

MEETING SUMMARY

Yolo LAFCo & State Flood Agency Coordination Meeting

Date: Thursday, February 1, 2018
Time: 1:00 PM to 2:30 PM
Location: DWR JOC Annex (3464 El Camino Avenue) – Room 150

1. ATTENDEES

- 1.1. Yolo Local Agency Formation Commission: Christine Crawford, Sarah Kirchgessner
- 1.2. Central Valley Flood Protection Board: Mary Jimenez
- 1.3. California Department of Water Resources: Michael Mierzwa
- 1.4. Lower Sacramento / Delta North RFMP: Eric Nagy

2. **MEETING PURPOSE** – *Facilitate coordination between CVFPB, DWR, and Yolo LAFCo to ensure LMA MSR considers evolving State policy regarding operations and maintenance responsibilities and improved regional governance for the State Plan of Flood Control.*

3. MEETING CONTEXT

3.1. LEGISLATIVE REQUIREMENT FOR LAFCO – *The Legislature finds and declares that a single multipurpose governmental agency is accountable for community service needs and financial resources and, therefore, may be the best mechanism for establishing community service priorities especially in urban areas. Nonetheless, the Legislature recognizes the critical role of many limited purpose agencies, especially in rural communities. The Legislature also finds that, whether governmental services are proposed to be provided by a single-purpose agency, several agencies, or a multipurpose agency, responsibility should be given to the agency or agencies that can best provide government services.*

3.2. YOLO LAFCO LMA MSR GOAL STATEMENT – *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 fight 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.*

4. TOPICS FOR FOCUSED DISCUSSION

- 4.1. Overview of Draft LMA MSR findings and next steps
- 4.2. Description of “regional governance” as intended in the CVFPP Update
- 4.3. What constitutes an ideal LMA?
- 4.4. What is the primary problem(s) with the existing LMA model?
- 4.5. What are the barriers to consolidation?

5. SUMMARY OF KEY DISCUSSION POINTS

- 5.1. **IMPORTANCE OF CHECKS AND BALANCES.** The existing processes for permitting encroachments and modifications to the flood system relies on checks and balances at the local level to manage flood risk by wise land use planning considering ability to achieve and maintain the desired level of flood protection. For instance, this may occur in the interaction between the LMA (e.g., Reclamation District) and land use agency (e.g., City or County) unless the LMA and land use agency are the same entity (e.g., the LMA is a City or County). In an urban or urbanizing area, the land use agency typically focuses on providing high quality amenities for the community resulting in economic prosperity and a high quality of life for the residents. The LMA focuses on ensuring that encroachments and modifications to the flood system do not degrade the ability to conduct effective and cost-efficient operations and maintenance of the levee system. Together, the land use agency and LMA can identify needed modifications to the levee system that strike a balance between connecting a community to its surrounding waterways and maintaining levees that can be relied on to protect the community during floods. The Central Valley Flood Protection Board (CVFPB) and US Army Corps of Engineers (USACE) ultimately approve proposed encroachments and modifications to the flood system in the Central Valley.
- 5.2. **DEDICATED & SUFFICIENT FUNDING SOURCE.** Federal and state flood system operation and maintenance standards have become increasingly stringent over the last decade, resulting in much higher costs to achieve. LMAs increasingly require a robust source of dedicated revenue to meet the increasing demands of flood system operations and maintenance. Comprehensive federal and state inspections of the flood system against current operations and maintenance standards have shown that a significant majority of the State Plan of Flood Control (SPFC) levees are deficient and require a significant investment in deferred maintenance activities along with higher investments needed in routine maintenance. The availability of dedicated revenue sources allow for focused investment of these funds in deferred maintenance activities during periods of drought.
- 5.3. **FLOOD SYSTEM MAINTENANCE AS A PRIORITY.** Levee maintenance is a recurring annual cycle of federal and state inspections, regular maintenance activities, planning and implementation of minor levee repairs and deferred maintenance projects, and flood season operations. The ideal LMA can focus on these activities as a sole or primary priority throughout the year on an annual basis.
- 5.4. **CONSOLIDATION OF LMAs PROVIDING LIKE SERVICES.** The 2017 Update to the Central Valley Flood Protection Plan identifies effective governance and institutional support as critical to better facilitating SPFC levee maintenance and improvements. In this context, consolidation is focused on the combination of existing LMAs to more efficiently pool and leverage their funding and resources. In contrast, enhanced regional governance looks beyond the maintenance activities themselves toward improved collaboration and coordination across a broad array of local agencies, including existing LMAs, to create a shared ownership of the flood system.

5.5. **VALUE OF COMPLEMENTARY SERVICES.** The integration of overlapping water management responsibilities within a single LMA can also result in the efficient pooling and leveraging of funding and resources. Examples of integrated water management in this context include combining responsibility for agricultural water delivery or interior drainage with flood system maintenance. These are optimal services for integration because of the commonality in equipment, procedures, and labor skill required for successful execution.

5.6. **EXPOSURE TO LIABILITY.** The CVFPB's obligations as a non-Federal sponsor of the flood system in the Central Valley are outlined in a series of agreements with USACE (e.g, project cooperation agreements and project partnership agreements). One of the principal obligations included in these agreements is a commitment to operate and maintain the levees in accordance with standards established by USACE at no cost to the federal government. Another key obligation is indemnification of the federal government from damages associated with performance of the project. In many cases, the CVFPB has delegated these responsibilities for operation and maintenance as well as the liability associated with project performance to the LMAs through the agreements. Legal precedent regarding select aspects of the liability associated with levee failure were established in the 2003 State appeals court decision, *Paterno v. State*, 113 Cal.App.4th 998.