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County of Tulare



C. Brian Haddix
County Administrative Officer

Kristin Bennett, Assistant
County Administrative Officer

AGENDA ITEM: June 6, 2006

Item # _____

SUBJECT: Response to 2005/2006 Grand Jury Report regarding the Flood Potential on the St. Johns River Levee Districts I and II

REQUESTS: That the Board of Supervisors consider, modify as needed, and approve the response to the 2005/2006 Grand Jury's Report regarding the Flood Potential on the St. Johns River Levee Districts I and II

SUMMARY: The 2005/2006 Grand Jury released its report and recommendations regarding Flood Potential on the St. Johns River Levee Districts I and II. The Resource Management Agency has responded to the Presiding Judge by the required deadline. Your Board is required to provide your comments to the Presiding Judge of the Superior Court within 90 days of receipt of the report.

A draft response is attached for your consideration.

FINANCING: No fiscal impact.

INVOLVEMENT OF OTHER COUNTY DEPARTMENTS: The Resource Management Agency has responded.

ADMINISTRATIVE SIGN-OFF:

A handwritten signature in cursive script, reading "Charles Brian Haddix".

C. Brian Haddix
County Administrative Officer

BH/KB:ph

Attachment

Cc: Jerry Messinger, Auditor/Controller
Kathleen Bales-Lange, County Counsel

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF RESPONSE TO THE
2005-2006 GRAND JURY REPORT REGARDING
FLOOD POTENTIAL ON THE ST. JOHNS RIVER
LEVEE DISTRICTS I AND II

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Resolution No. _____

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOREGOING WAS ADOPTED BY THE BOARD
OF SUPERVISORS, AT AN OFFICIAL MEETING HELD _____ BY
THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: C. BRIAN HADDIX
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

* * * * *

Approved the response to the 2005/2006 Grand Jury Report regarding Flood Potential
on the St. Johns River Levee Districts I and II and authorized the Chairman to sign.



County of Tulare

May 16, 2006

DRAFT

BOARD OF SUPERVISORS

Allen R. Ishida
District One

Connie Conway
District Two

Phillip A. Cox
District Three

J. Steven Worthley
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Michelle Baldwin
Chief Clerk

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Paul Vortmann, Presiding Judge
Tulare County Superior Court
Room 303, Civic Center
Visalia, California 93291

Dear Judge Vortmann:

On behalf of the Board of Supervisors sitting as the Tulare County Flood Control District Board following is my response to the 2005/2006 Grand Jury report regarding the Flood Potential on the St. Johns River Levee Districts I and II.

Finding 1

Levee District I, on the south side of the St. Johns River, has been officially inactive since March 2005 (see map) when the last remaining Levee District Board Member sent in his letter of resignation. On November 21, 2005, the BOS notified the Auditor's office to stop the mailings for audit reports.

Response: I agree with this finding.

Finding 2

Levee District II, on the north side of the St. Johns River, has been inactive for over 18 years (see map).

Response: I partially agree with this finding. There was a level of activity through 2001. The three trustee vacated their seats in 1995, 1998 and 2001.

Finding 3

Some county officials were unaware that the Levee Districts were inactive until the Grand Jury began this investigation.

Response: I partially agree with this finding. Some County officials were probably aware that the Levee Districts were or, possibly were, inactive prior to the time the Grand Jury began its investigation; others probably were not aware.

Finding 4

Levee Districts I and II are taxing agencies. After passage of Proposition 13 the incoming taxes were significantly reduced. At that time, Levee District I sold some land and used the interest from that sale for finance the District's operation and maintenance.

Response: I agree with this finding. Levee District No. 1 and 2 have the ability to levy and collect assessments subject to requirements of Proposition 218 which requires a vote of approval by property owners within the district. Levee District No. 1 and 2 have not collected taxes or assessments since the passage of Proposition 13 in 1978. Levee District No. 1 reportedly sold land and equipment to fund activities. The fund balance in Levee District No. 1 on April 18, 2006 was \$58,064.68. The fund balance in Levee District No. 2 on April 18, 2006 was \$6,590.86.

Finding 5

In 2002, the Resource Management Agency (RMA) asked the over 1000 property owners in District II for input regarding levee inspection, maintenance and repairs. The owners were uninterested and/or assumed that KDWCD or RMA did the work. The owners did not want a new tax for this purpose.

Response: Based on information provided by Resource Management Agency, I agree with this finding.

Finding 6

Property owners were given the opportunity to serve as a director on the three-member Levee District II Board of Directors, but expressed a negligible amount of interest..

Response: Based on information provided by Resource Management Agency, I agree with this finding.

Finding 7

The State of California Legislature formed the Tulare County Flood Control District (TCFCD) in 1972. On June 13, 1972, the BOS, acting as TCFCD, appointed a seven member commission to advise the TCFCD.

Response: I agree with this finding. The Flood Control District is distinct from the County; however, the Board of Supervisors serves as the governing board of the District. The District plans, designs, and maintains flood control projects within the County. Duties include maintenance of channels, pumps, and ponding basins. The District also administers the Federal Emergency Management Agency's National Flood Insurance Program, provides flood zone information, and performs flood control investigations.

Finding 8

TCFCD officially has no employees and is overseen part time by the Transportation Division of the RMA.

Response: I partially agree with this finding. Resource Management dedicates 50% of an Engineer IV position to Flood Control as the County Flood Control Engineer. This position is allocated in the Road Fund (Transportation Branch) as the balance of the position is dedicated to Transportation functions.

Finding 9

TCFCD is funded by Tulare County property taxes. It receives approximately \$350,000 per year. This amount fluctuates with the revenue stream of Tulare County's property tax base and interest earnings.

Response: I agree with this finding.

Finding 10

The last time the BOS transferred general fund monies over the TCFCD for channel clearing was the winter of 1997-1998 in the amount of \$350,000

Response: I agree with this finding.

Finding 11

The main focus of TCFCD is a channel maintenance spraying program. TCFCD pays for the chemicals and labor, and the Tulare County Agricultural Commission implements the program. This is for channel maintenance only and has no impact on the levees.

Response: I partially agree with this finding. In addition to the channel maintenance spraying program, the Tulare County Flood Control District also maintains pumps and ponding basins. The District also plans, designs, and maintains flood control projects within the County, such as the Kaweah Lake and Success Reservoir Enlargement Projects. Additionally, the District also administers the Federal Emergency Management Agency's National Flood Insurance Program, provides flood zone information, and performs flood control investigations.

Finding 12

Tulare County has no property rights to any levees except Sand Creek, which flows through some county land.

Response: I agree with this finding. The County does not own or have easements for any levees or waterways in the County with the exception of Sand Creek through the unincorporated communities of Cutler and Orosi.

Finding 13

In March 2005, renewal of the liability insurance policy held by District I was denied due to the age and condition of the levee.

Response: Based on information provided by Resource Management Agency, I agree with this finding.

Finding 14

There are no active programs for levee maintenance or channel inspections within Tulare County. Most citizen complaints to RMA are for construction encroachment on the levees and fallen trees in the channel.

Response: Based on information provided by Resource Management Agency, I agree with this finding.

Finding 15

The Tulare Irrigation District comprises 20% of the KDWCD area and maintains its channels, but no levees. Many irrigation districts do not maintain their channels.

Response: I partially agree with this finding. Some irrigation districts are more active at maintaining their channels than others.

Finding 16

Vegetation and trash clog many of the county's tributaries.

Response: Based on information provided by Resource Management Agency, I agree with this finding.

Finding 17

The California Department of Fish and Game requires a 1602 Stream Bed Alteration Agreement Permit for spraying vegetation inside the channel. No large clearing equipment is allowed in the channel. Workers can use only hand tools and then clear no more than half way up the bank on the water way.

Response: I agree with this finding. The California Department of Fish and Game regulates channel clearing and maintenance activities within natural channels. The Department enters into Section 1602 (formerly Section 1601) Fish and Game Code Stream Bed Alteration Agreements to regulate these activities.

Finding 18

The Federal Emergency Management Agency (FEMA) has stated that the land west and south of Terminus Dam is still within a flood plain, even with the increase in height of the dam spillway.

Response: Based on information provided by Resource Management Agency, I agree with this finding. The 21-foot increase in the height of the spillway at Lake Kaweah increased storage behind Terminus Dam from 143,000 acre-feet to 185,630 acre-feet. Flood protection for land below Terminus Dam was increased from a 46-year level of protection to a 70-year level of protection. Federal Emergency Management Agency (FEMA) special flood hazard areas are based on flows from a 100-year storm frequency.

Finding 19

The Army Corps of Engineers (COE) has jurisdiction over all county lakes and water ways.

Response: I partially agree with this finding. . The U.S. Army Corps of Engineers (Corps) claims jurisdiction, through the Federal Clean Water Act, over Lake Kaweah,

Success Reservoir, and over all tributaries and distributaries of the Kaweah and Tule Rivers. Channel clearing and maintenance activities within the Kaweah and Tule system are regulated by the Corps under Section 404 of the Clean Water Act.

Finding 20

The COE will not certify the levees within the two levee districts because they do not meet the COE certification standards. Some of the standards are:

- a. Type of materials used in construction.*
- b. Compaction.*
- c. Height of levee.*
- d. Continuous formation of levees*
- e. Non-rolling banks on the channel side of water ways. An active maintenance program in place.*

Response: I agree with this finding.

Finding 21

FEMA also recognizes that the levees are not up to standards.

Response: I partially agree with this finding. The levees are not constructed to FEMA standards.

Finding 22

The Santa Fe Railroad abandoned its right of way and filled up the trestle on the south side of the St. Johns River. In a high water situation, this could push water toward Visalia.

Response: I partially agree with this finding. I am not able to confirm that in a high water situation, that the conditions would push water toward Visalia.

Finding 23

RMA estimated that the cost to reconstruct the levees on the St. Johns River, within the Certification Standards of the COE, would be close to \$17,000,000.

Response: I agree with this finding. Cost to reconstruct the levees to meet minimum standards developed by the U.S. Army Corps of Engineers, referred to as “project levees” or “certified levees”, is estimated to be up to \$20 million or roughly \$1 million per mile.

Finding 24

The City of Visalia planted over 100 oak trees within the St. Johns channel. These trees have since been removed.

Response: This finding is in the purview of the City of Visalia.

Finding 25

In 2004, the City of Visalia entered into a cooperative technical partners agreement with FEMA to have the flood plain from Kaweah Lake west to Highway 99 remapped. This includes LIDAR (Light, Detection, And Ranging) topographical and aerial mapping. The proposed completion of this project is summer 2006.

Response: This finding is in the purview of the City of Visalia.

Finding 26

RMA indicated that Ventura County is a good example of a well-managed flood control model. It consists of both flood control and watershed protection elements including ground water recharge. The county is split into numerous "benefit assessment districts" which help fund the planning, construction and maintenance of projects.

Response: Based on information provided by Resource Management Agency, I agree with this finding. It should be noted that the benefit assessment districts in Ventura County are very active and the revenue is sufficient to cover the required expenses.

Finding 27

The Federal Government and the State of California may provide funding for joint use projects in flood control.

Response: I agree with this finding. Tulare County continues to actively seek State and Federal funding for flood protection and control. Water issues are part of the County's State and Federal Legislative Platforms.

RECOMMENDATIONS**Recommendation 1**

The Board of Supervisors acting as the Tulare County Flood Control District should thoroughly examine the flood potential for the entire county.

Response: The recommendation has been implemented. The Tulare County Flood Control District "Flood Control Master Plan" examines flood prone areas in the County and identifies specific projects and measures to control flooding. Additionally, the Federal Emergency Management Agency has documented floodways adjacent to rivers and natural waterways and special flood hazard areas throughout the County. The State of California Reclamation Board acting through the State Department of Water Resources has also identified floodways and flood zones along rivers and natural waterways in the County.

Recommendation 2

The Board of Supervisors should adequately fund the Tulare County Flood Control District for regular inspection and maintenance for all tributaries and levees in Tulare County.

Response: The recommendation will not be implemented because it is not feasible under the County's current fiscal circumstances. The Flood Control District is distinct from the County. The Flood Control District revenue is drawn from property taxes, interest, State and Federal Aid. The property tax portion is based on factors set by Proposition 13. Tax increase or increased assessments would require voter approval. Any funding from the County would be drawn from the County's General Fund which would impact other County programs. As previously noted, in the past, under better fiscal circumstances General Fund dollars for channel clearing,

Recommendation 3

The Resource Management Agency should consider the possibility of obtaining State and Federal grants for matching fund proposals dealing with water issues

Response: The recommendation has been implemented. The Resource Management Agency tracks State and Federal funding for potential flood control projects. The Resource Management Agency has also included pursuing funding for this purpose through the County's Legislative Platform. In addition, the Flood Control District recently partnered with the Lower Tule River Irrigation District and Friant Water User Authority in submitting an AB 303 grant application to the State to pursue a joint use flood control, water quality, and ground water storage project in the Strathmore area.

Recommendation 4

Tulare County needs to take a more regional approach and enter into partnerships/JPAs with the irrigation districts, the Army Corps of Engineers, the City of Visalia and the Kaweah Delta Water Conservation District, in joint-use projects incorporating both flood control and groundwater recharge.

Response: The recommendation has been implemented. The Tulare County Flood Control District has partnered with the U.S. Army Corps of Engineers, State of California, Kaweah Delta Water Conservation District, City of Visalia, and Kings County to enlarge the capacity of Lake Kaweah to provide increased flood protection and water storage. The Tulare County Flood Control District is also partnering with the U.S. Army Corps of Engineers, State of California, Tule River Association, City of Porterville, and Kings County to increase storage at Success Reservoir.

Recommendation 5

The Board of Supervisors should look into the possibility of a new flood plan along the lines of the Ventura County plan.

Response: The recommendation has not yet been implemented, but may be implemented in the future. During the next fiscal year, the Resource Management

Agency will be looking into the possibility of updating portions of the Flood Control Plan. With the completion of the Kaweah Lake Reservoir Expansion, the District may have some budget available to address the portions of the flood plan. Once the possibilities are explored, options will be provided to the Board of Supervisors for consideration.

Recommendation 6

The Resource Management Agency's Code Enforcement Department needs to enforce county ordinances regarding weed abatement along the levees. This should be done through fire abatement regulations, which allows clearing on private property.

Response: The recommendation will not be implemented. Resource Management Agency does not have this authority. The County ordinance regarding abatement of weeds and rubbish is the responsibility of the County Fire Warden under section 4-11-1015 of the County ordinance code. The County fire Warden provides enforcement.

Recommendation 7

The owners of the properties along the levees should be held responsible for clearing their portions of the levee or be cited for non-compliance.

Response: The recommendation has been implemented. Section 4-15-1000 et. seq. of the Tulare County Ordinance Code pertaining to Watercourses, requires every owner of property within the unincorporated area of the County to keep a watercourse clear of vegetation, trash, and debris which creates or will create a flooding problem and which by virtue thereof constitute a danger to neighboring property or the health, safety, or welfare of residents in the vicinity. The California Department of Fish and Game regulates channel clearing and maintenance activities within natural channels. The Department enters into Section 1602 (formerly Section 1601) Fish and Game Code Stream Bed Alteration Agreements to regulate these activities. Property owners performing any channel clearing or maintenance activities within a natural channel would need to enter into an agreement with the State.

Recommendation 8

Intra-agency communication needs to be improved so that all agencies involved in any one situation will be informed and able to take action thereon in a timelier manner.

Response: The recommendation has been implemented. Intra-agency communication already exists in emergency and non-emergency situations.

Sincerely,

Steve Worthley, Chairman
Tulare County Board of Supervisors

Cc: Board of Supervisors
Bill Wittman, Sheriff
Grand Jury