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October 11, 2017
 Agenda Item 6

October 11, 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:

In May 2017, the Commission received an update on the status of Reclamation District (RD) 2121 and an overview of governance options (refer to May 10, 2017 staff report for background information). The Commission requested a subsequent update in the fall, as provided below.

BACKGROUND

LAFCO Municipal Service Reviews (MSRs) - Since 2004, RD 2121 has been included in three LAFCO MSRs, all of which concluded that the District is inactive, not functioning as a government agency and not providing services or fulfilling its corporate powers. Specifically, RD 2121 was found to be 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 has 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 are severely constrained. The District does not participate in State subvention programs, and is 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 2009 MSR identified the following governance options for RD 2121: 1) consolidation with RD 2024, 2) consolidation with RD 2065, and 3) dissolution. Consolidation of RD 2121 with RD 2024 or RD 2065 was found 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. Further, RD 2121 reported no changes or improvements in its governance, operations or financial status. The District was again found to be inactive, not functioning as a governmental agency, and not recording financial transaction reports with the SCO.

The 2015 MSR concluded that unless RD 2121 activates 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 - Following the 2015 LAFCO MSR, 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?*” This report raised concerns about the condition of the County’s levee system, and associated physical and financial risks. The report noted the fragility of the levee system and the lack of funding, and recommended the following: sharing of resources and knowledge among RDs; education of residents of the RDs; and increased involvement and participation by the various entities that benefit from the levee system.

The 2015 LAFCO MSR report contained similar recommendations and suggested 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 to consider 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 acknowledge that efforts to repair and improve the levee system are difficult given the cost, time to implement and political controversy.

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. The SCO indicates it is cleaning up its records in an effort to have inactive districts dissolved and removed from the State’s rolls, as summarized below:

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 SCO 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 that meet the criteria above. Of those, 19 have been inactive since at least the FY 2009-10. There are 14 LAFCOs that received the letter: *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. The SCO also identified a number of dependent special districts (e.g., CSAs) using the same criteria and letters were sent to those respective counties requesting the same action.

LAFCOs received these letters with a request for information to help the SCO update their records and to facilitate dissolution of inactive districts. The SCO knows that LAFCO has the power to dissolve and reorganize districts and expects LAFCOs to take the appropriate action.

In response to the SCO’s letter of January 2017, Contra Costa LAFCO staff confirmed that RD 2121 is inactive and that in November 2015, Contra Costa LAFCO adopted a zero SOI for RD 2121 signaling a future change of organization (e.g., dissolution). Further, that a proposed dissolution would be submitted to the Commission for consideration.

LAFCO staff shared with RD 2121 the SCO’s letter and LAFCO’s response. Mr. Bloomfield, RD 2121 Board Member, contacted the LAFCO office and indicated that he was currently looking into State funding opportunities and did not wish for RD 2121 to be dissolved.

Legislation Enacted to Address Inactive Districts – On September 27, 2017, the Governor signed Senate Bill 448 (Attachment 1) which defines “inactive districts” and requires the SCO to publish a list of inactive special districts and notify LAFCOs of inactive districts in their county. The bill requires LAFCO to initiate dissolution of inactive districts by resolution within 90 days of receiving notification from the SCO, unless LAFCO determines that the district does not meet the criteria for “inactive district.” SB 448 also establishes an expedited process for LAFCOs to dissolve inactive districts. SB 448 becomes effective January 1, 2018.

DISCUSSION

In May 2017, the Commission received an update on the status of RD 2121. The Commission requested a subsequent, more comprehensive update in the fall. LAFCO staff sent RD 2121 a detailed request for information (RFI) relating to infrastructure, finances and governance (Attachment 2); attached is the District’s response (Attachment 3).

RD 2121’s Response to LAFCO’s RFI: The District indicates that they strongly disagree with any attempt to dissolve RD 2121, and provided the following responses to specific issues identified in LAFCO’s RFI:

1. Infrastructure:

a. Current condition of levees – *Currently, Reclamation District 2121 levees do not meet the State or Federal standards. We are in the process of working on the levees. In fact, we have spent the last 6 months identifying qualified fill and subcontractors to support weak areas and create a good foundation. 60% of our levee is at a conforming height (11' 3") and GPS level. The remaining 40% is a top priority. Fill dirt has been added to the dry side of the levee.*

b. Capital improvement Plan (CIP) – *There has been no formal CIP to address long term capital planning issues. We have used every available dollar and resource to improve the levees.*

c. Levee Inspections - *We have not instituted formal levee inspection procedures and/or written inspections.*

2. Fiscal

a. Funding – *There has been a change in the District's infrastructure expenses. We are in the process of a multi-year levee stabilization project. There will be no annual assessments. The income source comes from our family's farm. We would be interested in being eligible for State or Federal funding in the coming years, but we have never applied for State or Federal funding.*

3. Transparency

a. Website – *We do not have a website, at this time.*

Other LAFCO Questions: *No, we have never applied for State or Federal funding. But we believe that without Reclamation District 2121, we would never have the formal vehicle to apply for matching funds to protect the 10,500 feet of levees surrounding our parcels and the Burlington Northern tracks.*

If Reclamation District 2121 dissolves, what will happen in the event of a system wide failure of California delta levees? What agency do we call? Who will help support the levees that are not protected by a Reclamation District?

Again, since 1984, Reclamation District 2121 has been INACTIVE, with no issues. In 2017, the State of California and LAFCO attempts to DISSOLVE the only avenue available for a small business to improve and conform levees in the delta.

In light of this year's catastrophic precipitation, we request that Reclamation District 2121 not be dissolved. We ask to remain INACTIVE.

RD 2121 and Governance Options – As indicated above, the LAFCO MSRs 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.

LAFCO assigned a zero SOI to the District signaling future dissolution; and in 2016, the SCO identified RD 2121 as an inactive district, also signaling dissolution.

Existing law requires local agencies to furnish the SCO with an annual financial report, and to prepare and submit to the SCO financial audits prepared by a certified public accountant.

SB 448 includes the following new requirements and provisions:

- Requires special districts to file their audits with the SCO and with LAFCO.
- Requires the SCO to prepare an annual list of inactive districts (dependent and independent), publish the list on its website and notify LAFCOs of the inactive districts in their county.
- Requires LAFCO to initiate proceedings to dissolve inactive districts within 90 days of receiving notice from the SCO, unless LAFCO determines the district does not meet the criteria defining “inactive district.”
- LAFCO shall hold one public hearing in conjunction with the dissolution; the second hearing (protest hearing) is waived.
- “Inactive district” means a special district that meets all of the following:
 - (a) The special district is as defined in Section 56036.
 - (b) The special district has had no financial transactions in the previous fiscal year.
 - (c) The special district has no assets and liabilities.
 - (d) The special district has no outstanding debts, judgments, litigation, contracts, liens, or claims.

Both the 2009 and 2015 LAFCO MSR's concluded that RD 2121 is inactive. The District recognizes that it is inactive and wishes to remain so. Further RD 2121 acknowledges that since its formation in 1984, it has never applied for State or Federal funding.

Both MSR's note that RD 2121 does not adopt an annual budget, does not prepare financial statements, and does not report to the SCO. In conjunction with the MSR's, the District reported annual expenses of \$5,000 and annual revenues of \$5,000. It appears no formal assessments or fees were charged to the landowner, and that RD 2121 has no long term debt. The District also reported a \$23,000 infrastructure investment in FY 2013-14. We assume this was related to improvements on the levees with rock materials, but no value to the District was recorded. No other financial information was provided by the District.

According to SB 448, the District cannot remain inactive. However, while it appears that RD 2121 is inactive, without current financial information it is difficult to determine if RD 2121 meets all of the criteria contained in SB 448.

Next Steps – Staff recommends that we continue the discussion relating to the dissolution of RD 2121 until the January 2018 LAFCO meeting, at which time SB 448 will be effective.

In the meanwhile, LAFCO staff will formally advise the District of the new requirements under SB 448. In addition, we will request current financial information relating to FY 2016-17 expenditures, revenues and assessments, as well as assets, liabilities, outstanding debts, judgments, litigation, contracts, liens, and claims.

Finally, we will advise RD 2121 that should they remain an independent district, they must address the issues and concerns identified in the LAFCO MSR's, as LAFCO required of the Castle Rock County Water District. These issues include the following:

1. Infrastructure

- a. Provide LAFCO with a plan/timeline for bringing the District's levees up to State standards.
- b. Provide LAFCO with a timeline for preparing a Capital Improvement Plan.
- c. Provide LAFCO with a timeline for preparing a levee inspection procedures and/or program.
- d. Provide LAFCO with an update on levee improvement activities as described in the District's recent update (i.e., fill, multi-year stabilization, etc.).

2. Fiscal

- a. Provide LAFCO with the last three annual budgets (FY 2016-17, 2015-16, 2014-15).
- b. Provide LAFCO with information pertaining to assessments, assets, liabilities, outstanding debts, judgments, litigation, contracts, liens, and claims.
- c. Provide LAFCO with a plan and timeline as to when RD 2121 will apply for State and/or Federal funding.
- d. Provide LAFCO with a timeline as to when RD 2121 will prepare a financial audit as required by current statute.
- e. Provide LAFCO with a timeline as to when RD 2121 will submit its financial report to the SCO as required by current statute.

3. Transparency

- a. Provide LAFCO with a timeline as to when RD 2121 will launch its website. Streamline (<http://www.getstreamline.com/>) as well as the California Special Districts Association offer services to assist small districts with website development.

RECOMMENDATIONS

Continue the discussion regarding dissolution of RD 2121 to the January 10, 2018 LAFCO meeting; and direct staff to send RD 2121 a letter requesting the information summarized above, along with any other information the Commission desires.

Sincerely,

LOU ANN TEXEIRA
EXECUTIVE OFFICER

Attachments:

1. Senate Bill 448
2. LAFCO Request for Information (RFI)
3. Reclamation District 2121's Response to LAFCO's RFI

c: RD 2121
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SB-448 Local government: organization: districts. (2017-2018)

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Senate Bill No. 448

CHAPTER 334

An act to amend Sections 26909, 56073.1, and 56375 of, to add Sections 12463.4 and 56042 to, and to add Article 6 (commencing with Section 56879) to Chapter 5 of Part 3 of Division 3 of Title 5 of, the Government Code, relating to local government.

[Approved by Governor September 27, 2017. Filed with Secretary of State September 27, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 448, Wieckowski. Local government: organization: districts.

(1) Existing law requires the officer of each local agency, as defined, who has charge of the financial records of the local agency, to furnish to the Controller a report of all the financial transactions of the local agency during the next preceding fiscal year within 7 months after the close of each fiscal year. Existing law also requires a report of an audit of a special district's accounts and records made by a certified public accountant or public accountant to be filed with the Controller and the county auditor of the county in which the special district is located within 12 months of the end of the fiscal year or years under examination.

This bill would instead require special districts defined by a specified provision to file those audit reports with the Controller and special districts defined by another specified provision to file those audit reports with the Controller and with the local agency formation commission of either the county in which the special district is located or, if the special district is located in 2 or more counties, with each local agency formation commission within each county in which the district is located. The bill would also require the Controller to publish on the Controller's Internet Web site a comprehensive list of special districts on or before July 1, 2019, and to annually update that list.

(2) The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides the exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts, as specified.

This bill would require the Controller to create a list of special districts that are inactive, as provided. The bill would also require the Controller to publish this list and to notify a local agency formation commission in the county or counties in which the special district is located if the Controller has included the special district in this list. The bill would require a local agency formation commission to initiate proceedings for the dissolution of any special district that is an inactive district and to dissolve those districts. The bill would define the term "inactive district" for these purposes. This bill would also make conforming changes. By increasing the duties of local officials, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 12463.4 is added to the Government Code, to read:

12463.4. On or before July 1, 2019, the Controller shall publish on the Controller's Internet Web site a comprehensive list of special districts. The Controller shall update the list every year thereafter. For purposes of this section, the term "special district" means an "independent district" or "independent special district" as those terms are defined in Section 56044.

SEC. 2. Section 26909 of the Government Code, as amended by Section 1 of Chapter 164 of the Statutes of 2016, is amended to read:

26909. (a) (1) The county auditor shall either make or contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of every special district within the county for which an audit by a certified public accountant or public accountant is not otherwise provided. In each case, the minimum requirements of the audit shall be prescribed by the Controller and shall conform to generally accepted auditing standards.

(2) (A) If an audit of a special district's accounts and records is made by a certified public accountant or public accountant, the minimum requirements of the audit shall be prescribed by the Controller and shall conform to generally accepted auditing standards.

(B) A report of the audit required pursuant to subparagraph (A) shall be filed within 12 months of the end of the fiscal year or years under examination as follows:

(i) For a special district defined in paragraph (2) of subdivision (d) of Section 12463, with the Controller.

(ii) For a special district defined in Section 56036, with the Controller and with the local agency formation commission of the county in which the special district is located, unless the special district is located in two or more counties, then with each local agency formation commission within each county in which the district is located.

(3) Any costs incurred by the county auditor, including contracts with, or employment of, certified public accountants or public accountants, in making an audit of every special district pursuant to this section shall be borne by the special district and shall be a charge against any unencumbered funds of the district available for the purpose.

(4) For a special district that is located in two or more counties, this subdivision shall apply to the auditor of the county in which the treasury is located.

(5) The county controller, or ex officio county controller, shall effect this section in those counties having a county controller or ex officio county controller.

(b) A special district may, by unanimous request of the governing board of the special district and with unanimous approval of the board of supervisors, replace the annual audit required by this section with one of the following, performed in accordance with professional standards, as determined by the county auditor:

(1) A biennial audit covering a two-year period.

(2) An audit covering a five-year period if the special district's annual revenues do not exceed an amount specified by the board of supervisors.

(3) An audit conducted at specific intervals, as recommended by the county auditor, that shall be completed at least once every five years.

(c) (1) A special district may, by unanimous request of the governing board of the special district and with unanimous approval of the board of supervisors, replace the annual audit required by this section with a financial review, or an agreed-upon procedures engagement, in accordance with the appropriate professional standards, as determined by the county auditor, if the following conditions are met:

(A) All of the special district's revenues and expenditures are transacted through the county's financial system.

(B) The special district's annual revenues do not exceed one hundred fifty thousand dollars (\$150,000).

(C) The special district shall pay for any costs incurred by the county auditor in performing an agreed-upon procedures engagement. Those costs shall be charged against any unencumbered funds of the district available for that purpose.

(2) If the board of supervisors is the governing board of the special district, it may, upon unanimous approval, replace the annual audit of the special district required by this section with a financial review, or an agreed-upon procedures engagement, in accordance with the appropriate professional standards, as determined by the county auditor, if the special district satisfies the requirements of subparagraphs (A) and (B) of paragraph (1).

(d) (1) A special district may, by annual unanimous request of the governing board of the special district and with annual unanimous approval of the board of supervisors, replace the annual audit required by this section with an annual financial compilation of the special district to be performed by the county auditor in accordance with professional standards, if all of the following conditions are met:

(A) All of the special district's revenues and expenditures are transacted through the county's financial system.

(B) The special district's annual revenues do not exceed one hundred fifty thousand dollars (\$150,000).

(C) The special district shall pay for any costs incurred by the county auditor in performing a financial compilation. Those costs shall be a charge against any unencumbered funds of the district available for that purpose.

(2) A special district shall not replace an annual audit required by this section with an annual financial compilation of the special district pursuant to paragraph (1) for more than five consecutive years, after which a special district shall comply with subdivision (a).

(e) Notwithstanding this section, a special district shall be exempt from the requirement of an annual audit if the financial statements are audited by the Controller to satisfy federal audit requirements.

(f) Upon receipt of the financial review, agreed-upon procedures engagement, or financial compilation, the county auditor shall have the right to appoint, pursuant to subdivision (a), a certified public accountant or a public accountant to conduct an audit of the special district, with proper notice to the governing board of the special district and board of supervisors.

(g) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

SEC. 3. Section 26909 of the Government Code, as added by Section 2 of Chapter 164 of the Statutes of 2016, is amended to read:

26909. (a) (1) The county auditor shall either make or contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of every special district within the county for which an audit by a certified public accountant or public accountant is not otherwise provided. In each case, the minimum requirements of the audit shall be prescribed by the Controller and shall conform to generally accepted auditing standards.

(2) (A) If an audit of a special district's accounts and records is made by a certified public accountant or public accountant, the minimum requirements of the audit shall be prescribed by the Controller and shall conform to generally accepted auditing standards.

(B) A report of the audit required pursuant to subparagraph (A) shall be filed within 12 months of the end of the fiscal year or years under examination as follows:

(i) For a special district defined in paragraph (2) of subdivision (d) of Section 12463, with the Controller.

(ii) For a special district defined in Section 56036, with the Controller and with the local agency formation commission of the county in which the special district is located, unless the special district is located in two or more counties, then with each local agency formation commission within each county in which the district is located.

(3) Any costs incurred by the county auditor, including contracts with, or employment of, certified public accountants or public accountants, in making an audit of every special district pursuant to this section shall be

borne by the special district and shall be a charge against any unencumbered funds of the district available for the purpose.

(4) For a special district that is located in two or more counties, this subdivision shall apply to the auditor of the county in which the treasury is located.

(5) The county controller, or ex officio county controller, shall effect this section in those counties having a county controller or ex officio county controller.

(b) A special district may, by unanimous request of the governing board of the special district and with unanimous approval of the board of supervisors, replace the annual audit required by this section with one of the following, performed in accordance with professional standards, as determined by the county auditor:

(1) A biennial audit covering a two-year period.

(2) An audit covering a five-year period if the special district's annual revenues do not exceed an amount specified by the board of supervisors.

(3) An audit conducted at specific intervals, as recommended by the county auditor, that shall be completed at least once every five years.

(c) (1) A special district may, by unanimous request of the governing board of the special district and with unanimous approval of the board of supervisors, replace the annual audit required by this section with a financial review, in accordance with the appropriate professional standards, as determined by the county auditor, if the following conditions are met:

(A) All of the special district's revenues and expenditures are transacted through the county's financial system.

(B) The special district's annual revenues do not exceed one hundred fifty thousand dollars (\$150,000).

(2) If the board of supervisors is the governing board of the special district, it may, upon unanimous approval, replace the annual audit of the special district required by this section with a financial review in accordance with the appropriate professional standards, as determined by the county auditor, if the special district satisfies the requirements of subparagraphs (A) and (B) of paragraph (1).

(d) Notwithstanding this section, a special district shall be exempt from the requirement of an annual audit if the financial statements are audited by the Controller to satisfy federal audit requirements.

(e) This section shall become operative on January 1, 2027.

SEC. 4. Section 56042 is added to the Government Code, to read:

56042. "Inactive district" means a special district that meets all of the following:

(a) The special district is as defined in Section 56036.

(b) The special district has had no financial transactions in the previous fiscal year.

(c) The special district has no assets and liabilities.

(d) The special district has no outstanding debts, judgments, litigation, contracts, liens, or claims.

SEC. 5. Section 56073.1 of the Government Code is amended to read:

56073.1. "Resolution of application" means the document adopted by a local agency or school district initiating a change of organization or reorganization pursuant to Section 56654 or the document adopted by a commission pursuant to paragraph (2) of subdivision (a) of Section 56375 or by subdivision (c) of Section 56879.

SEC. 6. Section 56375 of the Government Code is amended to read:

56375. The commission shall have all of the following powers and duties subject to any limitations upon its jurisdiction set forth in this part:

(a) (1) To review and approve with or without amendment, wholly, partially, or conditionally, or disapprove proposals for changes of organization or reorganization, consistent with written policies, procedures, and

guidelines adopted by the commission.

(2) The commission may initiate proposals by resolution of application for any of the following:

(A) The consolidation of a district, as defined in Section 56036.

(B) The dissolution of a district.

(C) A merger.

(D) The establishment of a subsidiary district.

(E) The formation of a new district or districts.

(F) A reorganization that includes any of the changes specified in subparagraph (A), (B), (C), (D), or (E).

(G) The dissolution of an inactive district pursuant to Section 56879.

(3) A commission may initiate a proposal described in paragraph (2) only if that change of organization or reorganization is consistent with a recommendation or conclusion of a study prepared pursuant to Section 56378, 56425, or 56430, and the commission makes the determinations specified in subdivision (b) of Section 56881.

(4) A commission shall not disapprove an annexation to a city, initiated by resolution, of contiguous territory that the commission finds is any of the following:

(A) Surrounded or substantially surrounded by the city to which the annexation is proposed or by that city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially developed or developing, is not prime agricultural land as defined in Section 56064, is designated for urban growth by the general plan of the annexing city, and is not within the sphere of influence of another city.

(B) Located within an urban service area that has been delineated and adopted by a commission, which is not prime agricultural land, as defined by Section 56064, and is designated for urban growth by the general plan of the annexing city.

(C) An annexation or reorganization of unincorporated islands meeting the requirements of Section 56375.3.

(5) As a condition to the annexation of an area that is surrounded, or substantially surrounded, by the city to which the annexation is proposed, the commission may require, where consistent with the purposes of this division, that the annexation include the entire island of surrounded, or substantially surrounded, territory.

(6) A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements.

(7) The decision of the commission with regard to a proposal to annex territory to a city shall be based upon the general plan and rezoning of the city. When the development purposes are not made known to the annexing city, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing city or county. A commission shall require, as a condition to annexation, that a city rezone the territory to be annexed or present evidence satisfactory to the commission that the existing development entitlements on the territory are vested or are already at build-out, and are consistent with the city's general plan. However, the commission shall not specify how, or in what manner, the territory shall be rezoned.

(8) (A) Except for those changes of organization or reorganization authorized under Section 56375.3, and except as provided by subparagraph (B), a commission shall not approve an annexation to a city of any territory greater than 10 acres, or as determined by commission policy, where there exists a disadvantaged unincorporated community that is contiguous to the area of proposed annexation, unless an application to annex the disadvantaged unincorporated community to the subject city has been filed with the executive officer.

(B) An application to annex a contiguous disadvantaged community shall not be required if either of the following apply:

(i) A prior application for annexation of the same disadvantaged community has been made in the preceding five years.

(ii) The commission finds, based upon written evidence, that a majority of the registered voters within the affected territory are opposed to annexation.

- (b) With regard to a proposal for annexation or detachment of territory to, or from, a city or district or with regard to a proposal for reorganization that includes annexation or detachment, to determine whether territory proposed for annexation or detachment, as described in its resolution approving the annexation, detachment, or reorganization, is inhabited or uninhabited.
- (c) With regard to a proposal for consolidation of two or more cities or districts, to determine which city or district shall be the consolidated successor city or district.
- (d) To approve the annexation of unincorporated, noncontiguous territory, subject to the limitations of Section 56742, located in the same county as that in which the city is located, and that is owned by a city and used for municipal purposes and to authorize the annexation of the territory without notice and hearing.
- (e) To approve the annexation of unincorporated territory consistent with the planned and probable use of the property based upon the review of general plan and rezoning designations. No subsequent change may be made to the general plan for the annexed territory or zoning that is not in conformance to the rezoning designations for a period of two years after the completion of the annexation, unless the legislative body for the city makes a finding at a public hearing that a substantial change has occurred in circumstances that necessitate a departure from the rezoning in the application to the commission.
- (f) With respect to the incorporation of a new city or the formation of a new special district, to determine the number of registered voters residing within the proposed city or special district or, for a landowner-voter special district, the number of owners of land and the assessed value of their land within the territory proposed to be included in the new special district. The number of registered voters shall be calculated as of the time of the last report of voter registration by the county elections official to the Secretary of State prior to the date the first signature was affixed to the petition. The executive officer shall notify the petitioners of the number of registered voters resulting from this calculation. The assessed value of the land within the territory proposed to be included in a new landowner-voter special district shall be calculated as shown on the last equalized assessment roll.
- (g) To adopt written procedures for the evaluation of proposals, including written definitions consistent with existing state law. The commission may adopt standards for any of the factors enumerated in Section 56668. Any standards adopted by the commission shall be written.
- (h) To adopt standards and procedures for the evaluation of service plans submitted pursuant to Section 56653 and the initiation of a change of organization or reorganization pursuant to subdivision (a).
- (i) To make and enforce regulations for the orderly and fair conduct of hearings by the commission.
- (j) To incur usual and necessary expenses for the accomplishment of its functions.
- (k) To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission.
- (l) To review the boundaries of the territory involved in any proposal with respect to the definiteness and certainty of those boundaries, the nonconformance of proposed boundaries with lines of assessment or ownership, and other similar matters affecting the proposed boundaries.
- (m) To waive the restrictions of Section 56744 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.
- (n) To waive the application of Section 22613 of the Streets and Highways Code if it finds the application would deprive an area of a service needed to ensure the health, safety, or welfare of the residents of the area and if it finds that the waiver would not affect the ability of a city to provide any service. However, within 60 days of the inclusion of the territory within the city, the legislative body may adopt a resolution nullifying the waiver.
- (o) If the proposal includes the incorporation of a city, as defined in Section 56043, or the formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, the commission shall determine the property tax revenue to be exchanged by the affected local agencies pursuant to Section 56810.
- (p) To authorize a city or district to provide new or extended services outside its jurisdictional boundaries pursuant to Section 56133.

(q) To enter into an agreement with the commission for an adjoining county for the purpose of determining procedures for the consideration of proposals that may affect the adjoining county or where the jurisdiction of an affected agency crosses the boundary of the adjoining county.

(r) To approve with or without amendment, wholly, partially, or conditionally, or disapprove pursuant to this section the annexation of territory served by a mutual water company formed pursuant to Part 7 (commencing with Section 14300) of Division 3 of Title 1 of the Corporations Code that operates a public water system to a city or special district. Any annexation approved in accordance with this subdivision shall be subject to the state and federal constitutional prohibitions against the taking of private property without the payment of just compensation. This subdivision shall not impair the authority of a public agency or public utility to exercise eminent domain authority.

SEC. 7. Article 6 (commencing with Section 56879) is added to Chapter 5 of Part 3 of Division 3 of Title 5 of the Government Code, to read:

Article 6. Inactive Special Districts

56879. (a) On or before November 1, 2018, and every year thereafter, the Controller shall create a list of special districts that are inactive, as defined in Section 56042, based upon the financial reports received by the Controller pursuant to Section 53891. The Controller shall publish the list of inactive districts on the Controller's Internet Web site. The Controller shall also notify the commission in the county or counties in which the district is located if the Controller has included the district in this list.

(b) The commission shall initiate dissolution of inactive districts by resolution within 90 days of receiving notification from the Controller pursuant to subdivision (a), unless the commission determines that the district does not meet the criteria set forth in Section 56042. The commission shall notify the Controller if the commission determines that a district does not meet the criteria set forth in Section 56042.

(c) The commission shall dissolve inactive districts. The commission shall hold one public hearing on the dissolution of an inactive district pursuant to this section no more than 90 days following the adoption of the resolution initiating dissolution. The dissolution of an inactive district shall not be subject to any of the following:

(1) Chapter 1 (commencing with Section 57000) to Chapter 7 (commencing with Section 57176), inclusive, of Part 4.

(2) Determinations pursuant to subdivision (b) of Section 56881.

(3) Requirements for commission-initiated changes of organization described in paragraph (3) of subdivision (a) of Section 56375.

56880. This article shall not apply to a special district formed by special legislation that is required by its enabling statute to obtain funding within a specified period of time or be dissolved. That district shall not be subject to this article during that specified period of time.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.



Lou Ann Teixeira
Executive Officer

MEMBERS

Candace Andersen
County Member

Donald A. Blubaugh
Public Member

Federal Glover
County Member

Don Tatzin
City Member

Michael R. McGill
Special District Member

Rob Schroder
City Member

Igor Skaredoff
Special District Member

ALTERNATE MEMBERS

Diane Burgis
County Member

Sharon Burke
Public Member

Tom Butt
City Member

Stanley Caldwell
Special District Member

August 29, 2017

Tom Bloomfield
Reclamation District 2121
2030 Newton Road
Brentwood, CA 94513

Subject: Status of Reclamation District 2121

Dear Mr. Bloomfield,

This is a follow-up to the May 10, 2017 meeting of the Contra Costa LAFCO at which time the Commission discussed the future of Reclamation District (RD) 2121.

As you know, in November 2015, LAFCO adopted a zero sphere of influence (SOI) for RD 2121, signaling a future change of organization for the District (i.e., consolidation, dissolution). The SOI update followed two LAFCO Municipal Service Reviews (MSRs) in 2009 and 2015 which found deficiencies in the District's administration and governance, including failure to meet the State's minimum levee standards; lack of financial documents/reporting, capital planning, inspection records; and transparency.

At the LAFCO meeting in May 2017, the Commission deferred initiating dissolution of RD 2121, pending receipt of an update on various issues as summarized below.

ISSUES IDENTIFIED IN THE MSRs

1. Infrastructure

- a. *Current condition of levees* – do the RD 2121 levees meet minimum State and/or Federal standards? If not, is there a plan to bring the levees up to State and/or federal standards, and what is the timeframe?
- b. *Capital Improvement Plan (CIP)* - has the District developed a CIP to address long term capital planning issues? If not, when will a CIP be developed?
- c. *Levee inspections* – has RD 2121 instituted formal levee inspection procedures and/or written inspection reporting? If not, when will procedures and reports be developed?

2. Fiscal

- a. *Funding* – Both the 2009 and 2015 LAFCO MSRs indicated the District's finances were constrained; and that RD 2121 had minimal expenditures (\$5,000), minimal revenues (\$5,000), and no assessments. Has there been any change in the District's expenditures, revenues and/or assessments since completion of the November 2015 MSR? If so, please explain. If not, will RD 2121 impose any assessments in the upcoming year? If

so, please provide details. Will RD 2121 apply for State and/or Federal funding in the upcoming year? If so, please provide details. If not, please explain.

- b. *Financial Documents* – the MSRs noted that RD 2121 does not adopt annual budgets, prepare audits, and/or submit financial transaction reports to the State Controller’s Office (SCO), as required by law. What actions will the District take to prepare/submit these required financial documents?

3. **Transparency**

- a. *Website* - the MSRs noted that RD 2121 has no website. At a minimum, special districts should maintain a website which includes the names of the Board Members (and terms of office), staff and contact information; information regarding the District’s services and a map of the District’s service boundary; Board meeting schedule and location, agendas and minutes; financial information including annual budgets and financial audits, contact information and other important information. Does RD 2121 have plans to develop a website?

Other Questions – Previously, the District acknowledged that it is inactive, has no board actions or activities, no efforts to improve governance; no assessments or taxes; no finances, budgets, revenues, audits or SCO reports. Further, the District indicated that the purpose of forming RD 2121 in 1984 was to create an entity that would be eligible to apply for matching funds. In that regard, *has RD 2121 ever applied for State or Federal funding? If so, what was the outcome? It would also be useful to know why it is important that RD 2121 continue to exist in its current form, and what would change if RD 2121 is dissolved. Finally, what resources does RD 2121 currently utilize that otherwise would not be available as a non-public agency?*

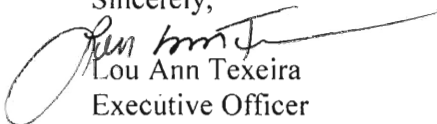
STATE CONTROLLER’S OFFICE URGES DISSOLUTION OF INACTIVE DISTRICTS

In January 2017, the SCO sent letters to 14 LAFCOs and to various County Auditors asking for updates regarding identified inactive districts, in an effort clean up records and have inactive districts dissolved and removed from the State’s rolls. Contra Costa LAFCO received one of the letters. The SCO identified 22 independent special districts as being inactive. RD 2121 was included on the SCO’s list of inactive districts. The SCO and the California Association of LAFCOs (CALAFCO) urge LAFCOs to dissolve these inactive districts.

Next Steps - At the October 11, 2017 LAFCO meeting, the Commission will discuss governance options for RD 2121, including dissolution. It is important that RD 2121 provide a written update and responses to the above questions by **September 30, 2017** so that we can provide this information to the Commission. LAFCO staff is available to meet and/or discuss the update. Feel free to contact us at (925) 335-1094.

Thank you and we look forward to receiving an update.

Sincerely,


Lou Ann Texeira
Executive Officer

c: Each Member, Contra Costa LAFCO
Mitchell Bloomfield

From: Ann Adams [<mailto:ann.adams1991@gmail.com>]
Sent: Friday, September 29, 2017 11:02 AM
To: Lou Ann Teixeira
Cc: Tom Bloomfield (cell); Mitch@BloomfieldCherries.com
Subject: LAFCO response to August 29th letter

September 29, 2017

Contra Costa LAFCO
Board of Directors
651 Pine Street #6
Martinez, CA 94553

Dear LAFCO Agency Members,

Thank you for this opportunity to respond to the Contra Costa LAFCO email dated August 29th, 2017.

As the director of Reclamation District 2121, I strongly disagree with any final attempt to dissolve Reclamation District 2121.

In our April 21st letter, we detailed the following:

Reclamation District 2121 constitutes 10,500 feet of levees surrounding the following Contra Costa County parcels: 015-120-006, 015-120-004, 015-120-005, and 015-120-003. These parcels are owned by Bloomfield family members and farmed by Bloomfield Vineyards, a small business. These parcels have no outside owners, governmental agencies or utility companies. Reclamation District 2121 has no board. Therefore, there are no board actions, activities, efforts to improve or governance.

There are no assessments or taxes issued by Reclamation District 2121. With no income, the Bloomfield family members carry the burden of maintenance for the levees. Therefore, Reclamation District 2121 has no finances, budgets, revenues, audits or SCO reports.

Issues identified in the MSRs included: Infrastructure, Fiscal, and Transparency. The following will address these issues.

1. Infrastructure:

- a. *Current condition of levees* - Currently, the Reclamation District 2121 levees do not meet the State or Federal standards. We are in the process of working on the levees. In fact, we have spent the last 6 months identifying qualified fill and subcontractors to support weak areas and create a good foundation. 60% of our levee is at a conforming height (11' 3") and GPS level. The remaining 40% is a top priority. Fill dirt has been added to the dry side of the levee.
- b. *Capital improvement Plan (CIP)* - There has been no formal CIP to address long term capital planning issues. We have used every available dollar and resource to improve the levees.
- c. *Levee Inspections* - We have not instituted formal levee inspection procedures and/or written inspections.

2. Fiscal

- a. *Funding* - There has been a change in the District's infrastructure expenses. We are in the process of a multi-year levee stabilization project. There will be no annual assessments. The income source comes from our family's farm. We would be interested in being eligible for State or Federal funding in the coming years, but we have never applied for State or Federal funding.

3. Transparency

- a. *Website* - we do not have a website, at this time

Other LAFCO Questions:

No, we have never applied for State or Federal funding. But we believe that without Reclamation 2121, we would never have the formal vehicle to apply for matching funds to protect the 10,500 feet of levees surrounding our parcels and the Burlington Northern tracks.

If Reclamation District 2121 dissolves, what will happen in the event of a system wide failure of California delta levees? What agency do we call? Who will help support the levees that are not protected by a Reclamation District.

Again, since 1984, Reclamation District 2121 has been INACTIVE, with no issues. In 2017, the State of California and LAFCO attempts to DISSOLVE the only avenue available for a small business to improve and conform levees in the delta.

In light of this year's catastrophic precipitation, we request that Reclamation District 2121 not be dissolved.

We ask to remain INACTIVE.

Sincerely,

Tom Bloomfield
Director, Reclamation District 2121
Owner, Bloomfield Vineyards

(
this email will be mailed 9/29/17, as a follow up.)

*Ann Bloomfield Adams
10700 NE 4th Street #702 **new address**
Bellevue, WA 98004
(425)750-2713 cell*