



Item #06-3-11 Action

SACOG Board of Directors

March 9, 2006

Flood Control Issues and Legislation Update

Issue: SACOG staff is working with Sacramento Area Flood Control Agency (SAFCA) to support the ad hoc Flood Management Committee in formulating a regional flood control strategy that can be taken to the legislature, which added 23 new bills to the list of flood-related legislation at the end of February. Four papers from various groups affected by flood control activities are included as background for the Board.

Recommendation: This item may be informational or action depending on the results of a joint meeting of the Strategic Planning Committee and ad hoc Flood Management committee on March 10.

Committee Action/Discussion: At the February meeting, the SACOG Board approved the formation of the ad hoc Flood Management Committee, led by Director Silva, and directed SACOG staff to work with SAFCA and other flood control agencies to help this Committee craft a regional flood control strategy. On the same day, the SAFCA Board adopted the “Legislative Framework for Flood Control and Flood Risk Management in the Sacramento Valley” to guide the development of a regional strategy. This document was the foundation for the first meeting of the Flood Management Committee, which met on February 27 to establish a basis for moving forward to build a regional strategy. Key discussion topics included: designation of rural versus urban levees, flood insurance requirements, local liability, and Committee composition and process. Though the meeting had limited attendance, there was strong support that the Committee continue to move ahead. The next meeting is scheduled for Friday, March 10, in conjunction with the Strategic Planning Committee agenda.

The final version of the SAFCA white paper (now called “Legislative Framework for Flood Control and Flood Risk Management in the Sacramento Valley”) is attached, as well as three other reports mentioned at the last Board meeting. Reports that illustrate other efforts to keep up with or get ahead of the fast moving legislature include the League of California Cities policies and guiding principles for flood control and the California State Association of Counties and the Regional Council of Rural Counties preliminary comments on State bond legislation. There is also a preliminary SAFCA report on levee conditions in Natomas and the Governor’s declaration of a state of emergency for California levee system.

The legislature introduced 23 additional flood-related bills at the end of February for a total of 27 bills. This does not include bills concerning bond issuance. SACOG staff will be working with SAFCA to identify which bills should be tracked by our lobbyist for SACOG to possibly take a position.

On March 6, the Rancho Cordova City Council passed a resolution that enforces a 200 year flood protection as the appropriate standard for the region and calls the attention to statewide and national benefits of protecting our valley from floods. We will disseminate a copy of the resolution to you soon.

Approved by:

Mike McKeever
Executive Director

MM:DS:ts
Attachments

Key Staff: David Shabazian, Senior Planner, (916) 340-6231

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**POLICIES AND GUIDING PRINCIPLES OF THE LEAGUE OF CALIFORNIA CITIES ON ISSUES
RELATED TO FLOOD CONTROL
FINAL VERSION**

**Adopted by the League Board of Directors
February 11, 2006**

Introduction

The following are the League's policies and guiding principles on issues related to flood control. They will be used in evaluating proposed legislation or regulations regarding a wide variety of flood control issues. The Policies and Guiding Principles were initially developed by the League's Flood Control Working Group and subsequently modified slightly and adopted by the League's Environmental Quality and HCED Policy Committees. The Policies and Guiding Principles were adopted by the League Board of Directors at their February 2006 meeting.

The Policies and Guiding Principles are to be considered as starting points for League engagement in legislative discussions. In all cases, final League positions will depend upon the wording of the proposed legislation. In some cases, final League positions will depend how the issues identified in this document (or updates of the document) are addressed.

Because of the complexity of the topic, this is a classic example of the legislative motto: "The devil is in the details." Thus, in many cases, the League will undertake additional technical or policy review by the Working Group or others before adopting a formal position. We anticipate that as new concepts are proposed or as more information becomes available on current legislative concepts that these Guiding Principles will be updated. The Policies and Guiding Principles will be used by staff so that the League is fully engaged in the legislative discussions regarding flood control.

In developing these recommendations, the Working Group and League policy committees strove to find the right balance between the need to permit development of housing with the need to avoid intentionally putting people at risk due to inadequate flood protection.

Statement of General Principles

- The League believes our citizens have a reasonable expectation that their state and local officials will work to protect them from flooding.
- The League believes that flood protection and management is a statewide issue, involving flood infrastructure issues related to levees, urban/suburban/rural creeks, streams and rivers, and alluvial fans.
- The League believes that it is important to recognize that levee failures in the Sacramento-San Joaquin River delta have water quality, water supply and economic impacts that may have statewide effects beyond the local or regional levee break situation.

- Flood control issues require planning, evaluation and solutions that take a statewide perspective.
- In assessing problems and proposing solutions, it is important to consider the differences between infill development and new, greenfield development.
- The public safety and health of our citizens and the economic health of our communities and our state depend upon good flood protection. This includes the potentially devastating impacts of floods on our homes and businesses.
- The League supports efforts to improve communication, cooperation and better coordinated planning between different government agencies involved in flood management. The League believes that there must be a genuine partnership between state and local agencies in addressing flood control issues.
- The League believes cities must ask the right questions and have the means to obtain accurate information prior to approving development in floodplains. This involves educating elected officials and staff about whether their city is located in a floodplain, the local flood control infrastructure, the agencies that are responsible for providing flood protection, the status of levees and other structures that provide flood protection, emergency response and evacuation protocols, and how their city would be impacted by flooding.
- The League believes that city officials should understand that a 100-year flood zone does *not* mean a low, once-in-100-years risk of flooding. The designation *actually* means a 1 percent chance of flooding in any given year, which translates into a 26 percent chance of flooding over the life of a typical 30-year mortgage.
- The League generally endorses the recommendations of the State’s Flood Control Task Force, especially those recommendations involved in updating the CEQA Checklist and General Plan Guidelines and building codes.

Flood Maps

- It is critical to have accurate maps that reflect current flood risk information, especially since many areas have experienced growth and build out, thus impacting the accuracy of past flood maps. The League supports efforts to improve and update FEMA flood maps, including the use of best available maps.
- The League is uncomfortable at this time with using the term “reasonable foreseeable flooding” in mapping, since the term is not based upon an objective and quantifiable standard, which is used to calculate a 100-year or 200-year flood map.
- The League is uncomfortable at this time with an across the board change from a 100 year to a 200 year standard for flood protection planning. While the League has concerns about the impacts of such a change, we are willing to consider this issue when legislative language is available for evaluation.

Liability

- The League opposes efforts to shift additional liability to cities from the State for flood related impacts.

Funding

- The League believes that the state has a responsibility to contribute to funding for upgrades to existing levee and other flood protection infrastructure and to fund updated mapping and flood protection planning.
- The state must meet its obligation to pay flood subventions to local governments, including payment of past, unpaid subventions.
- The League supports using financial incentives, such as receiving priority for state funding, to encourage local government to undertake flood related planning activities, especially if such funding would promote housing and public safety.
- Because of the statewide benefits of California’s flood protection infrastructure, the League supports the concept of statewide financing for flood protection infrastructure through appropriate funding mechanisms.
 - While the League acknowledges that there may be some priority areas for allocation of state funds, the League believes that local governments must have input on how state funds will be allocated within the state, perhaps similar to how funding decisions are made for transportation projects.
- The League recognizes that eligibility for state funds may require a local match. Or, even without availability of state fund, local governments may wish to raise their own local revenue to upgrade flood control infrastructure and ensure ongoing operations and maintenance funding. Thus, it is critical that the limitations of Proposition 218 on the ability of local governments to raise needed flood protection revenue be addressed, such as through legislation like ACA 13 (Harman), which would exempt flood control and storm water fees from the voter approval requirement of Proposition 218.
- The League recognizes that existing revenue sources for flood control infrastructure improvements and maintenance are insufficient. Thus, the League is intrigued with the concept of a statewide assessment fee as way to fund levee and flood control infrastructure improvements and ongoing operation and maintenance costs. In evaluating any proposal, we suggest consideration of the following.
 - Because of the statewide public health and safety impacts of California’s flood control system, we believe a statewide assessment is more appropriate than a Central/Sacramento Valley only assessment.
 - However, the League recognizes that any assessment could be structured on a graduated, sliding scale, depending upon impacts and benefits.
 - Such an assessment must be a dedicated revenue source and there should be a guarantee that contributing regions would receive their fair share of funds, especially to fund operating and maintenance expenses.

Planning

- The League supports appropriate efforts to streamline the process for obtaining permits to upgrade and maintain levees and other flood control infrastructure.
- The League supports requiring cities to adopt feasible measures, as determined by the city, that result in less flood or storm run-off and more natural absorption, such as through the use of permeable paving materials, design and other measures. Examples of these measures are included in the Ahwahnee Principles, which were the subject of Annual Conference Resolution 3, adopted by the League in 2005.

- The League encourages and supports efforts to promote regional floodplain approaches to risk evaluation and planning.
- The League recognizes that agencies that operate flood control infrastructure are frequently not the same agencies that have land use decision-making authority and that communication between those agencies should improve.
- The League supports requiring those agencies that own or operate levees and flood control infrastructure periodically to report to the state and local governments that are behind those levees information about the integrity of their levees and flood control infrastructure. If those agencies are not able to provide this information, then this reporting should be provided by the State Reclamation Board.
- The League opposes giving the Reclamation Board new authority to approve or disapprove development projects in floodplains.
- The League supports a change in law to *require* the State Reclamation Board to comment on EIRs for developments that are behind levees and within their jurisdiction.
- The League supports a change in law to *require* agencies that own and operate levees and flood control infrastructure to comment on EIRs for developments within their service areas.
- The League supports requiring cities to amend their General Plans to include the following flood related topics, if they do not already address these topics.
 - amending the Safety Element to include emergency and disaster response plans related to flooding;
 - amending the Conservation Element to include requirements to adopt feasible water conservation and flood water absorption measures, such as those included in the Ahwahnee Principles.
- The League supports updating the General Plan Guidelines and CEQA Checklist/Guidelines to better address flood control issues.
- The League supports updating uniform building code standards to reflect appropriate flood control prevention standards.
- The League believes that legislative proposals related to development within floodplains should consider the differences between infill development and greenfield development. In making this statement, however, the League is aware of potential environmental justice issues, which should be considered when evaluating any proposals that could result in dual standards for flood protection.
- The League supports creation of a state agency ombudsman to assist local agencies with flood protection infrastructure problems due to conflicting state or federal agency regulations and requirements.
- The League supports requiring all cities within floodplains to adopt a flood risk management plan. Such a plan would include such items as emergency response protocols, siting of critical health and public facilities, emergency evacuation plans and could include regional responses where appropriate.

Development in Flood Zones

In addition to previous statements that relate to planning and development in floodplains, the League adopts the following preliminary principles regarding proposals that address development in floodplains, including the “Show me the flood protection” concept.

The “show me the flood protection” concept proposes that before development can be approved, a city or county must show that there is adequate flood protection. If there is not adequate flood protection, the local government would be required to demonstrate that a plan is in place to be implemented and funded to provide that protection. This is similar to the “show me the water” law that was adopted several years ago for developments of 500 or more units.

- Before the League is comfortable taking a position to support or oppose the concept of “show me the flood protection”, there are a number of issues and questions that must be satisfactorily addressed. These include the following:
 - What would be the process and certification standards for adequate flood protection? Who would make the certification?
 - What about liability – who would be liable if a flood occurs even if the certification was provided?
 - Would the protection standard be a 100-year flood or a 200-year flood?
 - Such a proposal is related to updated and accurate flood maps. How will the task of updating flood maps be financed and accomplished?
 - What about differences between infill development in flood zones and new greenfield development in flood zones?
 - Would local governments be able to use improved building standards as a way to mitigate or offset potential flood impacts?
 - What about a regional or integrated watershed management planning approach to assessing and providing flood protection. Upstream development, levee conditions and levee maintenance and other flood control conditions impact flood potential in downstream areas. Thus, it is possible that an area wide assessment and plan could be developed that could be used by participating jurisdictions, rather than requiring each city to conduct its own assessment and develop its own plan.
 - In any “show me the flood protection” proposal, cities should have a “safe harbor” protection for the impacts of development restrictions due to flood control issues on the number or cost of housing. That is, acknowledgement of possible constraints on housing density, on the number of homes or the cost of housing should be included as part of Housing Element review and RHNA numbers. This is a key issue of importance to the League.

Other

- The League believes improved communication among the various state and local government agencies responsible for flood control infrastructure and land use authority is essential.

**California State Association of Counties
Association of California Water Agencies
League of California Cities
Regional Council of Rural Counties
County of Napa
County of Orange
Napa County Flood Control and Water Conservation District
Riverside County Flood Control and Water Conservation District
Santa Clara Valley Water District
City of Napa
City of Santa Cruz**

February 13, 2006

TO: Senator Wesley Chesbro, Chair, Senate Budget and Fiscal Review Committee
Senator Dennis Hollingsworth, Vice-Chair, Senate Budget and Fiscal Review
Committee
Senator Sheila Kuehl, Chair, Senate Budget Subcommittee No. 2 and Chair,
Senate Natural Resource and Water Committee
Senator Bob Margett, Vice-Chair, Senate Natural Resource and Water Committee

RE: Department of Water Resources' Flood Control Subvention Program

The above listed organizations represent a coalition of local governmental agencies that partner with the state and federal government in flood control projects. As the representatives of local agencies tasked with providing the citizenry with flood protection, we urgently request your action to include funding in the upcoming 2006-07 State Budget for the Department of Water Resources (DWR) Flood Control Subvention Program.

Under this program flood control project costs are shared among local, state, and federal governments. Unfortunately, the state has not paid its full share of the costs for these projects since the early 1990's. As a result, necessary work needed to complete important flood control projects has been delayed.

The floods that devastated New Orleans just a few months ago showed us the true value of flood protection investment. As you know, California's history is replete with tragic reports of severe flooding. Given the State's volatile geography, it's not a question of *if* a similar disaster could occur in our state, but simply *when* and *where*.

Prior year commitments to restore flood control subvention funding must be honored. While we are encouraged that the proposed flood protection/water supply bond measures

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include funding for the subvention program, there is no guarantee that these measures will be enacted in a timely manner, if enacted at all. Therefore we respectfully ask you to support a 2006-07 State Budget that includes full funding of the state's share of the flood control subventions through the end of the fiscal year, roughly \$250 million according to DWR estimates. We further request that adequate funding be appropriated to the division within DWR responsible for processing local flood control subvention claims.

Lastly, we encourage your support for continuous flood control subvention program investment in future budgets and flood control/infrastructure plans to accommodate claims that will be billed as further flood control improvements are built.

If you or your staff have any questions regarding our request please contact either Karen Keene, CSAC Legislative Representative at 916-327-7500, x-511, or Ron Davis, ACWA Legislative Director at 916-441-4545.

Thank you for your time and consideration.

cc: Lester Snow, Director, Department of Water Resources
Sean Walsh, Director, Governor's Office of Planning and Research
Michael C. Genest, Department of Finance



February 14, 2006

Senator Kuehl, Chair
Natural Resources & Water
Committee

Assembly Member Wolk, Chair
Water, Parks & Wildlife Committee

Senator Murray, Chair
Conference Committee

Assembly Member Laird, Chair
Conference Committee

Senator Chesbro, Member
Conference Committee

Assembly Member Chu, Member
Conference Committee

Senator Hollingsworth, Member
Conference Committee

Assembly Member Keene, Member
Conference Committee

Re: RCRC/CSAC Preliminary Comments on AB 1839 (Laird) & SB 1166 (Aanestad/Machado) Flood Protection and Clean, Safe, Reliable Water Supply Bond and Financing Acts of 2006 and 2010

Dear Senators Kuehl, Murray, Chesbro, Hollingsworth, and Assembly Members Wolk, Laird, Chu, and Keene:

The Regional Council of Rural Counties (RCRC) and the California State Association of Counties (CSAC) are pleased to submit these preliminary comments on AB 1839 (Laird) and SB 1166 (Aanestad/Machado) for your consideration. Neither RCRC nor CSAC have taken an official position on these measures. We anticipate the submittal of additional comments, verbal and/or written, as the infrastructure bond discussions evolve.

RCRC and CSAC applaud the Governor for his Strategic Growth Plan and welcome the attention of the Administration and the Legislature on the pressing infrastructure needs of the state. The state's aging water facilities are barely able to meet current public demand, and most of the state's levees are antiquated and in

dire need of repair. The population of California continues to grow and funding the state's water supply and water quality needs, and protecting the public health and safety in the form of improved flood protection are rightly high priorities.

Flood Protection Program

State Flood Control System Status Report. Our organizations support the development of an evaluation of the performance and deficiencies of project levees and other flood control facilities. This evaluation is long overdue. Further, we support the prioritization of levee and flood control facilities repair and improvement for areas deemed to be most at risk.

Additionally, we urge the Administration and the Legislature to include funding in the bond for the development of a comprehensive flood control needs assessment for the remainder of the state.

Local Cost Share. Our organizations support changes to Proposition 218 that would exempt flood control and storm water assessments from existing voter threshold requirements. (ACA 13).

Levees and Facilities Repair/Liability. RCRC and CSAC oppose the proposed shift of liability and financial responsibility from the state to local agencies. Under SB 1166/AB 1839, the local agency responsible for operating or maintaining the levee at, or adjacent to, the erosion repair work would be required to indemnify and hold the state harmless from any and all liability for damages associated with the work performed by the state.

The agreement to transfer the federal valley-wide flood control system to the state stipulated that the state would be responsible for operation and maintenance of the system, and would hold the federal government harmless from any future claims. The state, in turn, entered into agreements with local agencies to operate and maintain certain project levees for which California served as the nonfederal sponsor and provided the nonfederal assurances to the United States.

We believe that it is inappropriate to shift liability to local agencies for any actions other than the operations and maintenance they agreed to undertake through the execution of assurance agreements. However, even this limited level of liability is problematic. It has been well documented in the press that many of these local agencies do not have the financial capability to operate and maintain project levees under currently fiscal and regulatory conditions. The State of California is ultimately responsible for the flood control system for which the state served as the nonfederal sponsor and provided the nonfederal assurances to the federal government.

Additionally, RCRC and CSAC urge the Administration and the Legislature to explore how the permit process for flood control project operations and maintenance may be expedited. Our organizations understand that the primary cause of delay has been identified as the federal Endangered Species Act.

Flood Control System Improvements/Liability. SB 1166/AB 1839 proposes that prior to construction the local agency and each city and county receiving flood protection from the project indemnify and hold the state harmless from any and all liability from damages associated with the work. Again, this language is an attempt to shift state liability to local agencies, an action which we strongly oppose. It is not reasonable to expect a local government that has no control over the levee improvements proposed to be made (design, construction, etc.), nor the operations and maintenance after construction, to indemnify the state as proposed.

Delta Levees Subventions and Special Projects. We support funding for the Delta Levees Subvention Program to assist local agencies in maintaining and improving existing project and non-project levees in the Delta and Suisun Marsh. Additionally, our organizations support funding for actions that will assist in reducing the risk of catastrophic breaching of Delta and Suisun Marsh levees.

Flood Control Subventions Program. Our organizations support full funding for the Flood Control Subventions Program and are pleased that funding for projects that are not part of the state plan of flood control are included in SB 1166/AB 1839. In addition, we urge the Administration and the Legislature that the proposed bond funding be supplemented in the State Budget with annual appropriations from the General Fund.

Further, RCRC and CSAC urge both the Administration and the Legislature to ensure that the State Budget include resources for the Department of Water Resources to staff the Flood Control Subvention Program adequately so that reimbursements for delinquent claims are processed as soon as possible and new claims processed in a timely manner.

Floodplain Mapping. We support funding for the preparation and updating of flood hazard maps of the lands adjacent to the Sacramento and San Joaquin Rivers and their tributaries. Further, our organizations support funding for community assistance for flood plain management activities and alluvial fan floodplain mapping.

Floodway Corridor Program. Our organizations support the language in this section of SB 1166/SB 1839 which specifies that in acquiring land rights priority shall be given to acquiring easements from willing sellers, and that no acquisition of fee interest shall be undertaken until all practical alternatives have been

considered in order to ensure that property acquired remains on the county tax role and in agricultural use to the greatest extent practicable.

Integrated Regional Water Management /Regional Water Management

The following are preliminary comments:

Integrated Regional Water Management (IRWM) Program. The provisions of the proposed IRWM Program raise numerous questions, including questions relating to the size and boundaries of the proposed regions. While one IRWM plan per region may be easier for the Department of Water Resources (DWR) to administer on the state level, it is unclear how DWR would ensure that the pressing needs of small entities in that region are included in the IRWM plan and therefore eligible for funding.

We have heard concerns that a regional water agency dominated governance structure could potentially exclude a variety of worthy projects from being included in the IRWM plan. This is of great concern as it appears that all state bond funding is proposed to be funneled through IRWMs. Additionally, water agencies have expressed concerns that bond funding could be used for purposes other than improving water supply and water quality. We believe these contradicting views are due to the fact that IRWM has little in the way of a track-record to date.

Currently various water agencies work cooperatively with, and invest in, the area-of-origin of their water supply. Questions have been raised as to what impact the designation of distinct “regions”, and funds allocated for these distinct regions, may have on such arrangements. We urge that watershed protection and watershed management projects which have, among other things, water supply, water quality and flood control benefits, be emphasized and encouraged to a greater extent in the language of the bond.

While our organizations agree that IRWM should be encouraged, we are concerned that the Administration has underestimated the time and effort it will take to successfully develop IRWM plans on the local level, as this will require the establishment of an intense multi-stakeholder collaborative process. Small entities in low-population areas may find it difficult to divert personnel to this effort. Our organizations believe that the timeframe for developing IRWMs plans before the proposed 2006 bond funds may be transferred to other purposes is highly unrealistic.

In the aftermath of Proposition 50, various areas around the state have worked to meet the Chapter 8 guidelines in order to qualify for funding, but the IRWM movement in many areas of the state is clearly in its infancy. We are concerned that some areas may be at a disadvantage and need assistance in developing IRWM

plans and applying for implementation grants. While Bulletin 160-05 (the 2005 California Water Plan Update) discusses DWR developing the necessary tools to assist local and regional agencies so that they are successful, and the equitable distribution of technical and financial assistance in planning efforts, the bond itself does not specify technical assistance as one of the actions DWR will undertake.

We understand that flexibility as it relates to bill language is often desirable, but on the other hand the lack of specificity throughout this section raises numerous questions. For example, the bond language could go beyond the mention of “integration of water management with land use planning” (Section 92093 (b) (2)) to specifically mention that this includes funding proposals for the development and/or update of a Water Element for local General Plans (as described in Bulletin 160-05).

Invasive Species. Our organizations urge the Administration and the Legislature to specifically include in the list of projects that may be funded with bond funds “the removal of invasive non-native species”.

Definition of “disadvantaged community”. RCRC and CSAC would like to work with the Administration and the Legislature on the definition of “disadvantaged community”. Currently, communities with a small number of water and/or wastewater connections are unable to raise sufficient funds through connection fees to comply with increasingly stringent and expensive water quality requirements. Despite the pressing need, they are disqualified from receiving Proposition 50 grants as the definition of a disadvantaged community is one with a median household income of less than 80% of the statewide median household income. We note that SB 1166/AB 1839 defines disadvantaged community as “a median household that is less than 80 percent of the median household income for the funding region of as whole.” A preliminary analysis by county (not region as proposed in SB 1166/AB 1839) indicates that this formula may be beneficial for many of these small water and wastewater agencies that currently do not qualify for grants under Proposition 50.

Statewide Water Management Program

Surface Water Storage. RCRC and CSAC support the Administration’s proposed modification of SB 1166/AB 1839 which would provide that bond funds for completion of surface water storage planning, feasibility studies and preliminary engineering design, among other things (Sections 82097) and funds for the state cost share of construction of one or more of the surface storage projects being investigated under CALFED, and constructing conjunctive use and groundwater storage projects that provide interregional benefits (83095.5) are combined to allow a vote of the people on both sections in the Bond Act of 2006. As a result of this change, the \$250 million proposed in Section 82097 would be available for appropriation by the Legislature to DWR upon a vote of the people in 2006. Bonds

to provide the \$1 billion in Section 83095.5 would not be sold until 2010, and would be conditioned on several actions. This proposed language change would address concerns raised about the possibility that the Bond Act of 2010 could fail passage.

California Water Resources Investment Program

Capacity Charge. The proposed California Water Resources Investment Program (WRIF) funded by a capacity charge on all retail water connections raises numerous questions. RCRC and CSAC have not taken an official position on the imposition of a capacity charge. We submit the following preliminary comments and questions on the proposed Water Resources Investment Program:

California Water Commission/Capacity Charge. In SB 1166/AB 1839 the California Water Commission, in addition to providing oversight for funding expenditures, is responsible for making recommendations to the Legislature regarding proposed changes to the schedule of charges specified in the bill. The recommended schedule changes would become effective unless the Legislature takes action, by statute, within 60 days. We note that there is no cap or limitation on the size of any increase, nor is there a sunset provision. We believe that a cap or limitation on the size of any increase should be established, and a sunset on the capacity charge seriously considered.

Redirection of Funds. While SB 1166/AB 1839 contains language that states the investment fund shall not be appropriated by the Legislature for any purposes other than those set forth, we question whether this provision provides sufficient protection from potential redirection.

Complex Program. Our organizations understand that there is a desire on the part of the State to encourage IRWM. We believe that a discussion needs to take place as to whether the establishment of this complex program is the best approach.

The retail water agencies will incur costs in the collection of the charges and the transmittal of the funds to the Board of Equalization. The Board of Equalization will incur costs related to the collection of the funds, and the Department of Water Resources will incur costs associated with a number of new responsibilities imposed in the bill, including administration of the grant program, tracking the funds expended, and the performance of the projects and programs funded. Additionally, there will be the costs incurred by the Water Commission mentioned previously to oversee the Department of Water Resources. All this process to “grant” a portion of the funds collected back to the regions from which they were collected. The subject of imposing a cap on administration of the program has been voiced in hearings, and our organizations support the inclusion of a cap (no greater than 5% total) should the proposed WRIF be included in the infrastructure bond.

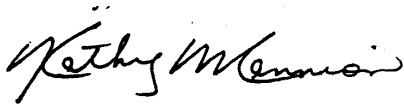
Definition of Applicant. It is unclear to us what the rationale is behind including a state agency in the definition of “applicant” thus making a state agency eligible to receive monies from the WRIF.

Relocation of Residences. The project levees and repairs section of SB 1166/AB 1839 provide that when a determination has been made the cost of repair exceeds the benefit that repair shall be given low priority, and allows the purchase of flowage easements in areas assigned low priority for repair. It is anticipated that this cost/benefit analysis will solely impact agricultural areas.

RCRC and CSAC request that the Administration and Legislature explore including funding for the costs related to the relocation of residences in areas which have previously flooded in the bond.

In conclusion, RCRC and CSAC are committed to working with the Administration, the Legislature, and other stakeholders in the development of an infrastructure financing package that will provide the State and local entities with the fiscal resources needed to build, improve, maintain and operate flood control and water supply systems statewide. We are available if you have any questions.

Sincerely,



Kathy Mannion
RCRC
(916) 447-4806



Karen Keene
CSAC
(916) 327-7500

cc: Senator Sam Aanestad
Senator Mike Machado
Assembly Member John Laird
Members, Senate Natural Resources and Water Committee
Members, Assembly Water, Parks and Wildlife Committee
Dennis Albiani, Office of the Governor
Director Lester Snow, Department of Water Resources
Brian White, Department of Water Resources
Committee Consultant, Senate Natural Resources and Water Committee
Committee Consultant, Assembly Water, Parks and Wildlife Committee

Agenda of February 16, 2006

**TO: Sacramento Area Flood Control Agency
Board of Directors**

**FROM: Stein Buer, Executive Director
(916) 874-7606**

SUBJECT: INFORMATION – NATOMAS LEVEE EVALUATION STUDY

SUMMARY

This is an information item to provide your Board with a summary of the preliminary findings and conclusions of the Natomas Levee Evaluation Study (Study), which SAFCA initiated in 2005 to identify the improvements needed to provide the Natomas area with at least a 200-year level of flood protection. No action is requested at this time. Staff intends to return to your Board in March with recommendations as to the next steps which should be taken in responding to the conclusions of the Study.

BACKGROUND

After the record storm of 1986, SAFCA was formed to work with the responsible Federal and State agencies to plan and implement the system-wide improvements needed to provide the Sacramento area with at least a 100-year level of flood protection as quickly as possible while working to provide the area with at least a 200-year level of protection over time. SAFCA has characterized this improvement program as progressing from high risk (less than 100-year) through moderate risk (greater than 100-year but less than 200-year) to low risk (greater than 200-year). The Natomas Basin has been a major focus of this effort. Between 1990 and 1993, about \$20.0 million was spent as part of the Sacramento Urban Levee Reconstruction Project to strengthen the east levee of the Sacramento River so as to address through-levee seepage problems experienced during the 1986 flood. Thereafter, another \$80.0 million was spent as part of the North Area Local Project (NALP) to raise and strengthen the levees along the eastern and northern flanks of the basin.

As a result of these efforts, the U.S. Army Corps of Engineers (Corps) concluded in 1998 that the Natomas area had adequate protection to safely contain a 100-year flood. In rendering this conclusion, the Corps acknowledged that portions of the east levee of the Sacramento River had less than the normally required three feet of freeboard on the 100-year water surface profile. This was considered acceptable because this levee performed well during the 1997 flood and because the Corps

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anticipated that the levee would be raised in the near future as part of the Federally authorized American River Common Features Project (Common Features). In addition, the Corps assumed that ongoing erosion in the Sacramento River channel would be addressed, either as part of routine local levee maintenance efforts or as part of the Sacramento River Bank Protection Project.

For the 1998 certification process the Corps did not evaluate the risk of underseepage. Although such an evaluation was technically part of their standard operating procedure for evaluating levee performance, underseepage was not considered a significant failure mechanism for levees in the Sacramento Valley, and the effort necessary to accumulate and analyze boring data was not thought to be cost-effective.

However, over time, the Corps' assessment of levee failures during the 1997 flood indicated that underseepage was a potentially significant contributor to levee instability and some of the levee failures during the flood. As a result, in 2000 the Corps retained the engineering firm URS to help evaluate the underseepage risk in Natomas, as well as other levee performance parameters which would need to be addressed to achieve the 200-year flood performance threshold. Boring data was collected along the south levee of the Natomas Cross Canal and the east levee of the Sacramento River, and an initial assessment of the potential for underseepage was completed.

Based on the analysis of the available data, including extensive additional borings, URS, in 2002, concluded that most of the studied levee reaches would need substantial additional work to address underseepage, erosion protection, and freeboard requirements in order to reach a high level of flood protection. Because of the magnitude and anticipated cost of the recommended work, and because underseepage was a newly identified concern in the Sacramento Valley, the Corps and its non-Federal partners determined a panel of experts should be convened to review and refine the Corps' guidelines for evaluating the risk of underseepage and designing remedial measures before proceeding further.

The Corps' Levee Seepage Task Force was convened in early 2003 and completed its work in July 2003. Based on its findings, the Corps developed a new Standard Operating Procedure (SOP) for Geotechnical Levee Practice, recommending guidelines for evaluation, design, and maintenance, which were adopted by the Corps' Sacramento District in August 2004. The most important recommendation embodied in the new SOP was that additional resources should be used in the evaluation, design, and maintenance phases so that less conservative and costly remedial measures could be recommended for construction.

With the new SOP as a guide, the Corps, the State Reclamation Board, and SAFCA staffs collaborated to develop a plan for moving forward with the Natomas levee improvements needed to achieve 200-year flood protection, while at the same time addressing any priority levee deficiencies which might be identified. Given the limited funding available to the Corps through Common Features, it was agreed

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that SAFCA would take the lead in conducting a Natomas levee evaluation which would be the basis for planning additional levee improvements. In addition, it was agreed that the Corps would conduct a re-evaluation of data collected from earlier studies in light of the new SOP, using the 100-year flood profile as a basis for evaluation.

At the Corps' direction, URS re-analyzed the boring data that it had earlier collected using the new guidelines, summarizing its findings in a report dated November 2005. For water surface elevations produced by a 100-year flood, URS determined that, at some locations, calculated exit gradients exceeded the adopted guideline for levee stability and the borings indicated a potential for subsurface permeability that could threaten the stability of the affected levees if not addressed.

In accordance with SAFCA Board Resolution Nos. 05-018, 05-033, and 05-054, SAFCA's Natomas Levee Evaluation Study was initiated in June 2005, including extensive additional geotechnical exploration along the existing levee and the proposed levee setback alignment in North Natomas. SAFCA's study has focused on the potential for underseepage failure in a 200-year flood event along the south levee of the Natomas Cross Canal, the east levee of the Sacramento River and the north levee of the American River. Unresolved levee freeboard and streambank erosion issues affecting these levees were also evaluated in order to identify the scope of the improvements needed to reduce the annual risk of flooding to less than 1/200. Lastly, in order to identify the magnitude of the problems and prioritize remedial activities, the potential for underseepage failure was also assessed for a 100-year flood event.

SAFCA's administrative draft Natomas Levee Evaluation Study is currently undergoing review by the Corps and The Reclamation Board staffs.

The URS November 2005 report to the Corps and the draft findings of SAFCA's study reconfirm the Corps' post-1997 flood concerns regarding underseepage and underscore the need for a substantial expansion of the scope of the Common Features Project in Natomas. The current Corps and SAFCA studies will contribute to the ongoing Corps General Re-evaluation Report (GRR) process, which is documenting the extent of the underseepage problem and identifying a range of solutions to this problem, as well as other levee concerns. However, because of anticipated continued Corps funding limitations and the priority of eliminating high risk levee deficiencies in other areas along the Lower Sacramento and American River levees, this GRR will not likely be completed until 2009.

DISCUSSION

Deficiencies in the Natomas levees were identified based on the following engineering criteria. For levee freeboard, the criterion was to provide at least two feet above the 200-year design water surface elevation. Levee foundations were deemed deficient if soil boring data gathered at multiple locations along the landside of the affected levee reaches indicated exit gradients at or above the

Corps' adopted guideline for underseepage. The risk of bank erosion was assessed based on the width of the bank (berm) between the levee and the active river channel, the steepness of the bank, the potential for scour along the waterside toe of the bank, and the cohesiveness of the soils comprising the bank.

The preliminary findings and conclusions of the draft study report indicate that:

- (1) Much of the upper 11 miles of the east levee of the Sacramento River downstream of the mouth of the Natomas Cross Canal does not provide at least two feet of freeboard and needs to be raised one to two feet;
- (2) The east levee of the Sacramento River between the Natomas Cross Canal and the American River also contains several at-risk erosion sites totaling over two miles in length; and
- (3) Almost 20 of the 26 miles of levee extending along the northern, western and southern flanks of Natomas are susceptible to seepage at the 200-year water surface elevation, and, at several locations, this susceptibility also occurs at the 100-year water surface elevation. This suggests that the risk of levee failure is greater than was previously thought.

Proposed remedies for identified deficiencies were developed based on established levee improvement and bank protection techniques. The draft report proposes to address levee freeboard deficiencies through levee raising; address foundation stability issues primarily through construction of slurry walls; and address erosion risks through minimum impact toe rock and bank re-vegetation techniques in use along the Lower American and Sacramento rivers.

The draft report also considers the possibility of addressing identified deficiencies in the upper five miles of the east levee of the Sacramento River through construction of a new secondary levee set back about 1,000 feet from the existing levee. Under this alternative, the existing levee would continue to confine the river channel and serve as a local roadway for residents along the Garden Highway. The new levee would eliminate the uncertainties associated with refurbishing the existing levee, avoid ongoing erosion problems, and ensure safe containment of the 200-year flood if the existing levee fails.

POLICY CONSIDERATIONS

The preparation of the Corp's November 2005 report and SAFCA's draft report are the latest in a series of steps taken by SAFCA, the Corps, and the State Reclamation Board (State) to identify and implement the improvements needed to provide the Sacramento urban area with a 200-year level of flood protection, while addressing any deficiencies which might require higher priority action. This effort is

continuing to unfold within the framework of the Federally authorized American River Watershed Investigation (ARWI).

While the Corps has been the lead agency for the ARWI, SAFCA and the State have played important complementary roles. At several critical junctures, the partners have altered their traditional relationship to address urgent needs, with SAFCA and/or the State assuming greater-than-normal financial burdens in order to facilitate needed work that would otherwise have been delayed substantially. This occurred in connection with the NALP, where SAFCA took the lead in designing and constructing the project, and with bank protection along the Lower American River, where SAFCA helped to broker an agreement on the design of the improvements and took responsibility for the performance of this design. The identified issues with the levees protecting Natomas may present another opportunity for such adaptation given the urgency of correcting the deficiencies and the pace at which it is likely to be addressed without local intervention.

FINANCIAL IMPLICATIONS

Based on preliminary cost estimates, the Study indicates that the cost of the improvements needed to address all of the identified deficiencies in the Study area is approximately \$270.0 million. The majority of this cost is attributable to addressing underseepage problems. In devising a strategy for funding the needed improvements, staff will consider various combinations of options, including the following, with the aim of initiating the response process as quickly as possible:

- State Infrastructure Bond and Assessment District. The Legislature is currently considering whether or not to ask California voters to approve up to \$6.0 billion in bond funding in 2006 and 2010 for water resource related projects including flood control. If these bonds are approved, substantial funding would be available for Sacramento flood control. The Legislature is also likely to consider companion legislation that could include creation of a Sacramento Valley-wide assessment district to raise the local share of the cost of the improvements funded through the bonds and to provide sustainable long-term funding for operation and maintenance of the Sacramento River Flood Control Project. If such a district is formed, Sacramento property owners would be major contributors, and district revenues could be used to address Sacramento's flood control problems.
- Federal Funding. With additional congressional authorization, the needed improvements would likely qualify for Federal funding as part of the authorized American River Common Features Project. The Corps is in the initial phase of preparing a GRR that will document the conditions outlined in SAFCA's Study and serve as a vehicle for Congress to expand the scope of the Common Features Project and authorize additional Federal funding for the Natomas area. The GRR is expected to be completed in 2009 and presented to Congress in 2010.

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- Local Assessments. There is approximately \$37.0 million in bonding capacity remaining in SAFCA's NALP Capital Assessment District. Depending on the financing needs of the area covered by SAFCA's American River/South Sacramento Streams Capital Assessment District, which will also need to fund additional levee improvements to meet a 200-year level of protection. An extension of the payment period and an adjustment in the amount of the assessments in both districts could be pursued either by maintaining the current separation of these districts, or by combining them into a single district with appropriate benefit zones to ensure the legally required proportionality of the assessment burden.

Regardless of which options are developed and pursued singly or in combination, it would make sense for your Board to consider phasing strategies that would prioritize the remedial work and help to manage local, State and Federal cash flows.

RECOMMENDATION

This is an information item to present the preliminary findings and conclusions of the Natomas Levee Evaluation Study to your Board for consideration while the draft report and its extensive technical appendixes are undergoing review by the Corps and The Reclamation Board staffs. Staff intends to return to your Board in March with recommendations as to the next steps which should be taken in responding to these findings and conclusions.

Governor Schwarzenegger Declares State of Emergency for California's Levee System

<http://www.governor.ca.gov/govsite/images/links/updates/map2.jpg>The Governor has declared a state of emergency for the state's levee system. Two days ago, Gov. Arnold Schwarzenegger and Sen. Dianne Feinstein led a Congressional delegation on an aerial tour of Central Valley levees. Below is the full text of the proclamation.

A PROCLAMATION

BY THE GOVERNOR OF THE STATE OF CALIFORNIA

WHEREAS, the California Department of Water Resources document "Flood Warnings: Responding to California's Flood Crisis," submitted to the Legislature in January 2005 identified major deficiencies and challenges to the flood control system in the California Central Valley;

WHEREAS, the California Department of Water Resources testified before the Legislature that a magnitude 6.5 earthquake in the Sacramento Delta region would likely result in a catastrophic levee failure that threatens the drinking water supply for 24 million citizens in California;

WHEREAS, a majority of California's agriculture industry is dependent on water from the Sacramento Delta and a catastrophic levee failure would result in cessation of pumping capacity for as much as 18 months, causing \$30-\$40 billion in economic damage to the State;

WHEREAS, a catastrophic levee failure would threaten tens of thousands of homes and major transportation corridors;

WHEREAS, a catastrophic levee failure would result in significant environmental impacts including the permanent loss of critical habitat for endangered species around the Sacramento Delta;

WHEREAS, severe weather conditions during the past two flood seasons have brought unusually heavy rains, which combined with the already poor condition of many levees creates conditions of imminent peril to those living near the levees, to the environment, businesses, and critical life support systems, such as drinking water supplies;

WHEREAS, my Administration has introduced to the Legislature a comprehensive flood control investment strategy to address these serious threats;

WHEREAS, because of these severe weather conditions, I, Arnold Schwarzenegger, have issued Proclamations of State of Emergency in as many as 42 counties that have suffered flooding, mudslides, the accumulation of debris, washed out and damaged roads, and the loss of human life;

WHEREAS, severe weather conditions during each flood season have resulted in the accumulation of significant damage to the levee system;

WHEREAS, severe weather conditions during the future flood seasons or an earthquake will likely overwhelm the State's levee system;

WHEREAS, the U.S. Army Corps of Engineers in cooperation with the California Department of Water Resources has identified [24 critical erosion sites](#) on project levees in the Sacramento and San Joaquin River Flood Control systems that need to be repaired before a catastrophic levee failure occurs; and will continue to identify additional levee erosion sites;

WHEREAS, any levee breaches in the Central Valley have both hidden and known deficiencies, and it is imperative that the State take measures to address serious risks as they become known;

WHEREAS, without an emergency proclamation and federal assistance, the California Department of Water Resources will not be able to complete necessary repairs to these 24 identified critical erosion sites before the start of the next flood season;

WHEREAS, the Department of Water Resources will continue to identify additional levee sites that require expedited repairs to prevent the loss of human life and significant property damage during a catastrophic levee failure;

I, ARNOLD SCHWARZENEGGER, Governor of the State of California, find that conditions of extreme peril to the safety of persons and property exist within the California levee system;

The resources to address this threat exceed the capabilities, services, personnel, equipment and facilities of any one county. Under the authority of the California Emergency Services Act, set forth at Title 2, Division 1, Chapter 7 of the California Government Code, commencing with section 8550, I hereby proclaim that a State of Emergency exists for the State's levee system;

Pursuant to this proclamation, I hereby direct all agencies of the state government to utilize and employ state personnel, equipment and facilities for the performance of any and all necessary activities to alleviate this emergency in accordance with the State Emergency Plan.

I FURTHER DIRECT, that as soon as hereafter possible, this proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this proclamation.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 24th day of February, 2006.

ARNOLD SCHWARZENEGGER
Governor of California