

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

800



FROM: Executive Office

SUBMITTAL DATE:
September 13, 2005

SUBJECT: Response to the Grand Jury Report: Flood Control and Water Conservation District

RECOMMENDED MOTION: That the Board of Supervisors:

- 1) Approve with or without modifications, the attached response to the Grand Jury's recommendations regarding the Flood Control and Water Conservation District.
- 2) Direct the Clerk of the Board to immediately forward the Board's finalized response to the Grand Jury, to the Presiding Judge, and the County Clerk-Recorder (for mandatory filing with the State).

BACKGROUND: On July 12, 2005, the Board directed staff to prepare a draft of the Board's response to the Grand Jury's report regarding the Flood Control and Water Conservation District.

Section 933 (c) of the Penal Code requires that the Board of Supervisors comment on the Grand Jury's recommendations pertaining to the matters under the control of the Board, and that a response be provided to the Presiding Judge of the Superior Court within 90 days. The District and Executive Office have prepared the attached response.

Gary Christmas
GARY CHRISTMAS
Deputy County Executive Officer

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FINANCIAL DATA	Current F.Y. Total Cost:	\$ N/A	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ N/A	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ N/A	For Fiscal Year:	N/A

SOURCE OF FUNDS:	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE.

County Executive Office Signature

[Signature]

Dept's Recomm.: Consent
 Per Exec. Ofc.: Consent
 Policy
 Policy

Prev. Agn. Ref.: 3.8 & 11.1 of 7/12/05 | **District:** | **Agenda Number:**

3.4

Departmental Concurrence

FLOOD CONTROL AND WATER CONSERVATION DISTRICT
Response to Findings and Recommendations

FINDINGS:

Number 1:

The District's principal source of general-purpose revenue is from a 1% assessed value property tax. Revenue history over the past ten (10) years shows an increase of 64.6%, (\$17,385,000 in 1995 to a projected \$27,762,500 in 2004/2005). This projected increase is due to the population explosion in the county over the past ten years.

Response:

Respondent disagrees partially with the finding.

The response is not so much a disagreement as it is an explanation. The Flood Control District's principal source of general-purpose revenue is from the 1% ad valorem property tax as stated, however its share is actually just a very small fraction of the 1% tax. The total revenue amounts specified in the finding are correct but they are a composite of receipts for eight separate funds (one for each of the District's seven zones and one for general administration). The percentage increase in each fund differs but the average increase is as indicated.

Number 2:

The 1945 California statute establishing the Riverside Flood Control and Water Conservation District states that the monies collected by said taxes shall be used in the zones from which they are collected. Per the Director, the Flood Control and Water Conservation District currently operates on the basis that money may be loaned from one zone to another zone if repaid within the current fiscal year. However, the statute does not prohibit the Board of Supervisors from extending a loan for up to five (5) years. San Bernardino County currently uses a three-year policy for repayment to the loaning zone(s).

Response:

Respondent disagrees partially with the finding.

For clarification, the single-year period for a Zone to Zone loan repayment is based on a previous opinion from County Counsel, and not an arbitrary decision by the Board nor Flood Control District management. Also, while the statute does not prohibit the Board from extending the loan period (as stated above), it does not authorize such a procedure either.

Number 3:

The flood control districts in San Bernardino, San Diego, Orange, Los Angeles, Ventura, Santa Barbara, Kern and Inyo Counties report through the public works departments. The Flood Control District and Transportation & Land Management Agency (TLMA) (Riverside County's Public Works Department), perform similar functions, i.e. land management, design and construction, surveying and mapping services. Duplication often occurs in the use of equipment, personnel and facilities. As the county population grows and possible satellite facilities are added, this duplication will be magnified.

Response:

Respondent disagrees partially with the finding.

Again, the response is not so much a disagreement as it is a clarification. All of the functions performed by TLMA are not generally considered Public Works functions. There are similarities however, in duties and functions of the Flood Control District and the Transportation Department within TLMA. Even so, it is not a given that these similarities necessarily demonstrate any significant duplication.

But as the need for satellite facilities grows and the line between flood control and transportation maintenance continues to blur due to environmental and regulatory requirements on both entities, the need for increased communication and coordination between the two departments is evident. The District and the Transportation Department are both committed to ensure this needed level of cooperation continues to be met and to avoid duplication of efforts.

Number 4:

When the Flood Control and Water Conservation District was created in 1945, the primary emphasis was on flood control, the building of dams, storm channels, drains, etc. According to the Director of Flood Control, "...the major drainage infrastructure needs of the County and its cities have not been completely met, they are beginning to diminish..." The Director also stated, "The District's future efforts in water conservation should be greatly enhanced." However, as of June 1, 2005 the Director has not published a timeline for shifting the emphasis to water conservation.

Response:

Respondent disagrees partially with the finding.

First, the finding would appear to indicate that a time line is necessary and predictable and second, the respondent disagrees with the phrase of "shifting the emphasis".

The respondent believes that water conservation will become more of a focus for the District, but not at the expense of public safety (flood control), as the word "shift" would imply. Even when the major drainage infrastructure is completed - and that is still many years away - the need for monitoring, maintenance and rehabilitation will remain indefinitely. Bringing water conservation to the fore will be in addition to, rather than at the sacrifice of, flood control.

With regard to a time line, far too many factors and unknowns exist to make a prediction that has any validity. At this point in time the Board and the Director believe it is necessary to acknowledge the need for water conservation and begin steering in that direction. But they also believe that the exact course is not yet known. The correct action is to watch the horizon and gain knowledge in the field. To that end, the Flood Control District now serves as the County's representative on the Riverside County Water Task Force and has recently become a member of the SAWPA led, Rainwater Recovery Initiative. Also, the District is currently investigating membership in ACWA, the Association of California Water Agencies.

In summary, the need for the District to increase its presence in the area of water conservation cannot be argued. But it is too soon to know, with any degree of certainty, the best way to accomplish this goal. The best course of action is to become more and more involved in the water conservation arena. With that involvement will come increased knowledge. And with that increased knowledge will come the ability to chart the proper course.

RECOMMENDATIONS:

Number 1:

The Board of Supervisors should reduce the 1% tax that was initiated in 1945, to mirror the increase in population and the near completion of a major portion of the flood control infrastructure.

Response:

The Recommendation will not be implemented because it is not warranted or is not reasonable.

Please refer to the response to Finding 1. The Riverside County Flood Control and Water Conservation District does not receive a 1% tax. Rather the District receives only a small fraction of the 1% ad valorem property tax revenue – varying from about 2% of the 1% in some Zones, to as much as 4% of the 1% in others.

With regard to drainage infrastructure, in the long term the District will slowly evolve into a maintenance organization. And although headed in that direction, the District is still decades away from reaching that designation. While many communities enjoy increased protection against flooding, the overall drainage improvement needs of this County are still many. In fact, in the District's current 5-Year Capital Improvement Plan alone, more than \$200 million in needed drainage infrastructure has been identified. It is estimated that in total, the drainage needs of this County amount to nearly \$2 billion.

However, even with all of these needs still outstanding, it is important to be cognizant of the long range target and steer a course that provides not only for the short term but for the distant future as well. The District's recently adopted budget shows a sharp increase in facility maintenance appropriations. This increase is attributable not only to increased maintenance responsibilities, but also to changed conditions in a rapidly changing world. Relatively inexpensive to maintain concrete channels and "scorched earth" dirt channels are becoming the anomaly. Kinder, gentler, vegetated and/or multi-use facilities requiring more hand maintenance and specialized equipment are becoming more the norm. This trend will continue to grow for two major reasons.

First, the environmental/regulatory arena demands it and second, land in California, especially Southern California, is far too valuable to lay idle and unused the majority of the time. Environmental and recreational uses are much in demand and are usually very compatible with flood control needs. In the future, the District will continue to explore other uses for surface flood control facilities. Parks, wetlands and habitat are but a few secondary uses for which basins and open channels may be utilized.

Also, the District's major cost of doing business is tied directly to the price of materials, land, labor and inflation. And while increasing tax revenues are linked to population growth, these increases are not necessarily sufficient to offset the spiraling escalation of such business costs.

For these reasons the flood control function of the District will continue to require its present share of the 1% ad valorem property tax for many years to come.

Further, as pointed out in the Background portion of the Grand Jury's report –
Urbanization of the county is increasing demands on water conservation. Optimization of existing water resources through new conservation and reuse will be necessary to sustain the county's growing population.

The second part of the District's name makes it clear that the County's effort in this arena will be spear-headed by the Riverside County Flood Control and WATER CONSERVATION District. Reducing the District's share of the property tax revenues will severely hamper this much needed effort.

Number 2:

The Riverside County Board of Supervisors consider changing its policy whereby the seven (7) zones can loan monies from one zone to another for more than the current year, i.e. up to five (5) years, to make available funds more flexible.

Response:

a. The recommendation requires further analysis. Explain the scope and parameters of an analysis or study:

Even though the present policy is based on an opinion from County Counsel, the Board may ask Counsel to once again revisit the issue and render a current opinion. It is noted that while the statute does not prohibit the Board from extending the loan period, making such a change does not authorize such a procedure either.

However, even if Counsel's opinion allows for the Board's consideration of extending the loan period, District input should be sought as to the wisdom of making such a change. While on the one hand, the change would allow for more flexibility in funding some construction projects and responding to emergencies, it would also allow for the potential of a Zone "living beyond its means".

Also, it should be mentioned that the State Legislature, in forming the District, deliberately set up the concept of zones with separate funding to allow for "home rule". A necessary bi-product of this concept is living within the zone's funding ability. And to make this system responsive to the local citizens, the legislature also created the position of Zone Commissioner to help advise the Board on

priorities. All in all, the present structure has served the Zones well for more than 60 years.

b. Provide a time frame for analysis or study to be completed by the department/agency. This time frame shall not exceed six months from the date of publication of the Grand Jury Report.

It is anticipated that County Counsel would be able to develop an opinion by September 30, 2005 and that would allow for the Board to complete its consideration by the end of the calendar year.

Number 3:

The Riverside County Board of Supervisors implement a task force to study the merits of merging TLMA and Flood Control facilities, equipment, and personnel as demonstrated in surrounding counties.

Response:

The Recommendation will not be implemented because it is not warranted or is not reasonable.

For clarification, although this recommendation may have merit and may be reasonable, its implementation is simply not warranted at this time. Also, please refer to the response to Finding 3 and the discussion regarding the cooperation of the Transportation Department within TLMA and the Flood Control District.

The report argues that duplication of equipment, personnel and facilities often occurs and that it will be magnified as the County's population grows. This is not an accurate depiction of the current situation nor is it anticipated to be the case in the future. Under current management, the two departments act as sister agencies and have gone to great lengths to avoid specifically the circumstances assumed in the report. Examples are:

- *The two departments have been successfully operating under a Memorandum of Understanding (MOU) since 1984. The MOU details uniform design and drafting standards, construction specifications, and general operation and maintenance guidelines pertaining to drainage infrastructure. An updated MOU is expected to be approved and executed within the next several months.*
- *The two departments are currently engaged in a property search with the intent of co-locating a satellite maintenance yard to serve both departments.*
- *Understandings have been developed regarding roles in design review and infrastructure maintenance responsibilities specifically to avoid duplication of effort.*
- *The departments' Capital Improvement Plans are coordinated so that paving jobs complement storm drain construction.*

As the County's population grows the Flood Control District's jurisdictional boundaries will not be altered, however this will probably not be the case for the Transportation Department. Increasing population will likely result in more and larger cities, and unlike the Flood Control District whose jurisdiction includes city territories, the Transportation Department's area of responsibility will diminish in step with the corresponding reduction of unincorporated territory.

Further complicating the matter is the fact that, unlike our neighboring counties, the Riverside County Flood Control and Water Conservation District does not take into its boundaries the entire County, rather only the western 40%.

Finally, the funding sources for each department are very restrictive and mixing or combining revenues is strictly forbidden.

In short, merging the Transportation Department and Flood Control District into a public works agency may well have merit in the future, however too many current limitations exist to warrant the combination at this time. To the credit of the two departments though, where it makes sense from an efficiency and/or fiscal standpoint, they are taking advantage of their similarities. And where it does not appear feasible, they are not saddled with the burden of increased bureaucracy.

It is also important to note that the two departments are expected to maintain their cooperative attitudes and to continue to take full advantage of their similarities. The management of each department is fully cognizant of its duty to the taxpayers of Riverside County for overall efficiency and fiscal responsibility.

Number 4:

Flood Control direct hiring to include specialists in water conservation, i.e., chemical, environmental engineering, etc.

Response:

The recommendation has been implemented.

Several years ago the Flood Control District recognized that the long established practice of hiring only civil engineers needed to be changed. In fact, in 2000 the District hired a registered chemical engineer to work in the NPDES section. More recently, an engineer was hired whose degree was not in civil engineering, but rather in Environmental Studies.

As the District's mission migrates more towards water quality and water conservation, hiring decisions will need to continue to recognize the need for different proficiencies.