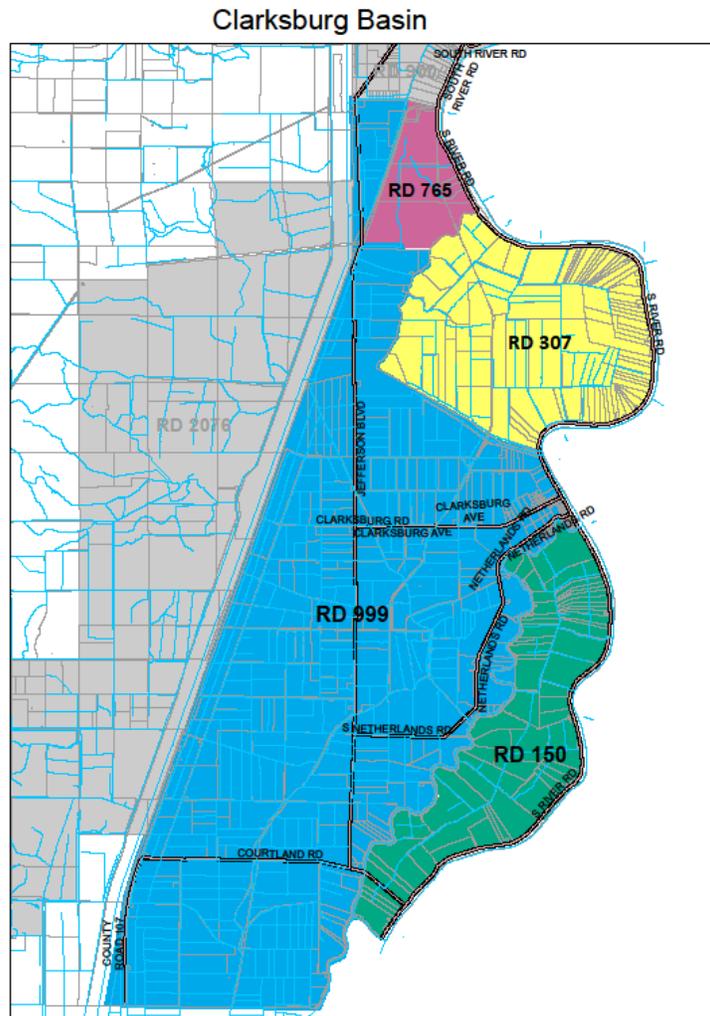
1. RD 900 and RD 537 could merge (either legally or functionally). A "functional consolidation" would involve RD 537 and its board remaining intact, but contracting all day to day operations to RD 900 (or vice versa). This should also include RD 537 taking over DWR Maintenance Area #4 so the lead entity has responsibility for the entire basin (LAFCo will add the MA #4 area into RD 537's sphere of influence to facilitate potential future services). The RD lead entity should also conduct an annual inspection of the Navigation Levee to confirm that the USACE maintenance is being conducted to the same standard as the rest of the basin and advocate (either on its own or through the JPA) for any needed improvements.
2. The City of West Sacramento has expressed a willingness to absorb RD 900 and RD 537 (the portion south of the weir) and consolidate services with the City either as a merger (where districts would cease to exist) or a subsidiary district (i.e. districts would remain with the City Council as district board). To initiate and approve such a consolidation, LAFCo would need to make a finding that the public service costs would likely be less than or substantially similar under City governance and that it promotes public access and accountability for services. Similar to the other options, the City would also need to take over DWR Maintenance Area #4 levee maintenance and conduct an annual inspection of the Navigation Levee to confirm that the USACE maintenance is being conducted to the same standard as the rest of the basin and advocate (either on its own or through the JPA) for any needed improvements to achieve the goals of basin-wide governance.

West Sacramento Basin Recommendation

- WSAFCA in its current form is not set up to accomplish the goal that the West Sacramento hydrologic basin function in a coordinated manner to provide a uniform level of maintenance and flood fighting capability. Additional action is needed to continue to work towards a more comprehensive solution, which could include one of the following alternatives detailed below:
 1. RD 900 and RD 537 could merge (either legally or functionally). A "functional consolidation" would involve RD 537 and its board remaining intact, but contracting all day to day operations to RD 900 (or vice versa). This should also include RD 537 taking over DWR Maintenance Area #4 so the lead entity has responsibility for the entire basin (LAFCo will add the MA #4 area into RD 537's sphere of influence to facilitate potential future services). The RD lead entity should also conduct an annual inspection of the Navigation Levee to confirm that the USACE maintenance is being conducted to the same standard as the rest of the basin and advocate (either on its own or through the JPA) for any needed improvements.

2. The City of West Sacramento has expressed a willingness to absorb RD 900 and RD 537 (the portion south of the weir) and consolidate services with the City either as a merger (where districts would cease to exist) or a subsidiary district (i.e. districts would remain with the City Council as district board). To initiate and approve such a consolidation, LAFCo would need to make a finding that the public service costs would likely be less than or substantially similar under City governance and that it promotes public access and accountability for services. Similar to the other options, the City would also need to take over DWR Maintenance Area #4 levee maintenance and conduct an annual inspection of the Navigation Levee to confirm that the USACE maintenance is being conducted to the same standard as the rest of the basin and advocate (either on its own or through the JPA) for any needed improvements to achieve the goals of basin-wide governance.

Clarksburg Basin



Agencies Per Basin	Services Provided By	Principal LAFCo	Services Provided			Annual Budget	# staff positions	DWR Rating	Approx # Landowners
			Levee Miles Maintained	Drainage	Pumping/Irrigation				
Clarksburg Basin									
RD 150 (Merrit Island) - separate basin	Itself	Yolo	17.74	X	X	\$ 293,247	2 (PT)	M*	50-70
RD 307 (Lisbon)	Itself	Yolo	6.56	X		\$ 225,250	0	U	30-50
RD 765 (Glide)	Itself	Yolo	1.72	X		\$ 18,000	1 (PT)	U	3
RD 999 (Netherlands)	Itself	Yolo	32.16			\$ 850,000	4	U	200-300

For the Clarksburg Hydrologic Basin, the 2014 Governance Study found that the residents of the basin would be better served if RD 999, 307 and 765 provided a consistent level of levee maintenance and flood response capability, either functioned as one entity or in a coordinated manner to accomplish this objective. Consideration should be given to how to conduct these activities in a manner that will accomplish the objectives in the most cost effective manner, acknowledging the need to address liabilities and assessment changes. RD 150 is its own, separate hydrologic basin and, therefore, is not included in this recommendation.

As discussed previously, the Clarksburg community is composed of a small rural town area, approximately 35,000 acres of agricultural land, various waterways, and the residents, businesses, and other interests which directly and indirectly support agriculture. Although downtown Clarksburg is at a higher elevation than the rest of the District, only about 1/3 of the Clarksburg basin's population lives in town. Small communities like Clarksburg that are protected by a large levee system struggle to afford the necessary improvements to meet Federal Emergency Management Agency (FEMA) 100-year certification requirements. FEMA is also in the process of increasing flood insurance premiums in response to changes in law that govern the National Flood Insurance Program. These two issues have led to increases in flood insurance premiums that are likely to continue to grow into the future and may become cost prohibitive for some residents. One of the primary goals of the Central Valley Flood Protection Plan (CVFPP) and the Lower Sacramento Delta North (LSDN) Regional Flood Management Plan (RFMP) is to manage flood risk in small communities, such as Clarksburg, with the goal of providing 100-year protection where feasible. This is intended to preserve the community and sustain the agricultural economy without encouraging urban development. However, a solution for Clarksburg has not been determined.

As part of the CVFPP, the Department of Water Resources (DWR) created the Small Communities Flood Risk Reduction program to help small communities achieve 100-year protection, where feasible. The Small Communities Program is a cost-share funding program that provides local assistance to communities with 200 to 10,000 residents that are protected by the State Plan of Flood Control (SPFC). In 2015, DWR awarded Yolo County \$1,500,000 for feasibility studies for Knights Landing, Yolo, and Clarksburg. Yolo County selected MBK engineers as the County's consultant to prepare the Small Communities Flood Risk Reduction Feasibility Studies. Funding for design and construction will be awarded in subsequent phases.

The Clarksburg feasibility study will develop an array of alternatives consisting of both structural and nonstructural measures. The team will formulate structural solutions that include improvements to existing levees to meet 100-year requirements as well as other alternatives such as a cross or ring levee. The study will take into consideration the recommendations of the Agricultural Floodplain Ordinance Task Force (AFOF) that propose modifying the FEMA policy that would promote a sustainable agricultural economy in the floodplain. The non-structural alternatives that will be considered are:

- changes to the National Flood Insurance Program,
- a levee relief cut plan,
- an emergency flood fight plan,

- a flood evacuation plan,
- a flood evacuation warning system,
- a voluntary structure elevation and flood-proofing program, and
- use of agricultural conservation easements purchased from willing sellers.

The RFMP estimate of the structural improvements varies from approximately \$10,000,000 to \$530,000,000.

Work is anticipated to begin on the Clarksburg Small Communities Feasibility Study in early 2018 and be completed in late 2019. While the goal of the study is to evaluate alternatives to reduce flood risk, potential governance alternatives, including improved coordinate on and/or consolidation of RD maintenance and flood fight response, will be discussed with the community and RDs as part of the analysis. The reclamation districts should actively participate in the Feasibility Study process for the Clarksburg Basin and seek to build consensus on an alternative to achieve the goal of a common levee maintenance practice and levee flood fight capabilities in the most cost efficient manner for the benefit of the residents and property owners in the basin.

Clarksburg Basin Recommendation

- Reclamation Districts 999, 307 and 765 should actively participate in the Small Communities Feasibility Study process for the Clarksburg Basin and implement any future recommendations from the Study. The Study should address and make a recommendation on governance to achieve the goal of providing a consistent level of maintenance and flood response across the Clarksburg Basin and have the districts function as one entity.

October 17, 2017

Christine Crawford, Executive Officer
Yolo LAFCo
625 Court Street, Suite 203
Woodland, CA. 95695

RE: RD 537 and RD 900 Consolidation Proposal

Dear Christine:

You have asked for input from the City of West Sacramento (City) in regard to the possible consolidation of flood control responsibility within the City into a single entity. The consolidation is long overdue as it would result in more efficient delivery of services and governance for local flood protection, which is the City's top public safety issue.

Reclamation District 900 (RD 900) submitted a letter raising several legal objections. The City Attorney has submitted a memorandum to me (see attached) specifically responding to those concerns. Based on the City Attorney's memorandum, we do not think there are any legal impediments to the consolidation of RD 900 and Reclamation District 537 (RD 537 – particularly the portion that lies within the City boundaries) into the City or, as an alternative, either merging RD 537 with RD 900 and then converting RD 900 into a subsidiary district of the City, or leaving RD 900 and RD 537 intact and converting the two RDs into subsidiary districts of the City.

As you know, multiple groups over the past several years have suggested the consolidation of local levee maintaining agencies (LMAs) would improve regional governance through more efficient and transparent governmental services including the State Department of Water Resources (DWR), UC Davis Collaboration Center, the State of California and LAFCo. The boundaries of the City, RD 900 and RD 537 are almost identical. All three agencies have jointly developed the storm water/drainage facilities system within the City. In addition to more efficient and transparent governance, the City assuming responsibility for the overall operations and maintenance of the storm water/drainage system may have the potential to realize operational efficiencies while reducing administrative overhead.

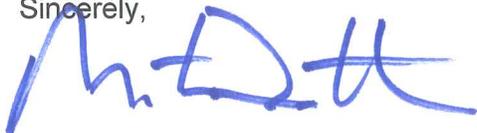
The City's finance staff has reviewed the Certified Annual Financial Reports (CAFRs or Financial Reports) for RD 900 and RD 537. The two districts main source of revenue is from the levy of assessments on the parcels within the City boundaries. The Financial Reports for the year ending as of June 30, 2016 for both RD 900 and RD 537 were audited by Cropper Accountancy Corporation. The auditor's opinion was "clean", meaning the financial statement were presented fairly, in all material respects regarding the respective financial position of the government activities and each major fund of RD 900 and RD 537. RD 900 reported a total net position of \$14.4 million; \$12.3 million invested in capital assets, net of \$0 related debt and \$2.0 million in unrestricted net assets. The District did not report any liabilities pledged by assessment revenues. RD 537 reported a net position of \$0.8 million; \$0.7 million in committed and assigned, \$0.1 million in nonspendable, and \$0.1 million in unassigned net assets. Neither RD 900 nor RD 537 reported any contingent liabilities that were probable of incurrence and reasonably estimable.

Based on these Financial Reports, City staff has concluded that if RD 900 and RD 537 were consolidated into the City or, one or both became subsidiary districts of the City, it would not negatively impact the City's finances. Further, the City would be able to provide the management support including financial management, as well as the operating and maintenance functions in an efficient and transparent manner.

The City Council consistently ranks flood protection as the City's top priority when adopting its annual Strategic Plan. Their direct oversight of the flood control responsibilities within the City will help to enhance efficiencies and accountability for this most critical public safety issue.

Please let me know if you have any questions or comments.

Sincerely,



Martin Tuttle
City Manager

Attachment

cc: Mayor and City Council



400 Capitol Mall, 27th Floor
Sacramento, CA 95814

T | 916.321.4500
F | 916.321.4555

MEMORANDUM

TO: Martin Tuttle, City Manager
FROM: Jeffrey A. Mitchell
DATE: September 28, 2017
RE: Effect of RD Consolidation on WSAFCA

In a memo dated August 10, 2017, the Executive Director of the Yolo County Local Agency Formation Commission ("LAFCO") asked for input from the City, RD 900, and RD 537 concerning the possibility of consolidating flood control responsibility within the City under a single agency. RD 900 has submitted a letter to LAFCO (dated September 18) in which it raises several objections to consolidation of operations. The purpose of this memo is to respond specifically to the legal concerns raised in RD 900's letter, which chiefly involve the impact of consolidation on the viability of the West Sacramento Area Flood Control Agency ("WSAFCA").

Conclusions

1. The consolidation of the two Reclamation Districts into the City, and the concurrent dissolution of those two Districts, would not automatically result in the dissolution of WSAFCA.
2. The consolidation of the two Reclamation Districts into the City would not violate the terms of the WSAFCA Joint Powers Agreement.
3. Consolidation of the two Reclamation Districts into the City would not violate covenants made in support of the issuance of bonds by WSAFCA.
4. As an alternative to dissolution, LAFCO could consider an alternative method of consolidation, under which either or both of the Reclamation Districts would be converted into "subsidiary districts" of the City. Under this approach the RD(s) would remain as separate legal entities, but the City Council would become the *ex officio* Board of the Reclamation District(s). Having at least one Reclamation District remain as a separate legal entity would remove any question concerning the viability of WSAFCA as a joint powers authority.

Discussion

2. A reorganization which results in the dissolution of the two Reclamation Districts would not automatically result in the dissolution of WSAFCA.

WSAFCA is a joint powers agency formed by the Joint Exercise of Powers Agreement dated July 20, 1994, between the City, RD 900 and RD 537, as amended on October 13, 2011 (the "WSAFCA Agreement"). The Joint Exercise of Powers Act (Government Code section 6500-6599.3) (the "Act") authorizes parties to a joint exercise of powers agreement to establish an agency or entity that is separate from the parties. (See, e.g., Section 6503.5.) Section 2 of the WSAFCA Agreement states: "The Agency shall be a public entity separate from the Parties hereto." Once the joint powers agency is established and is operating, the agreement functions as its articles of incorporation and/or bylaws.

It has been asserted that WSAFCA would automatically dissolve upon the dissolution of two of the three parties to the WSAFCA Agreement. We disagree.

While the Act requires two or more public agencies to take action to make an agreement that forms a joint powers agency, the Act is largely silent on dissolution of an agency once created. Government Code section 6510 provides:

The agreement may be continued for a definite term or until rescinded or terminated. The agreement may provide for the method by which it may be rescinded or terminated by any party.

Presumably, if the agreement creating a joint powers authority is terminated, the agency created by the agreement would be dissolved. The WSAFCA Agreement reflects this assumption and states in Section 31, Term: "The Agency shall continue until this Agreement is rescinded or terminated as herein provided." Section 32 of the WSAFCA Agreement provides a process by which the parties can rescind or terminate the Agreement,¹ but otherwise does not specify any circumstance that would lead to dissolution. In fact the language of Sections 31 and 32 compel a conclusion that, absent the consent of the City, the WSAFCA Agreement *cannot* terminate because the unanimous consent of the parties is required for termination.

The Agreement also provides a mechanism for withdrawal of members of WSAFCA. Section 34, Withdrawal, provides that a party may withdraw "from the Agency" (by which it must mean "from the Agreement") with the unanimous written consent of all parties. Section 34 does not, however, provide that the Agreement terminates upon withdrawal of two parties. In fact, it makes provision regarding actions by the Agency following a withdrawal, e.g.: "The Agency may not sell, lease, transfer or use any rights of a Party who has withdrawn without first obtaining the written consent of the withdrawing Member."

Although it may seem counter-intuitive that a "joint powers agreement" would continue if only one member of the joint powers authority remained, "unilateral" contracts are not unknown in law. Grant deed and deeds of trust are the most common examples. A bond resolution is

¹ Section 32, Rescission or Termination, provides: "This Agreement may be rescinded and the Agency terminated by unanimous written consent of the Parties."



another example. The mere fact that an agreement has only one party does not automatically terminate it.²

2. Consolidation would not violate the terms of the Joint Powers Agreement.

As noted earlier, the WSAFCA Agreement provides a mechanism for the withdrawal of members. Withdrawal requires the unanimous consent of the remaining members. Dissolution of a member of the Authority would likely be treated as the *de facto* withdrawal of a member. Dissolution of both Reclamation Districts would require only the consent of the City, as the remaining member of the Authority.

Section 39 of the WSAFCA Agreement, which was added in 2011, does not bar the dissolution of the two Reclamation Districts in connection with the consolidation of their responsibilities with the City. Section 39 has two operative provisions. Subsection (b) prohibits rescission or termination of the WSAFCA Agreement while there are outstanding Project Commitments (as defined) unless "the relevant Member of Members of the Agency first provide such reasonable written assurances regarding the Project Commitments as the CVFPB may request." If Reclamation District 900 and that portion of Reclamation District 537 that lies within the boundaries of the City were to be merged into the City, the City would be the successor to Reclamation District 900 and would be the successor to Reclamation District 537 within the overlapping territory. Under these circumstances there is nothing in Section 39 that would prohibit the City as successor from providing the requested assurances to the CVFPB. Similarly, subsection (c) prohibits withdrawal of a Member from WSAFCA "unless such withdrawing party first provides such reasonable written assurances . . . as the CVFPB may request." Again, there is nothing in Section 39 that would prohibit the City, as successor to the Reclamation Districts, from providing those written assurances.³

² The cases cited in Reclamation District 900's letter do not compel a different conclusion. *San Diegans For Open Government v. City of San Diego et al* ((2015) 242 Cal.App.4th 416) concerned the validity of bonds issued by a joint powers authority of which a redevelopment successor agency was a member. The specific citation included in RD 900's letter is to a footnote that merely refers to the provision of the Joint Powers Law that authorizes "two or more" public agencies to create a joint powers authority. The issues in the case did not require the Court to address, and the Court did not address, whether the joint powers authority in question would continue if all but one member of the authority withdrew. Similarly, the other case cited by RD 900 (*McKee v. Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force* (2005) 134 Cal.App.4th 354) merely recites that a joint powers authority comes into existence when at least two agencies agree to its formation.

³ Section 36 of the WSAFCA Agreement provides that "This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the Parties hereto." Assuming the City is designated by LAFCO as the successor to the Reclamation Districts, then Section 36 would apply. In this regard it is worth noting that Section 39 places no limitations on the ability of parties to assign their rights and responsibilities pursuant to Section 36 of the WSAFCA Agreement. It would be entirely consistent with the WSAFCA Agreement, including Section 39, for the City as successor to provide such assurances as CVFPB may request.



3. Consolidation of the two Reclamation Districts into the City would not violate covenants made in support of the issuance of bonds by WSAFCA.

Reclamation District 900's letter asserts that consolidation of the Reclamation Districts into the City would "violate covenants made in support of issuance of approximately \$40,000,000.00 in bonds." We disagree.

Section 8.3 of the Fiscal Agent Agreement, pursuant to which the Agency's bonds have been issued, includes a covenant that the Agency will annually levy and make provision for the collection of the assessments necessary to pay debt service on the bonds.

Section 1.8 of the Fiscal Agent Agreement provides that any reference in the agreement to the Agency is deemed to include the successors or assigns thereof, and all the covenants and agreements by the Agency bind its successors and assigns.

As explained above, we believe that dissolution of one or more of the original parties to the joint exercise of powers agreement does not result in the dissolution of WSAFCA, which is a separate governmental entity. WSAFCA will continue in existence and will continue to be obligated to levy the assessments.

Even if, for the sake of discussion, consolidation of the Districts by LAFCO would result in the dissolution of WSAFCA, Government Code section 56886(m) in the Cortese-Knox-Hertzberg Act contemplates that LAFCO would designate a successor in order to carry out any remaining obligations of any dissolved entity under its bonds. Section 57458 provides that the successor shall provide for the levy of assessments of a dissolved governmental entity.

Finally, if LAFCO were to decide to establish either or both of the Reclamation Districts as subsidiary districts of the City (as discussed in the next section of this memo), there would continue to be at least two separate legal entities that would continue to be members of WSAFCA.

4. LAFCO could establish either or both Reclamation District's as "subsidiary districts" of the City.

Under the Cortese-Knox-Hertzberg Act, in lieu of merging a district with a city, the district may be established as a subsidiary district⁴. In that case, the district retains its separate legal existence, while the city council acts, *ex officio*, as the governing board for the district.⁵ In that event, the subsidiary district or district would continue to function as parties to the WSAFCA Agreement, although under the control of the city council. Whether establishing either or both Reclamation District 900 or 537 as subsidiary districts of the City is the best approach from an

⁴ See Government Code Sections 56078, 56117, 56375(a)(2)(D), 57105.

⁵ Government Code Section 57534 (on and after being established as a subsidiary district, "[t]he District shall continue in existence with all of the powers, rights, duties, obligations, and functions provided for by the principal act")



Memo to Martin Tuttle
September 28, 2017
Page 5

operational standpoint is beyond the scope of this memo. Doing so would certainly, as a matter of law, remove any doubt as to the continued existence of WSAFCA.



RECLAMATION DISTRICT No. 537

Post Office Box 822, West Sacramento, CA 95691

September 21, 2017

Christine Crawford
Executive Officer
Yolo County Local Agency Formation Commission
625 Court Street, Suite 203
Woodland, California 95695

Re: Response of Reclamation District No. 537 to August 10, 2017 Letter Concerning Yolo
LAFCo 2017 MSR Governance Recommendations for the West Sacramento Reach

Dear Ms. Crawford:

The Board of Trustees of Reclamation District No. 537 ("RD 537") held a special meeting on September 20, 2017 to discuss the August 10, 2017 letter from the Yolo County Local Agency Formation Commission ("LAFCo") regarding the municipal services review for the West Sacramento Reach. We also reviewed the letter to you dated September 18, 2017 from Reclamation District No. 900 ("RD 900").

The Board of Trustees strongly endorses the position taken by RD 900 in its September 18 letter to LAFCo. As described in that letter, we believe that reorganizing RD 537 and RD 900 into the City of West Sacramento would have profound and dire consequences for the residents of West Sacramento. We do not believe that such a reorganization would save our ratepayers any money; indeed, we believe that moving our flood protection function from a single-purpose district to a general law city is almost guaranteed to increase the costs of providing the service. Moreover, we believe that the political turmoil that such a proposal is likely to create undermines the ability of the West Sacramento Flood Control Agency (WSAFCA) to obtain the necessary financial resources to provide the residents of West Sacramento the 200-year flood protection mandated by California law. Consequently, we urge LAFCo to abandon any effort to reorganize RD 537 or RD 900 with the City of West Sacramento and, instead, to find in the municipal services review that the two reclamation districts are providing necessary public services at the least possible cost.

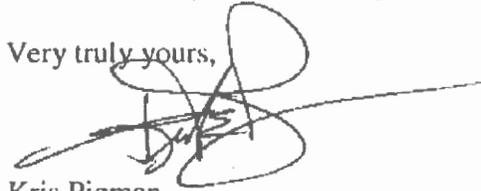
LAFCo is also in the process of considering the potential consolidation of several reclamation districts in the Elkhorn area north of the City of West Sacramento. RD 537 is actively involved in those discussions and is working with the other potentially affected agencies to develop a proposal that would provide flood protection services more effectively in the area north of the Sacramento Bypass. That potential consolidation, however, would have no effect on the southern portion of RD 537 and, consequently, should not be used by LAFCo as an excuse to reorganize the southern portion of RD 537 and RD 900 into the City of West Sacramento. Even if the proposed consolidation of the Elkhorn districts were to occur, the southern portion of RD 537 still has independent utility, a firm source of funding and extensive experience in providing flood protection to our constituents. Thus, consolidation into the City of West Sacramento would serve no beneficial purpose.

For all of these reasons, we urge LAFCo to reach the following conclusions in the municipal services review:

- (1) The existing flood control districts in the Elkhorn area and within the City of West Sacramento are providing flood protection services effectively and efficiently.
- (2) It is possible that the consolidation of the flood control districts in the Elkhorn area could provide an enhanced level of flood protection more efficiently; those districts are working together to determine whether or not such enhanced and more efficient services are possible. However, it is premature for LAFCo or any other party to evaluate such a proposal until the districts involved in the potential consolidation develop a plan.
- (3) The consolidation of RD 537 and RD 900 into the City of West Sacramento would impair the provision of public services to the residents of West Sacramento for the reasons stated above and in the RD 900 letter to LAFCo dated September 18, 2017. Accordingly, no such proposal should be pursued by LAFCo or others.

RD 537 is ready to meet with you or your staff, if you so desire, to discuss this matter further.

Very truly yours,



Kris Pigman
President, Board of Trustees



Kent Lang
Trustee



Tom Ramos
Trustee



RECLAMATION DISTRICT 900

Post Office Box 673

West Sacramento, CA 95691

PH: (916) 371-1483 • email: wsrd@pacbell.net

September 18, 2017

Yolo County Local Agency Formation Commission
Attn: Christine Crawford, Executive Officer
625 Court Street, Suite 203
Woodland, CA 95695

Re: *Response of Reclamation District No. 900 to August 10, 2017 Letter Concerning Yolo LAFCo 2017 MSR Governance Recommendations for the West Sacramento Reach*

Dear Ms. Crawford and Members of the Yolo LAFCo Governing Board:

Reclamation District Number 900 ("RD 900"), which was formed by special act of the California Legislature in 1911 and is governed by the Reclamation District Act, is opposed to any form of reorganization which would result in a merger of RD 900 or Reclamation District No. 537 ("RD 537") into the City of West Sacramento, or any form of reorganization which would create a new independence special district with reclamation and flood control responsibilities or altering the governance of RD 900 or RD 537.

RD 900's boundaries are co-extensive with the boundaries of the City of West Sacramento with the exception of the northerly end of the City of West Sacramento which lies within the boundaries of RD 537. RD 900, RD 537 and the City of West Sacramento are the three members of the West Sacramento Area Flood Control Agency ("WSAFCA"), a joint exercise of powers agency created in 1994 under the Joint Exercise of Powers Act (California Government Code Sections 6500 et seq.) for the purpose of financing and providing facilities and works necessary to achieve a 1 in 200 year storm event level of flood protection for the area within its boundaries, which are co-extensive with the boundaries of the City of West Sacramento. WSAFCA is governed by a three member board with each of the reclamation district members appointing one member from their governing boards of trustees and the City of West Sacramento appointing one member from its city council.

RD 900 operates and maintains 14 miles of levees along the west bank of the Sacramento River, across the district at its southern boundary which is co-extensive with the southern boundary of the City of West Sacramento, thence along the deep water ship channel to the north, and operates and maintains a system of drainage ditches and canals, pumping plants, and several storm water detention basins which protect the lands within its boundaries from flooding from the river system or from storm water runoff. RD 537 performs the same function for levees, ditches, canals and pumping plants protecting the northern portion of the City of West Sacramento. A

portion of the levee protecting the northern portion of the City of West Sacramento is maintained by State Maintenance Area 4.

RD 900 believes there should not be any change of organization of the types described above for a number of reasons:

1. Reclamation districts are very well suited to perform the flood protection functions described above efficiently and well, and RD 900 and RD 537 have done so without major incident since their formation;
2. Merging both RDs into the City of West Sacramento or consolidating them into a new independent district would:
 - a. Violate the terms of the Joint Powers Agreement;
 - b. Terminate an existing WSAFCA flood assessment made under the 1982 Improvement Act and approved by the landowners within the City of West Sacramento in a Proposition 218 election, and violate covenants made in support of issued and sold revenue bonds totaling approximately \$40,000,000.00 utilized for early implementation levee improvement projects and to be utilized to provide a portion of the local share required for a federally authorized flood control project to complete levee modifications around the City of West Sacramento by the United States Army Corps of Engineers (the "Corps"); and
 - c. Would create an atmosphere of administrative political upheaval for WSAFCA after WSAFCA and the reclamation districts developed a solid reputation with the Federal Emergency Management Agency ("FEMA"), the Corps, Members of Congress and the State of California at a sensitive time when WSAFCA must demonstrate its financial capability to support its local share of the cost of the federally authorized flood control project.
1. Reclamation districts are very well suited to perform the flood protection functions described above efficiently and well, and RD 900 and RD 537 have done so without major incident since their formation.

The reclamation districts are best suited to provide responsive and efficient operation and maintenance of the flood control facilities protecting the City of West Sacramento. Reclamation districts are single purpose special districts, having as their sole purpose the provision of flood control for lands within their boundaries. They are governed by efficient boards of trustees, whose members tend to have no reason for political grandstanding or aspirations for higher office. The sole requirement for use of reclamation district funds is the provision of flood control, and there are no competing financial interests creating temptation for the use of flood control funds, as would be the case if a city were to be the provider of flood protection. Both RD 900 and RD 537 have earned the respect of the California Department of Water Resources, the Central Valley Flood Protection Board, the Corps and FEMA and have provided operation and maintenance of the existing flood control facilities since their formation with no major

incidents. Their staffs are lean, focused and dedicated to providing flood control and protection for lands within their boundaries.

A merger of the reclamation districts into the City ignores the value to the citizens of West Sacramento of the institutional relationships that WSAFCA, RD 900 and RD 537 have built with state and federal regulators over the past decades. Over the past twenty years, ever since the floods of 1997, the three agencies have been at the forefront of flood protection in the Central Valley.

- 2.a. Reorganization which merges two of the three members of WSAFCA into the City of West Sacramento member or creates a new independent district would violate the terms of the Joint Powers Agreement.

There are limitations within the WSAFCA Joint Powers Agreement which would preclude any reorganization which dissolves a party or two of the three current parties.

The WSAFCA Joint Powers Agreement (the "JPA") is written in such a manner as to provide checks and balances by virtue of having three independent members represented by individual members of their governing boards. For example, Section 16 of the JPA provides a right to each party to veto an assessment or construction or acquisition of works or facilities. The JPA may be rescinded and the agency terminated only by unanimous written consent of the parties (Section 32 of the JPA), and no party may withdraw without the unanimous consent of the parties (Section 34 of the JPA). The dissolution of a reclamation district party to the JPA would be the equivalent of a withdrawal by operation of law which would not be consented to by either RD 900 or RD 537. Also, the dissolution of both reclamation districts through reorganization would effect a termination of WSAFCA without the consent of RD 900 or RD 537.

Additionally, new Section 39 added by Amendment to the JPA which was required by policy resolution of the Central Valley Flood Protection Board in conjunction with construction funding agreements entered into between the California Department of Water Resources and WSAFCA to finance the early implementation projects provides that the JPA may not be rescinded or terminated or the agency dissolved so long as it has outstanding project commitments (which it will have into infinity under Operation, Maintenance, Repair, Rehabilitation and Replacement Agreements entered into with the Central Valley Flood Protection Board) unless the relevant member or members of the agency first provide such reasonable written assurances regarding the project commitments as the Central Valley Flood Protection Board may request, and, similarly, this section provides that no party may withdraw so long as the agency has such commitments unless the withdrawing party first provides such reasonable written assurances regarding the project commitments as the Central Valley Flood Protection Board may request.

- 2.b. Reorganization which merges two of the three members of WSAFCA into the third member or creates a new independent district would have the effect of terminating WSAFCA and its flood assessment and would violate covenants made in support of issuance of approximately \$40,000,000.00 in bonds.

A joint powers agency requires at least two public agencies in order to transact business. As Government Code section 6502 expressly states: "If authorized by their legislative or other governing bodies, *two or more public agencies* by agreement may jointly exercise any power common to the contracting parties...." (Gov. Code § 6502.) As one California court recently noted, "a JPA needs ... two public agency members to conduct business." (See *San Diegans for Open Government v. City of San Diego* (2015) 242 Cal.App.4th 416, 448, n. 14 [even if third agency was not properly included in JPA, JPA could still conduct business because at least two public agencies were members]; see also *McKee v. Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force* (2005) 134 Cal.App.4th 354, 362 [once at least two public agencies agreed to create a separate entity, a JPA/local public agency was created for purposes of the Brown Act].)

Should WSAFCA be terminated, its flood assessment passed by the landowners within the City of West Sacramento would, by operation of law, be terminated which would be violative of covenants made in support of the issued and sold bonds totaling approximately \$40,000,000.00 and cause a default in bond payments.

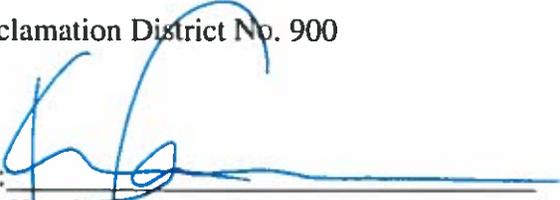
- 2.c. A reorganization of either or both of RD 900 or RD 537 would create an atmosphere of administrative political upheaval for WSAFCA after WSAFCA and the reclamation districts developed a solid reputation with FEMA, the Corps, Members of Congress and the State of California at a sensitive time when WSAFCA must demonstrate its financial capability to support its local share of the cost of the federally authorized flood control project.

Completion of levee improvements necessary to achieve a 1 in 200 year level of flood protection for the City of West Sacramento will require that remaining work, beyond the early implementation projects already completed by WSAFCA and the Southport Levee Improvement Project currently under construction, be accomplished by the Corps under the Federally authorized flood protection project.

As we approach possible Congressional appropriation to permit the authorized Federal flood protection prospect to move forward, WSAFCA will need to demonstrate its ability to provide its share of the necessary local funding. This will require landowner approval of an additional flood assessment by WSAFCA to create the ability to issue and sell further bonds. The stability of WSAFCA must be preserved for the confidence of the landowner/voters and for the Corps and Congress. This is no time to create local political upheaval by altering the structure of WSAFCA or causing its termination by operation of law.

Sincerely,

Reclamation District No. 900

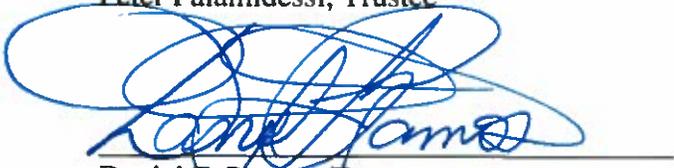
By: 

Kenric Jameson, General Manager/Secretary


Bryan Turner, Trustee


William E Denton, Trustee


Peter Palamidessi, Trustee


Daniel F. Ramos, Trustee


Philip Hinkel, Trustee

cc: Reclamation District No. 537
James M. Day, Jr.
David Aladjem

YOLO
LOCAL
AGENCY
FORMATION
COMMISSION



To: Kyle Lang, Reclamation District 537
Kenric Jameson, Reclamation District 900
Martin Tuttle, City of West Sacramento

From: Christine Crawford, Executive Officer, Yolo LAFCo

Re: Yolo LAFCo 2017 MSR Governance Recommendations for the West Sacramento Reach

Date: August 10, 2017

As you know, Yolo LAFCo is currently working on its Municipal Service Review (MSR) for the Levee Maintaining Agencies (including all the Reclamation Districts (RDs), Knights Landing Ridge Drainage District and the Snowball County Service Area #6) and is targeting MSR completion for December 2017. The previous LAFCo MSR was completed in 2005 and recommended the creation of a single purpose flood control agency for the West Sacramento Reach, which could include the formation of an independent special district or merging flood control agencies with the City of West Sacramento¹.

The 2005 MSR recommended that Yolo LAFCo "start discussions with RD 537, 811 and 900 and the City of West Sacramento regarding the creation of a single purpose flood control agency in this area." However, I have only been with LAFCo since December 2011 and am unaware of any discussions that may or may not have occurred after this MSR recommendation was adopted.

The purpose of this memo is to reach out to the subject agencies and (re)start these discussions, revisit the previous 2005 MSR recommendations, and obtain agency input as LAFCo develops governance recommendations for the 2017 MSR update. Also, the Elkhorn RDs are interested in pursuing consolidation and such an action would bifurcate RD 537 at the Sacramento Weir, so this is another reason that governance discussions would be timely.

We would like to hear your ideas and suggestions on governance recommendations for the 2017 MSR update and can be reached at the office information included in this letter or my email address is Christine.crawford@yolocounty.org. We can also meet in person if that is preferable. Please be aware that I am going to be on vacation from August 14th – 25th and will respond after that timeframe.

Thank you for your assistance with LAFCo's MSR efforts thus far. We look forward to continuing our work together.

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Public Member

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¹ *Municipal Service Review and Sphere of Influence Study, Yolo County Public Water and Reclamation Districts, Dudek and Associates, Inc. March 2005, pages 88-89.*



RECLAMATION DISTRICT 900

Post Office Box 673

West Sacramento, CA 95691

PH: (916) 371-1483 • email: wsrd@pacbell.net

Item 7-ATT B Supplemental

December 4, 2017

Yolo County Local Agency Formation Commission
Attn: Christine Crawford, Executive Officer
625 Court Street, Suite 203
Woodland, CA 95695

Re: *Reclamation District No. 900 & 537 Comments Concerning Yolo LAFCo 2017 MSR Governance Recommendations for the West Sacramento Reach*

Dear Ms. Crawford and Members of the Yolo LAFCo Governing Board:

Background

Formed in 1911, Reclamation District (RD) 900 is responsible for operating and maintaining 13.6 miles of levees, 38 miles of drainage canals and ditches, 6 detention basins that collect and remove storm water within the 11,000 acres of land located in its jurisdiction including 90% of the City of West Sacramento, and for repairing and replacing 9 pump stations containing 33 pumps and district equipment.

Formed in 1889, Reclamation District (RD) 537 is responsible for operating and maintaining facilities similar to those of RD 900, but at a reduced number within the City Limits. RD 537's boundaries currently extend north of the City of West Sacramento and include both levee and internal drainage facilities.

RD 900 and RD 537 are also member agencies in the West Sacramento Area Flood Control Agency (WSAFCA) Joint Powers Authority (JPA) formed to upgrade levees to meet urban 200-year level of flood protection required by SB 5 (2007). Once levee improvements are completed, RD 900 and RD 537 will assume ongoing O&M. In addition, RD 900 provides administrative support for RDs 537 and 827.

The 2014 Yolo County Flood Governance Study, which was prepared for the Lower Sacramento/Delta North Region and funded by the Department of Water Resources, found that reclamation districts are best suited to conduct routine O&M and on-site emergency response. The 2016 Department of Water Resources rating concludes that the levee segment/system would perform as intended in a future flood event. The District has the resources to fund planned levee and drainage improvements. The Districts, along with WSAFCA, are working to meet urban 200-year flood protection by 2025 as required by the state.

Both RD 900 and RD 537 are managing their finances well and operate within their financial means and do not have any debt. The Districts have adequate reserves to provide for unexpected maintenance if necessary. In 2016 the residents of West Sacramento passed a new assessment for RD 900. This new assessment increased RD 900's budget from \$1,100,000

annually to approximately \$3,300,000. RD 900 can increase its assessment by 2.25% yearly as needed to keep up with inflation. RD 537 is currently not charging the property owners within its boundaries the maximum amount allowed under their current assessment.

LAFCO Recommendations discussion

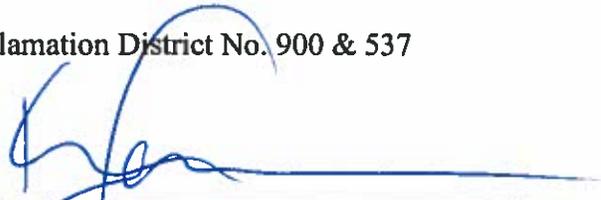
RD 900 and RD 537 are opposed to any form of reorganization which would result in a merger of RD 900 or RD 537 into the City of West Sacramento, or any form of reorganization which would create a new independent special district with reclamation and flood control responsibilities or altering the governance of RD 900 or RD 537 by making them subsidiary districts to the City of West Sacramento.

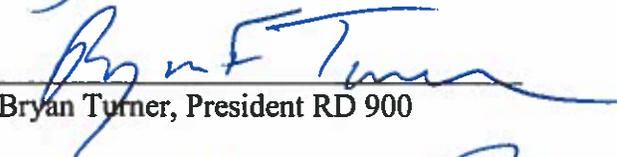
RD 900 Manager Kenric Jameson has met with the Board of Trustees for both RD 900 and RD 537 and has been authorized to inform LAFCo that both districts are in agreement that having RD 900 and RD 537 functionally merge would provide a more uniform level of maintenance and flood fighting capabilities. The Districts look forward to working with Yolo County LAFCO, the California Department of Water Resources (DWR), the United State Army Corps of Engineers, and the West Sacramento Area Flood Control Agency, in an effort to further enhance coordination amongst agencies that provide flood protection services within the City of West Sacramento as detailed in LAFCO's recommended action.

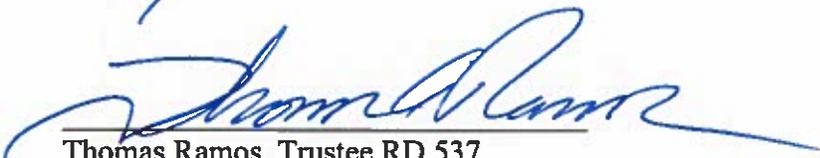
Sincerely,

Reclamation District No. 900 & 537

By:


Kenric Jameson, Manager RD 900


Bryan Turner, President RD 900


Thomas Ramos, Trustee RD 537