



Contra  
Costa  
County

To: Board of Supervisors  
From: David Twa, County Administrator  
Date: August 16, 2016

Subject: RESPONSE TO CIVIL GRAND JURY REPORT NO. 1607, ENTITLED "DELTA LEVEES IN CONTRA COSTA COUNTY"

### **RECOMMENDATION(S):**

ADOPT report as the Board of Supervisors' response to Civil Grand Jury Report No. 1607, entitled "Delta Levees in Contra Costa County".

### **FISCAL IMPACT:**

No fiscal impact.

### **BACKGROUND:**

The 2015/16 Civil Grand Jury filed the above-referenced report, attached, on May 31, 2016, which was received on June 6, reviewed by the Board of Supervisors and subsequently referred to the County Administrator, who prepared the attached response that clearly specifies:

- A. Whether the finding or recommendation is accepted or will be implemented;
- B. If a recommendation is accepted, a statement as to who will be responsible for implementation and a definite target date;

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY  
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD  
COMMITTEE

Action of Board On: **08/16/2016** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

#### **VOTE OF SUPERVISORS**

AYE: John Gioia, District I Supervisor  
Candace Andersen, District II Supervisor  
Mary N. Piepho, District III Supervisor  
Karen Mitchoff, District IV Supervisor  
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: August 16, 2016

David Twa, County Administrator and Clerk of the Board of Supervisors

Contact: Julie DiMaggio Enea  
(925) 335-1077

By: Stephannie Mello, Deputy

cc:

- C. A delineation of the constraints if a recommendation is accepted but cannot be implemented within a six-month period; and
- D. The reason for not accepting or adopting a finding or recommendation.

## BACKGROUND: (CONT'D)

### Findings

F1. The portion of the Delta that lies within Contra Costa County includes six of the eight western islands, deemed by the State to be of particular importance to the preventing seawater intrusion that would impair the quality of the water for nearly two-thirds of the State, including much of the East Bay area.

***Response:** The respondent agrees with the finding.*

F2. Loss (i.e. submersion) of any of the six islands in the Delta within Contra Costa County has potential to affect adversely much more than just Contra Costa County.

***Response:** The respondent agrees with the finding.*

F3. Key infrastructure located within Contra Costa County reclamation districts benefits the entire County, including major County roads and highways, a rail-line, PG&E power transmission lines, natural gas wells, petroleum pipelines, Contra Costa Water District intakes, pumping stations, and portions of both the Contra Costa Canal and EBMUD's Mokelumne aqueduct.

***Response:** The respondent agrees with the finding.*

F4. The levees in the County's portion of the Delta have been built up or otherwise strengthened on a piecemeal basis over the century or more of their existence.

***Response:** No response is required of the County.*

F5. Because the levees remain vulnerable to natural hazards and human activities, they require constant vigilance – i.e., frequent inspection coupled with timely maintenance and prompt repairs.

***Response:** No response is required of the County.*

F6. The Army Corp of Engineers inspects federal levees, as well as non-federal levees that qualify for the Rehabilitation and Inspection Program.

***Response:** No response is required of the County.*

F7. All of our County's levees are non-federal levees and the only non-federal levees in

the County that qualify for participation in the Rehabilitation and Inspection Program are in Holland and Byron Reclamation Districts.

***Response:*** *No response is required of the County.*

F8. The only levees in the County that are independently evaluated for structural integrity are those in Reclamation Districts 800 and 2026, Holland and Byron.

***Response:*** *No response is required of the County.*

F9. LAFCO's MSR of the reclamation districts, which it performs every 5-years, focuses on financial and administrative management of the districts.

***Response:*** *No response is required of the County.*

F10. LAFCO relies on self-reported information from the districts, without physical inspection, to evaluate how well the districts are maintaining the integrity of the levees for which they are responsible.

***Response:*** *No response is required of the County.*

F11. There is no formal or standardized educational or training resource available to the districts for levee inspection, maintenance, and repair, which can support new levee superintendents or managers while they acquire the experience to recognize problems early, learn how to appropriately respond, and learn how to balance environmental regulations with maintenance protocols.

***Response:*** *No response is required of the County.*

F12. Levee management requires recognizing seasonal timeframes and juggling multiple deadlines, including preparing for storm season and the "no-mowing" period, when local bird populations nest, as well as timely application for the subvention and/or special projects funding programs.

***Response:*** *No response is required of the County.*

F13. Unpermitted encroachments can hinder visual inspection of the levee surface and create new structural weaknesses or potential conduits for seepage.

***Response:*** *No response is required of the County.*

F14. Education about the potential danger of unpermitted encroachments can be a highly effective management tool for mitigating this type of hazard because increased understanding of the potential consequences of such encroachments can support

longer-term adherence to levee regulations and protocols.

***Response:*** *No response is required of the County.*

F15. Since early recognition of potential trouble spots and prompt repair work are critical to maintaining levee integrity, while resources for levee patrols are limited, the presence of an educated and aware residential population can supply additional eyes to provide the constant vigilance that is crucial to safeguarding the levees.

***Response:*** *No response is required of the County.*

F16. In addition to permitting procedures and intermittent newsletters, there are other opportunities to educate the public, and especially residents of reclamation districts, about the hazards that can damage or impair the levees.

***Response:*** *The respondent agrees with the finding.*

F17. Explaining the hazards to levees by multiple means at appropriate times -- i.e., just before the start of storm season in the fall -- can help to keep awareness at a heightened and effective level.

***Response:*** *The respondent agrees with the finding.*

F18. Efforts to educate and raise public awareness could be enhanced by cross-departmental and/or cross-agency cooperation such as including Flood Control safety bulletins with other seasonally appropriate, apt-to-be-read or mandatory mailings such as property tax bills or voter information packets.

***Response:*** *The respondent agrees with the finding.*

F19. It takes nearly 2 years from the application date for reclamation districts to receive reimbursement of levee maintenance work approved by DWR under the Subventions Program.

***Response:*** *The respondent agrees with the finding.*

F20. The cost of the initial funding required of reclamation districts under DWR's Subventions Program can be prohibitive for some reclamation districts, resulting in under-utilization of this highly beneficial program.

***Response:*** *The respondent agrees with the finding.*

F21. Some reclamation districts that are unable to maintain the staff, equipment, and material stockpiles needed for emergency major repairs, rely on informal mutual-aid arrangements.

***Response:*** *The respondent agrees with the finding.*

F22. Planning agencies can require that developers who seek to develop areas within reclamation districts financially contribute to existing levees as a condition of approval of their proposed developments, as was done with the East Cypress Corridor Plan for residential development in the interior of Hotchkiss Tract, Reclamation District 799.

***Response:*** *The respondent agrees with the finding, provided there is a clear nexus to the proposed project.*

F23. The feasibility of interagency cooperative ventures to accomplish levee improvements has been demonstrated by multi-agency coalition to improve the levees in Reclamation District 2028, Bacon Island.

***Response:*** *The respondent agrees with the finding.*

## **Recommendations**

R1. After identifying the necessary funding, LAFCO should consider including independent physical inspections of levee conditions, in addition to the self-reported evaluations of the conditions, in the MSRs of all County reclamation districts, if necessary by hiring an independent engineering firm to perform this function.

***Response:*** *No response is required of the County.*

R2. After identifying the necessary funding, the County reclamation districts should collaborate in establishing and supporting a shared website, possibly approaching one of the Districts that already has a website to take the lead. This website should include “Best Practices”, a calendar of date- or seasonal-specific tasks, such as preparation for nesting season when certain work is prohibited, and dates when Subventions Program applications are due, and a common log of significant levee incidents to identify and track historical trouble spots.

***Response:*** *No response is required of the County.*

R3. After identifying the necessary funding, the County reclamation districts should consider taking turns hosting a short, local, annual conference for all District Board members and staff. Each conference should include an educational presentation on a matter of common interest, such as changes in regulations or levee standards, new

technology or procedures for levee work, new sources of funding, and/or most effective techniques for successful grant applications.

***Response:*** *No response is required of the County.*

R4. After identifying the necessary funding, reclamation districts should consider adding a “training module” for new and re-elected Board members to their required governance training (i.e. Brown Act and Ethics). This “module” or session should cover the district’s levee regulations and protocols, the consequences of noncompliance with regulations and protocols, flood preparedness, and emergency response training – or at minimum a “back to basics” session with the consulting engineer to cover these concerns.

***Response:*** *No response is required of the County.*

R5. Reclamation districts should formalize, or at a minimum document, all “Mutual Aid” agreements for future reference as reclamation district personnel change over time.

***Response:*** *No response is required of the County.*

R6. After identifying the necessary funding, the County Tax Collector should consider including informational material on flood preparedness or levee safety precautions, available at no charge from our County Flood Control or Central Valley Flood Control Agency or DWR, with every property tax bill that has an address within a reclamation district.

***Response:*** *The recommendation has not yet been implemented but will be implemented in the future, subject to the availability of funding. Tax bills that have a situs address within a reclamation district may have a message printed in the **Important Information to Taxpayer(s)** section, directing owners where to go online to learn more about flood preparedness or levee safety precautions. The County is very active in providing information on flood preparedness and levee safety.*

*The Contra Costa County Floodplain Management Program serves the unincorporated area of the county. The Engineering Services Division of Public Works coordinates the program and provides floodplain information for existing structures and proposed projects within the Special Flood Hazard Area. The Program's website offers a wealth of information on floodplain issues. In addition to the website, the Flood Plain Management Program makes numerous brochures available at the Public Works Department's front counter. Also, after the Federal Emergency Management Agency restudies a watershed and modifies the 100 year flood plain, the County sends advisory letters to impacted residents and the board of realtors.*

R7. After identifying the necessary funding, the County Clerk Recorder should consider

including informational material on flood preparedness or levee safety precautions, available at no charge from our County Flood Control or Central Valley Flood Control Agency or DWR, with election materials sent to addresses within a reclamation district.

***Response:*** *The recommendation will not be implemented because it is not warranted. There are less expensive and probably more effective methods of communicating this information to residents of reclamation districts (see response to R.6).*

*The Elections Division of the Clerk-Recorder-Elections Department currently includes informational materials in the voter information guides when there are “blank” pages available and the information is general in nature (does not conflict with any ballot measure or candidate). The printing cost of providing a single page of information in English and Spanish is approximately \$.0225 per voter. For inclusion in a countywide voter pamphlet, the cost would be approximately \$15,000, including translation and typesetting. The voter information packet can be quite voluminous and non-election messaging within the voter information packet could easily be overlooked or disregarded.*

R8. After identifying the necessary funding, the Board of Supervisors should consider directing the County Planning Department to provide each applicant for new construction or major remodeling in unincorporated areas within a reclamation district with a brochure or direction to an online website explaining levee safety rules and regulations, along the reasons for same, applicable to their particular reclamation district and to require that each applicant confirm receipt of the brochure or link to website by initialing.

***Response:*** *The recommendation will not be implemented because it is not reasonable. Property owners within flood zones and/or reclamation districts have the responsibility of following the required development standards for construction on their property, including but not limited to compliance with building codes, zoning laws and flood zone regulations. While educating the public on these regulations is an admirable goal, requiring confirmation of receipt of levee safety rules and regulations will be perceived by applicants as another hoop to jump through with little practical value. There is no operational necessity or benefit to the County to maintain such signed receipts.*

R9. The Oakley City Council should direct the Oakley Planning Commission to provide each applicant for new construction or major remodeling within a reclamation district in the City of Oakley with a brochure or direction to an online website explaining levee safety rules and regulations, along with the reasons for same, applicable to their particular reclamation district and to require that each applicant confirm receipt of the brochure or link to website by initialing.

***Response:*** *No response is required of the County.*



R10. The Board of Supervisors should consider directing the appropriate planning and/or land use department to follow the precedent established by the East Cypress Corridor Project and conditions approval of proposals for new residential or commercial development, where allowed on any unincorporated County land in a reclamation district, on financial support of existing levees.

***Response:*** *The recommendation has not yet been implemented but will be implemented in the future for proposed projects where there is clear nexus to existing levees. County project planners will propose conditions of approval that support maintenance of existing levees on future projects seeking development permits from the County when there is a clear nexus.*

R11. The City of Oakley should consider following the precedent established by the East Cypress Corridor Project and conditioning approval of proposals for new residential or commercial development, where proposed on Oakley's annexed land in a reclamation district, on financial support of the existing levees.

***Response:*** *No response is required of the County.*

R12. After identifying the necessary funding, the Board of Supervisors should consider directing the County's Transportation, Water, and Infrastructure Committee (TWIC) to establish a task force or initiate a staff study to investigate ways to encourage and facilitate grant-seeking coalitions of urban water agencies and/or other beneficiaries of the levee system, on smaller-scale projects with shorter time horizons than those currently being investigated by the Delta Protection Commission (i.e. similar to but including even smaller-scale projects than the Bacon Island improvement coalition).

***Response:*** *The recommendation will not be implemented because it is not warranted. The Transportation, Water and Infrastructure Committee (TWIC), a two-member committee of the Board of Supervisors, is charged with reviewing issues associated with Delta levees and flood control (see excerpt from TWIC Referral No. 5, below). Additionally, the Contra Costa County Delta Water Platform, revised and adopted by the Board in May of 2014, provides policy goals specific to "Levee Restoration" and "Flood Protection/Floodplain Management". It is the policy of the County to support implementation of projects and actions that will help improve the Delta. As illustrated below, policy goals exist to implement this recommendation but funding and staff resources do not.*

#### **5. Policy Excerpts from the Delta Water Platform**

##### *Flood Protection/Floodplain Management*

- a. *Advocate for funding assistance to Reclamation Districts to maintain non-project levees and to improve them to appropriate standards, such as PL*

*8. Levee Restoration*

- a. Advocate for significant funding for western and central Delta levees, individually and in collaboration with others to support water quality and the existing Delta water conveyance system and protect critical infrastructure.*
- b. Advocate immediate rehabilitation of priority levees on the western and central Delta islands in the strategic levee investments identified in the Delta Plan.*
- c. Advocate for funding assistance for small urban and urbanizing communities within the Delta to attain 200-year flood protection with levees that meet the proposed Urban Levee Design Criteria standards.*
- d. Support using PL84-99 as a minimum design standard for levees.*
- e. Support stockpiling rock in the Delta (and specifically in the western Delta) for levee repair.*
- f. Support a multi-year funding commitment to restore and improve non-project levees and levees outside the State Plan of Flood Control, which is defined in the Central Valley Flood Protection Plan.*
- g. Support and advocate for the Delta Long Term Management Strategy (LTMS) and the beneficial reuse of dredged materials for levee rehabilitation.*
- h. Oppose the Army Corps of Engineer's policy to require removal of all shrubs and trees from levees, unless it can be demonstrated the shrubs and trees impact the structural integrity of the levee.*

R13. After identifying the necessary funding, the Board of Supervisors should consider directing the County's Transportation, Water, and Infrastructure Committee to establish a task force to investigate possible ways for the less-advantaged reclamation districts to obtain interim funding, including but not limited to grants or low-interest rate loans, to cover the initial two-year lag-time to obtain reimbursement for essential levee maintenance work from the Subventions Program.

***Response:*** *The recommendation will not be implemented because it is not reasonable. Refer to the County's response to Recommendation No. 12.*

ATTACHMENTS

Civil Grand Jury Report No. 1607 "Delta Levees in Contra Costa County"