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May 10, 2017
Agenda Item 7

May 10, 2017 (Agenda)

Contra Costa Local Agency Formation Commission
651 Pine Street, Sixth Floor
Martinez, CA 94553

Reclamation District 2121 Update

Dear Members of the Commission:

This is an update on the status of Reclamation District (RD) 2121 and a discussion of governance options.

BACKGROUND

RD 2121 is an independent district formed in 1984 to improve and maintain levee, drainage and irrigation systems on Bixler Tract. RD 2121 covers 584± acres and is located along the western edge of the Delta, approximately three miles east of the City of Brentwood (Attachment 1).

RD 2121 is located within the Primary Zone of the Delta. The Primary Zone consists of about two-thirds of the Delta area, and is defined as “*land and water of primary state concern and statewide significance situated within the boundaries of the Delta... and not within either the urban limit line (ULL) or sphere of influence (SOI) of any local government’s general plan or studies existing as of January 1, 1992*” pursuant to the Delta Protection Act of 1992 (California Public Resources Code §29728). The Primary Zone was to remain relatively free from urban and suburban encroachment to protect agriculture, wildlife habitat and recreation uses.

RD 2121 maintains two miles of levees, 4.3 miles of drainage ditches and one pumping station. Key infrastructure in the District includes approximately one mile of levee on the north side along Dead Dog Slough, and one mile of levee on the east side along Werner Dredger Cut. Levees are constructed out of earthen material with concrete rubble and some rip-rap on the water side, but do not meet any particular standard.

The District bounds encompass agricultural activities with farm headquarter buildings consisting of offices, farm worker housing, and storage structures. Land uses are primarily agricultural, including grapes, alfalfa, and pasture for cattle grazing; some of the acreage is fallow and

provides habitat for birds and animals. The State Farmland Mapping and Monitoring Program classifies the District's agricultural land as Prime Farmland (250± acres), Farmland of Statewide Importance (30± acres), Unique Farmland (60± acres), and Farmland of Local Importance (230± acres). There is no Williamson Act contracted land within the District.

The District is a family-run operation (the Bloomfield family) that provides maintenance services to non-project levees and internal drainage facilities. RD 2121 has a population of five persons. The District does not have any employees; maintenance activities are carried out by employees of the Bloomfield family and Bloomfield Vineyards. Like most RDs, RD 2121 has a volunteer board currently comprising three landowners and one vacant seat.

DISCUSSION

LAFCO Municipal Service Reviews (MSRs): Prior to Contra Costa LAFCO embarking on comprehensive MSRs in 2006, the Commission conducted abbreviated MSRs, including an MSR on reclamation districts in 2004. At that time, RD 2121 was found to be inactive and not providing services.

In 2009, Contra Costa LAFCO completed its first comprehensive MSR covering reclamation services. The 2009 MSR found RD 2121 deficient in the following areas:

- RD 2121 was the only district in total non-compliance with the Federal Emergency Management Agency (FEMA) requirements; the entire two-mile levee system was below FEMA Hazard Mitigation Plan (HMP) standards. All districts were on target to implement the State Department of Water Resources (DWR) required five-year plan, with the exception of RD 2121.
- The District had prepared no financial or planning documents (i.e., audit, budget, capital plan, etc.), and does not file annual reports with the State Controller's Office (SCO).
- RD 2121's financial resources were severely constrained. The District did not participate in State subvention programs, and was solely dependent on funding commitments of the landowner.
- As with a number of the reclamation districts, RD 2121 does not have a formal levee inspection procedure and does not keep written inspection reports.

The MSR concluded that RD 2121 was not functioning as a public agency and not fulfilling all of its corporate powers pursuant to Government Code §56871. The District Manager agreed that RD 2121 was inactive, and there was no indication provided by the District as to why it should continue to exist.

The 2009 MSR identified three governance options for RD 2121, including: 1) consolidation with RD 2024, 2) consolidation with RD 2065, and 3) dissolution. Consolidation of RD 2121 with either RD 2024 or RD 2065 was determined to be infeasible for financial and liability reasons. The MSR consultants and LAFCO staff recommended adopting a zero SOI for RD 2121, signaling a future change of organization (e.g., dissolution). However, the Commission voted to retain the existing coterminous SOI, and required RD 2121 to report back to LAFCO

within two years as to its progress in meeting operational and infrastructure challenges as identified in the MSR report. LAFCO has no record of a progress report being provided.

In 2015, LAFCO completed its second round MSR covering reclamation services. The 2015 MSR updated information contained in the 2009 MSR, and provided a status report on the more significant issues identified in the 2009 MSR. In conjunction with the 2015 MSR, RD 2121 property owners reported that some improvements on the levees have been made with rock materials, but no value to the District was recorded.

RD 2121 reported no changes or improvements in its governance, operations or financial status. The District was inactive, not functioning as a governmental agency, and not recording financial transaction reports with the State Controller's Office.

The 2015 MSR concluded that unless RD 2121 reactivates its financial reporting and makes physical improvements to its levees, no State Levee Subvention or Special Project funding will be available. Further, as currently functioning, RD 2121 will be unable to maintain levee infrastructure and financial stability. At a minimum, a budget and financial and capital improvement plans are needed to improve District operations.

The 2015 MSR identified one SOI option: adoption of a zero SOI, signaling a future "reorganization." In November 2015, the Commission, by resolution, adopted a zero SOI for RD 2121.

Grand Jury Report – In June 2016, the Contra Costa County Grand Jury issued Report No. 1607 "*Delta Levees in Contra Costa County: How Well Do We Protect This Vital Safety System?*" The Grand Jury report came on the heels of LAFCO's second round MSR, and raised concerns about the condition of the County's levee system, what's at risk, financial challenges, and future opportunities. In preparing this report, the Grand Jury relied on numerous publications, including the 2015 the Contra Costa LAFCO MSR.

The Grand Jury report noted that many of the levees are fragile, subject to degradation from natural forces and from the effects of human activities. While the RDs that own and/or manage the levees have done much to protect and maintain them, often aided by State financial support, more can be done, even within the limits of the Districts' financial resources.

The Grand Jury report recommended focusing on three major areas: sharing of resources and knowledge among RDs, education of residents of the RDs as to the reasons behind levee rules and regulations, and increased involvement and participation by the various entities that benefit from the protection afforded by the levee system.

The 2015 LAFCO MSR report contained similar focus areas and recommended that RDs explore the feasibility of entering into mutual aid agreements with adjacent RDs to formalize a plan for assistance and the use and distribution of resources in times of need and/or emergency situations; and explore a shared website with the other RDs in Contra Costa County.

Both the LAFCO and Grand Jury reports recognize that the Delta levees are vulnerable, in need of repair and maintenance, and pose a risk to Contra Costa and surrounding counties. We also

recognize that efforts to repair and improve the levee system are difficult given that cost, time to implement and political controversy as discussed in a recent article published by the Public Policy Institute of California (Attachment 2).

California State Controller's Office (SCO) - Notice of Inactive Districts – In January 2017, the SCO sent letters to 14 LAFCOs and to a number of County Auditors asking for updates regarding identified inactive districts. Both Contra Costa LAFCO and the Contra Costa County Auditor received letters. See attached letter to Contra Costa LAFCO (Attachment 3).

The SCO is trying to clean up records in an effort to have inactive districts dissolved and removed from the State's rolls.

Pamela Miller, Executive Director, CALAFCO contacted the SCO for additional information regarding their letter. Here is a summary of her conversation with the SCO:

1. **Why are they doing this?** Cleaning up inactive districts is a project they have been working on for a while as directed by the Executive Office of the SCO.
2. **How are they defining "inactive"?** The SCI defines "inactive" as, *in a fiscal year the district: (1) has had no financial transactions; AND (2) the district has no assets; AND (3) the district has no fund equity; AND (4) the district has no outstanding debt.*
3. **How many of these districts are we talking about and which LAFCOs received these letters?** In total, there are 22 independent special districts they have identified meeting the criteria in #2 above. Of those, 19 have been identified as inactive since at least the FY 2009-10. There are 14 LAFCOs that received this letter. They are: *Contra Costa, Fresno, Kern, Madera, Merced, Plumas, San Joaquin, Shasta, Sierra, Solano, Sonoma, Stanislaus, Tehama and Tulare.*
4. **Are they focusing on just independent special districts?** No. They have also identified a number of dependent special districts using the same criteria and letters have been sent to those respective counties requesting the same action.

If you were a LAFCO that received this letter -- LAFCOs received these letters with a request for information in the hopes of assisting the SCO in updating their records. If the district is in fact inactive pursuant to the SCO's criteria, the SCO's expectation is that LAFCO take the initiative to dissolve the district. The SCO knows that LAFCO has the power to dissolve and reorganize districts. Ms. Miller explained to the SCO that the LAFCO must go through a process to do this and that process takes time and resources.

CALAFCO strongly encourages LAFCOs to initiate the dissolution process if in fact the district meets the appropriate criteria relating to being inactive. Ms. Miller notes *there is a great deal of attention being paid to districts and LAFCOs by many state entities these days, and this action will demonstrate that LAFCOs are in fact fulfilling a part of their legislative responsibilities.*

As noted in Contra Costa LAFCO's response to the SCO (Attachment 3), we confirmed that RD 2121 is inactive and noted that in November 2015, Contra Costa LAFCO adopted a "zero" SOI RD 2121 signaling a future change of organization (e.g., dissolution, consolidation). Further, that a proposed dissolution would be submitted to the Commission for consideration.

Upon receipt of the letter from the SCO, LAFCO staff forwarded a copy to Tom Bloomfield, RD 2121 Board Member (and landowner). LAFCO also sent Mr. Bloomfield a copy of LAFCO's response. Mr. Bloomfield contacted the LAFCO office and indicated that he was currently looking into State funding opportunities.

LAFCO staff also share with Mr. Bloomfield a draft copy of this staff report and requested comments. As of this writing, no comments or questions were received.

RD 2121 and Governance Options – As indicated above, the LAFCO MSR's included governance options relating to RD 2121, including consolidation and dissolution. It was determined during the MSR process that consolidation was not feasible due to fiscal and liability issues. Further, there was no interest by the neighboring RDs to consolidate.

At this time, it appears that the Commission has at least two options:

1. Initiate dissolution; or
2. Defer dissolution pending an update from Mr. Bloomfield in a specific period of time (e.g., 6 months, 12 months). At a minimum, the update should address the status of the District's finances [e.g., budget (e.g., expenses, revenues), audits, reports to the SCO), infrastructure (i.e., levee maintenance), governance (e.g., board actions/activities, efforts to improve governance and transparency), and capital planning.

RECOMMENDATION

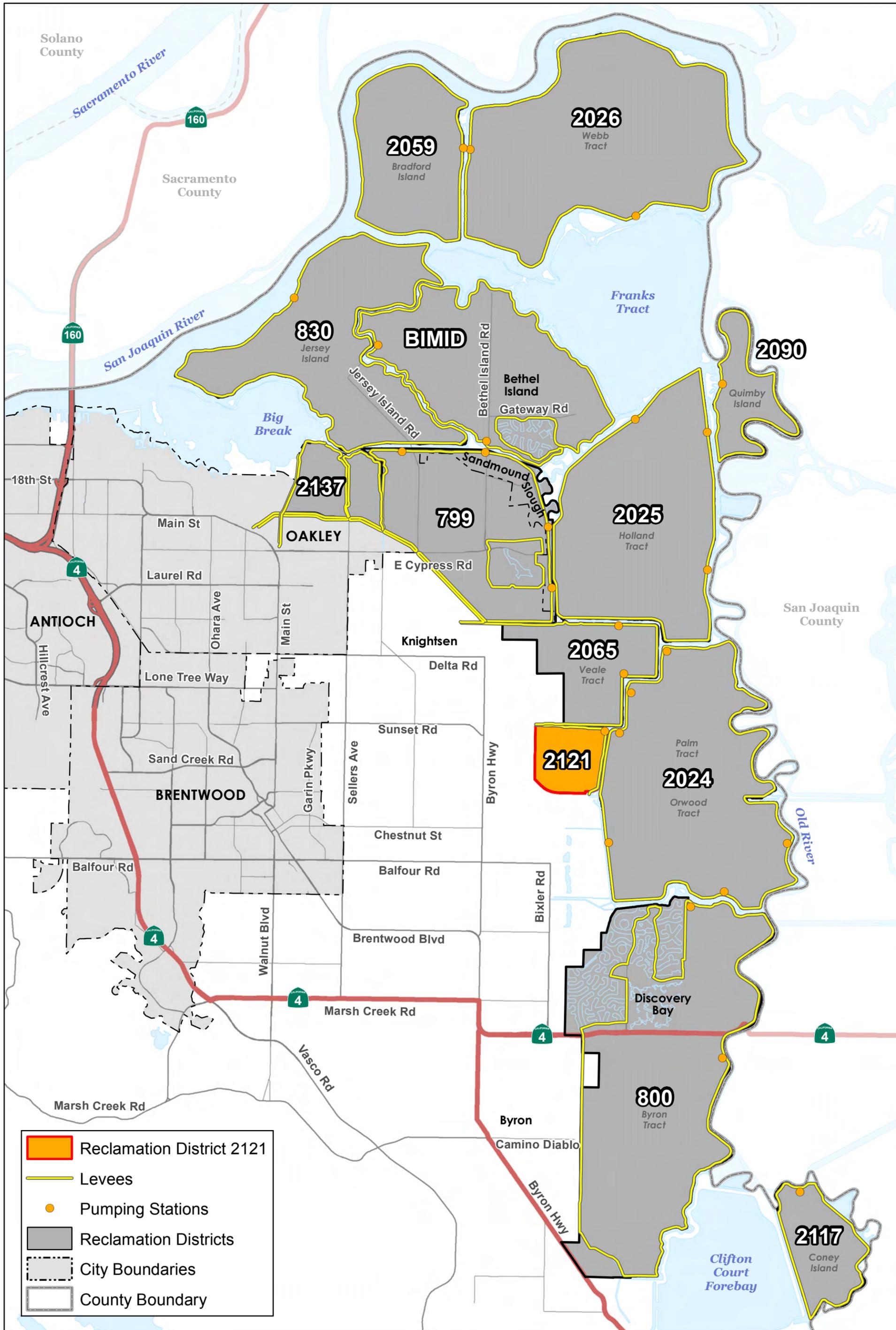
Provide direction to LAFCO staff regarding next steps.

Sincerely,

LOU ANN TEXEIRA
EXECUTIVE OFFICER

Attachments

1. Map of RD 2121
2. Article on the Delta - Public Policy Institute of California
3. Letter from the State Controller's Office to Contra Costa LAFCO and LAFCO's Response



| | |
|--|---------------------------|
|  | Reclamation District 2121 |
|  | Levees |
|  | Pumping Stations |
|  | Reclamation Districts |
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The High Cost of Fixing Levees

JEFFREY MOUNT FEBRUARY 23, 2017

The crisis at Oroville brought dams to the forefront of state and national discussions about aging infrastructure. Now, as full dams release high flows into rivers hemmed in by levees, this element of the state's flood management system is in the spotlight.

Many of our levees are very old—much older than most of the state's dams—and in need of modernization. Nowhere in California is the issue more important—or more challenging—than in the Central Valley, and particularly, the Sacramento-San Joaquin Delta.

The levees of the Central Valley are being tested this winter by sustained high flows. Some have failed, resulting in evacuations—including along the Cosumnes and San Joaquin Rivers. More challenges are in store in the Delta as flood waters move downstream later this week and into the spring.

The scale of modernization needed to avoid damaging floods—particularly as the climate changes and population on the floodplain grows—is vast. At least 1,600 miles of levees line the rivers and flood bypasses upstream of the Delta, forming the federally authorized Central Valley Flood Control Project. The most robust levees in this project protect cities like Sacramento, involving hundreds of millions of dollars' worth of upgrades. But most of the project has weak and outdated levees that are unreliable in large floods.

The Delta has its own unique network of more than 1,100 miles of levees, which ring islands that lie well below sea level. The Delta levees are the least reliable in the Central Valley and are under threat from sea level rise, continued sinking of the islands, and earthquakes.

The good news for Central Valley levees is that there is consensus that the system needs a substantial upgrade, and there has been significant progress in envisioning what that might entail. In 2006, the legislature instructed the Department of Water Resources to develop a comprehensive plan for improving flood management within the region. The [Central Valley Flood Protection Plan](#)—released in

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2012 and updated every five years—identifies a range of options, including new infrastructure, updated operation systems, and land use changes that could improve flood protection for the Sacramento and San Joaquin Valleys.

In the Delta, a 2009 law instructed the Delta Stewardship Council to develop a plan for prioritizing state investments in levees, balancing local needs with statewide interests. A draft plan now under review is expected to be adopted later this year.

The bad news is that doing anything about these levees is going to be difficult for three reasons: it would be very expensive, take a very long time to implement, and be very controversial. The Central Valley plan has a price tag of \$17–\$21 billion over 30-plus years. For the Delta, the council has identified more than \$2 billion in high-priority upgrades.

These costs far outstrip the resources of local flood management entities—particularly in the Delta, where low land values and farm revenues make it hard to generate funds for major upgrades. State bonds and some federal dollars have provided key support, but there is still a large gap—in the range of \$800 million to \$1 billion annually. Indeed, flood management remains one of the water sector's most prominent "fiscal orphans," with one of the biggest funding gaps compared to need.

State policymakers will need to assess what is achievable with known or likely resources and make tough choices about priorities based on state interests and public safety. This is not an easy task. There is usually strong local pressure to do something for as many people as possible with the limited funds available. While this approach appears equitable, it is unlikely to yield significant reductions in flood risk. Investments will need to be concentrated to be effective.

As noted in our recent blog post, the silver lining of this winter's flooding is renewed attention to the urgent need to modernize the state's flood management infrastructure. These discussions have begun in the legislature. Sustained leadership on this issue will be needed to sustain the urgency to act once the sun shines again. The good news is that the legislature has taken the all-important first step in tackling this difficult but very important problem.

LEARN MORE

Visit the [PPIC Water Policy Center flood resources page](#)

Read *California's Water: Paying for Water* (from *California's Water* briefing kit, October 2016)

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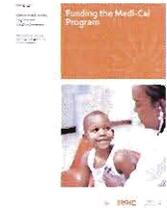
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BETTY T. YEE
California State Controller



January 19, 2017

Executive Officer
Contra Costa Local Agency Formation Commission
651 Pine Street, Suite #6
Martinez, CA 94553

SUBJECT: Inactive Special Districts

Dear Executive Officer:

We are attempting to update our special district records and seek your assistance in providing us with any information you may have.

The enclosed list contains special district(s) within your jurisdiction that have reported no financial activity to the State Controller's Office (SCO) for at least the 2014-15 reporting period. Government Code section 53891 requires special districts to submit their financial transactions reports to the SCO annually.

Please complete the "status" (dissolving, active, etc.) and "comments" portions of the enclosed spreadsheet and return it, along with any supporting documentation, by email to SDsupport@sco.ca.gov or by mail to:

State Controller's Office
Local Government Programs and Services Division
Local Government Reporting Section
P.O. Box 942850
Sacramento, CA 94250

If any of the districts should be dissolved, please take appropriate action. If you have questions, please contact the Special Districts Reporting Unit by telephone at (916) 327-1017, or by email at SDsupport@sco.ca.gov.

Your response by February 28, 2017, will be appreciated. Thank you for your assistance.

Sincerely,

GEORGE LOLAS
Chief Operating Officer

Enclosure

State Controller's Office
 Contra Costa Local Agency Formation Commission - Inactive Special District

January 19, 2017

| # | Entity Name | No Financial Activity Reported | | | | Status | Comments |
|---|------------------------------|--------------------------------|---------|---------|-------------------|----------|---|
| | | 2014-15 | 2013-14 | 2012-13 | Prior to 2012-13* | | |
| 1 | Reclamation District No 2121 | X | X | X | X | Inactive | In Nov. 2015, Contra Costa LAFCO adopted a "zero" sphere of influence for Reclamation District 2121 signaling a future change of organization (e.g., dissolution, consolidation). A proposed dissolution will be submitted to the Commission. |

*No financial activity reported for three years prior to 2012-13.