

**Public Hearings 6.**

**LAFCO**

**Meeting Date:** 05/23/2019

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**Information**

**SUBJECT**

Reorganization of the Lower Elkhorn Reclamation Districts (RDs), Dissolving RD 785 and RD 827 and annexing both territories into RD 537, subject to terms and conditions

**RECOMMENDED ACTION**

1. Receive staff presentation and open the Public Hearing for public comments on this item.
2. Close the Public Hearing and consider the information presented in the staff report and during the Public Hearing.
3. Adopt **Resolution 2019-06** approving the Reorganization of the Lower Elkhorn Reclamation Districts (RDs), Dissolving RD 785 and RD 827 and annexing both territories into RD 537, subject to terms and conditions.

**FISCAL IMPACT**

No fiscal impact to LAFCo. The RDs as the proposal applicants are required to reimburse Yolo LAFCo for all processing costs.

**REASONS FOR RECOMMENDED ACTION**

Reclamation districts are 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.

#### 2012/2017 Central Valley Flood Protection Plan Context

Flood management in the Central Valley 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. Flood management in Yolo County along the Sacramento River System is currently carried out by fifteen (15) separate local agencies including: twelve (12) 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) and the United States Army Corps of Engineers (USACE) maintains portions of the System in Yolo County.

As noted in the Central Valley Flood Protection Plan 2017 Update (page 3-46) 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.

In an effort to improve statewide flood management, the State Department of

Water Resources (DWR) funded a locally led Regional Flood Management Plan process in six Central Valley regions. The intent of the effort includes establishing a common vision among regional partners, articulating local and regional flood management needs and priorities, describing regional financing strategies, and establishing improved regional governance for implementation. Through interaction with these regional groups, State DWR has advanced the idea of LMA consolidation. This concept, which arose in the aftermath of the Hurricane Katrina disaster, is founded on the belief that it would be more efficient for existing LMAs to voluntarily collaborate, enabling them to “speak with one voice” (e.g. on matters affecting multiple LMAs whose levees protect the same hydrologic basin), perform consistent O&M, and increase emergency response capabilities (source: Yolo County Flood Governance Study 2017, page 60).

### 2014 Yolo County Flood Governance Study Recommendations

The Yolo County Flood Governance Study, which was prepared for the Lower Sacramento/Delta North Region and funded by the Department of Water Resources, recommended a combination of the “regional communication and collaboration network” (Alternative 2) and a “hydrologic basin” approach (Alternative 3) would be desirable and useful. The study recommended that each of the five “basins” develop their own version of coordinated governance: 1) Knights Landing; 2) Elkhorn; 3) Woodland; 4) West Sacramento; and 5) Clarksburg. 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 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.

For the Elkhorn Basin, the 2014 Governance Study found the Elkhorn basin undergoing significant change due to proposed improvements to the Yolo Bypass. Significant portions of the land within the Elkhorn Basin districts are affected by a Bypass expansion project. 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.

Since the 2014 Governance Study, the Department of Water Resources (DWR) has approved the 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.

#### 2016 Elkhorn Basin Draft Governance Study

The LEBLS project spurred discussion among 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 moved forward with the combination of the three districts in Lower Elkhorn (RD 827, 785, and 537) under RD 537. This combined district would provide 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 the landowners with similar concerns will speak with one voice. The urbanized portion of RD 537 that lies south of the Sacramento Bypass would be detached under a separate proposal. This proposal also does not include RD 1600. There is an effort underway to possibly relocate the Sierra Northern rail line, which currently runs parallel to Interstate 5 through the Yolo Bypass. This relocation could potentially allow for the removal of the Fremont Trestle and the construction of a cross levee which could separate the Elkhorn basin into two hydrologic basins. Therefore, it may make sense for RD 1600 to remain as a standalone district.

#### LAFCo 2018 MSR Governance Recommendations

In its 2018 MSR, LAFCo recommended 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.

Below is LAFCo's recommendation for the Elkhorn Basin RDs which is now being acted upon with this proposal:

*Once the Lower Elkhorn Basin Levee Setback is approved by DWR and a commitment for ongoing funding received from SAFCA (Sacramento Area Flood Control Agency), Reclamation Districts, 827, 785, and 537 should consider adopting Resolutions of Application for consolidation and submit a proposal application to LAFCo as detailed in the Draft Project Management Plan for the Bryte Landfill Relocation and SAFCA Associated Actions in Support of the Lower Elkhorn Setback. This consolidation may not include RD 1600. There is an effort underway to possibly relocate the Sierra Northern rail line, which currently runs parallel to Interstate 5 through the Yolo Bypass. This relocation could potentially allow for the removal of the Fremont Trestle and the construction of a cross levee which could separate the Elkhorn basin into two hydrologic basins. Therefore, it may make sense for RD 1600 to remain as a standalone district.*

Government Code Section 56375 provides LAFCo with the power to review and approve proposals for "changes in organization" and "reorganizations" (i.e. more than one change in organization) consistent with policies adopted by the commission. Government Code Section 56021 defines "changes of organization" to include annexation and dissolution of special districts, among other actions.

## **BACKGROUND**

### Proposal Description

The proposal application was received by LAFCo on December 10, 2018 including signed resolutions from all three RDs making this proposal request. The proposal is seeking approval to dissolve RD 785 and RD 827 and annex both territories into RD 537. The RDs opted to submit the proposal as a dissolution/annexation instead of a consolidation (that would combine the districts into one new RD with a new number assigned) because, according to RD representatives, RD 537 is the oldest of the three districts and has the best levee maintenance record. Staff was initially concerned about unintended consequences to the West Sacramento Area Flood Control Agency (WSAFCA) Joint Powers Authority (JPA) because RD 537 is one of its members and this proposal will ultimately remove RD 537's territory from the West Sacramento Basin. However, legally RD 537 can remain a JPA member even though it has no territory in the West Sacramento Basin, this issue is outside LAFCo's authority and not part of this proposal, and the JPA agreement contains provisions for

member withdrawal. Therefore, this issue will be dealt with by WSAFCA separate from the LAFCo process.

### Factors to be Considered

In accordance with Government Code Section 56668, the factors to be considered in the review of a proposal shall include, but is not limited to, all of the following:

- Population, land use, natural boundaries, proximity to other populated areas, and likelihood of significant growth in the area during the next 10 years;
- The need for organized community services, the adequacy of governmental services and controls in the area, the probable effect of annexation and alternative courses of action;
- The effect of the proposed action (and alternative actions) on the adjacent areas, social and economic interests and local governmental structure of the county;
- The conformity of the proposal and its effects with adopted commission policies on providing planned, orderly and efficient patterns or urban development;
- **The effect of the proposal on maintaining the physical and economic integrity of agricultural lands;**
- The definiteness of the boundaries with parcel lines and the creation of any "islands" or corridors of unincorporated territory;
- A regional transportation plan;
- The proposal's consistency with city or county general and specific plans;
- The sphere of influence of any applicable local agency;
- **The ability of the receiving entity to provide services and the sufficiency of revenues for those services;**
- Availability of water supplies;
- The extent to which the proposal will affect a city in achieving its regional housing needs as determined by its council of governments;
- **Any information or comments from landowners, voters or residents of the affected territory;**
- Any information relating to existing land use designations;
- The extent to which the proposal will promote environmental justice, meaning the fair treatment of people of all races, cultures and incomes with the respect to the provision of public services; and
- Any local hazard plan or safety element of a general plan that identify land as a very high fire hazard zone.

Yolo LAFCo's local standards of evaluation for proposals (Section 2.0) elaborates on these state mandated factors with the following additional standards:

- Favoring municipal services by cities in urbanized areas rather than the County or special districts;
- Consider not only present service needs of the area under consideration, but shall also consider future services which may be required to take care of

- future growth or expansion;
- Requiring a service plan that describes the extension, financing and timing of services;
- SACOG's regional housing needs for the agency, recent update (and certification) of the agency's housing element, whether the agency's inclusionary housing ordinance complies with SACOG's Affordable Housing Compact, the degree to which the proposal meets the agency's "low income" and "very low income" housing targets, and the extent to which the proposal advances or inhibits the agency's housing element; and
- Consistency with the Agricultural Conservation Policy.

### Analysis

The proposal would implement LAFCo's 2018 MSR recommendations for the Elkhorn Basin as noted in the previous section. It maintains the physical and economic integrity of the agricultural lands in the Lower Elkhorn Basin by combining the RDs that are interdependent, sharing segments of the ring levees in the same basin, thereby protecting the lands from flooding for agricultural use.

Regarding sufficiency of revenues, RD 827 receives a property tax increment that will be transferred to RD 537 under this proposal. Yolo County approved a property tax exchange agreement on behalf of the special districts on April 23, 2019. The Lower Elkhorn Basin Levee Setback (LEBLS) Project itself will be funded by DWR but the local RDs will be responsible for ongoing operations and maintenance (or as DWR terms OMRRR: Operations, Maintenance, Repair, Replacement and Rehabilitation). The LEBLS Project is expected to begin construction in fiscal year 20/21 and take two years to complete. With the setback and reduced land available for production, there will be less land to assess to fund OMRRR and therefore, the proposal will be subject to a Proposition 218 election for the landowners to approve a new assessment structure to ensure sufficient revenues for the receiving entity (RD 537) to maintain services. This election is anticipated to be completed in fall 2019. A combined 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 entire basin. MBK Engineers submitted a draft OMRRR budget dated April 15, 2019 detailing the estimated costs and revenue for the new RD 537 which shows the proposed assessment will be sufficient.

Staff received a telephone call from a landowner and previous board member from RD 785 that indicated in addition to the proposal being subject to a new assessment, it should also be subject to a new board governance structure that includes the annexed territory and subject to the City portion of RD 537 being detached. RD 537 currently has three board members, one of which owns land in the City portion of the District to be detached (via a separate proposal). When this

occurs, this board member will become ineligible to serve and will need to step down. RD 537 has indicated it intends to amend its bylaws to increase the board from three to five members in order to provide for increased representation from the annexed territory. Representation is set forth in Reclamation District law and therefore, staff recommends this issue does not require a condition of approval. Regarding detachment of the City portion of RD 537, it is the intent that this area be detached, however this is anticipated to occur via one of the RD Reorganization proposals in the West Sacramento basin that are forthcoming.

### Protest Proceedings

The proposal is subject to protest proceedings if approved by LAFCo. If approved at the hearing, LAFCo will give mailed notice of the protest hearing to all landowners in the territory to be dissolved/annexed. If protest is filed by less than 25% of the number of landowners owning less than 25% of the assessed value of land, the Commission shall order the dissolution/annexation. If between 25% - 50% of the landowner/value file protests, the Commission shall order the dissolution/annexation subject to an election. Over 50% protest automatically terminates the proposal.

### CEQA

CEQA Public Resources Code Section 15320 (Class 20) provides for a Categorical Exemption for Changes in Organization of local agencies that do not change the geographical area in which previously existing powers are exercised. One of the specific examples cited includes "consolidation of two or more districts having identical powers". Therefore, staff recommends this proposal is exempt from CEQA.

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### **Attachments**

ATT A-Reso 2019-06 Lower Elkhorn RDs Reorganization

ATT B-Elkhorn Basin Map from MSR

ATT C-Letter from MBK Engineers re Sufficiency of Revenues 2019-04-15

ATT D-BOS PropertyTaxExchange Resolution

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### **Form Review**

#### **Inbox**

#### **Reviewed By**

#### **Date**

Christine Crawford (Originator) Christine Crawford 05/16/2019 03:04 PM

Form Started By: Christine Crawford

Started On: 05/07/2019 03:03 PM

Final Approval Date: 05/16/2019