

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: PUBLIC WORKS *CP*
Urgent _____ Routine ✓

BOARD AGENDA # C-8
AGENDA DATE OCTOBER 2, 2001

CEO Concurs with Recommendation YES _____ NO _____
(Information Attached)

4/5 Vote Required YES _____ NO ✓

SUBJECT: APPROVAL OF JOINT POWERS AGREEMENT FOR THE OPERATION OF GOMES LAKE AND RELATED FACILITIES

STAFF
RECOMMEN-
DATIONS:

APPROVE THE JOINT POWERS AGREEMENT BETWEEN TURLOCK IRRIGATION DISTRICT, CITY OF TURLOCK, RECLAMATION DISTRICT NO. 2063, RECLAMATION DISTRICT NO. 2091, AND STANISLAUS COUNTY.

FISCAL
IMPACT:

There will be a minor cost increase to the Road Fund for the maintenance of certain drainage facilities.

BOARD ACTION AS FOLLOWS:

No. 2001-772

On motion of Supervisor Mayfield, Seconded by Supervisor Caruso
and approved by the following vote,

Ayes: Supervisors: Mayfield, Blom, Simon, Caruso, and Chair Paul

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

MOTION:

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

By: Deputy

Christine Ferraro

File No.

DISCUSSION: In the 1950's and 1960's, levees were constructed along the San Joaquin River to provide flood protection to certain properties. Within Stanislaus County, one of these levee systems was constructed from roughly the Stanislaus/Merced County Line downstream to the City of Modesto sewage treatment ponds. The construction of these levees affected natural drainage courses; storm and other waters that naturally would flow to the San Joaquin River were now blocked by the levees. To correct this situation, pumping facilities were constructed that would allow waters backed up by the levees to be pumped over the levees and into the San Joaquin River. These pumping facilities were required by the State to be maintained locally. One of these facilities is called the Gomes Lake Pumping Plant and is located approximately one mile upstream from Las Palmas Avenue.

Waters reaching the Gomes Lake Pumping Plant primarily come from the City of Turlock, Stanislaus County (road drainage), and tail water from agricultural properties. For the Gomes Lake Pumping Plant, the Turlock Irrigation District, the City of Turlock, Reclamation District 2063 and Reclamation District 2091 agreed to provide for the required maintenance. A joint powers agreement that accepted maintenance responsibilities was approved in 1972 between these agencies.

Last year, the Turlock Irrigation District requested that the Joint Powers Agreement be renegotiated to provide for changed conditions. Representatives from the JPA parties met and negotiated a new Joint Powers Agreement. The major differences between the 1972 JPA and the newly negotiated JPA are as follows:

- ◆ In the 1972 JPA, expenses were allocated as follows:

| | |
|-----------------------------|-----|
| Turlock Irrigation District | 41% |
| City of Turlock | 30% |
| Stanislaus County | 19% |
| Reclamation District 2063 | 8% |
| Reclamation District 2091 | 2% |

- ◆ Under the proposed JPA, expenses would be allocated as follows:

| | |
|-----------------------------|-----|
| Turlock Irrigation District | 20% |
| City of Turlock | 35% |
| Stanislaus County | 45% |
| Reclamation District 2063 | 0% |
| Reclamation District 2091 | 0% |

- ◆ A governing board for the JPA would be established comprised of one representative from each of the five parties to the Agreement.
- ◆ Services for the JPA can be furnished by either one of the parties to the Agreement or by a private contractor.

SUBJECT: APPROVAL OF JOINT POWERS AGREEMENT FOR THE OPERATION OF GOMES LAKE AND RELATED FACILITIES
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DISCUSSION

(Continued): ♦ Stanislaus County will provide for administrative services to the JPA.

Revising the JPA will provide for a more equitable sharing of expenses. It will also provide for an operating board that can more effectively administer the JPA facilities. These facilities are critical in draining the central portion of our County, and the new JPA format will provide for the necessary oversight.

POLICY

ISSUE: This action is consistent with the Board of Supervisors goals of safe communities and interjurisdictional cooperation.

STAFFING

IMPACT: All work under this Agreement will be conducted by present staff. No additional staffing is required.

GWS:sp

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**GOMES LAKE
JOINT POWERS AGREEMENT**

THIS AGREEMENT, entered into pursuant to Title 1, Division 7, Chapter 5, Article 1, Sections 6500 et. Seq. of the California Government Code by and between the **TURLOCK IRRIGATION DISTRICT** ("TID"), the **CITY OF TURLOCK** ("CITY"), the **COUNTY OF STANISLAUS** ("COUNTY"), **RECLAMATION DISTRICT 2063** ("RD 2063"), AND **RECLAMATION DISTRICT 2091** ("RD 2091"):

WITNESSETH

WHEREAS, each party hereto is a public agency within the meaning of Section 6500 of the Government Code, and each has the legal power to acquire, develop, maintain, operate, dispose of, and replace facilities and equipment for flood control and land reclamation; and,

WHEREAS, the STATE, TID, COUNTY, CITY, RD 2063, and RD 2091 desire to administer the flood control and land reclamation facilities and equipment covered by the originally proposed State Maintenance Area No. 14 (a map of which is attached to this agreement as Exhibit "A"); and,

WHEREAS, TID, COUNTY, CITY, RD 2063 and RD 2091 executed a Joint Powers Agreement (JPA) dated April 5, 1972 that provided for the administration of the above-mentioned flood control and land reclamation facilities; and,

WHEREAS, the parties hereto wish to revise the Joint Powers Agreement dated April 5, 1972; and,

WHEREAS, the STATE owns the facilities and equipment covered by the originally proposed State Maintenance Area No. 14 and desires to have the facilities and equipment administered by a properly authorized local agency or agencies; and,

WHEREAS, each party hereto recognizes the need to continue to operate, maintain and replace the facilities and equipment covered by the originally proposed State Maintenance Area No. 14 and to share in the cost thereof; and,

WHEREAS, it is the desire of each party hereto that Stanislaus County provides for the administration of this Agreement.

NOW, THEREFORE, IT IS MUTUALLY AGREED between the parties hereto as follows:

1. OPERATION OF JPA:

- (a) The JPA shall be governed by a Board comprised of one representative from each of the five (5) parties to this Agreement. The JPA Governing Board shall meet at such times and places as the Board feels are appropriate. A Board meeting may be called by any one of the parties to this Agreement. If a Board member wishes to call a meeting, that Board member shall contact Stanislaus County who will send out written notices of the meeting to all Board members. Such notice will be mailed at least seven (7) days prior to the date of the proposed meeting. A minimum of three Board members are required for the Board to be able to conduct official business. A simple majority of those members present at a meeting is required for official action on any item.

- (b) In an emergency situation, where there is an immediate threat to life and/or property, any Board member can call an emergency meeting of the JPA Governing Board. Reasonable efforts must be made to notify all Board members of the emergency meeting.
- (c) In the event that flooding exceeds the capacity of the facilities or in the event of failure of any of the facilities resulting in an immediate threat to life and property, the protection of life shall be the primary objective and the protection of agriculture or undeveloped property shall have the lowest priority.

2. FACILITIES: The facilities and equipment subject to this Agreement are:

- (a) The pipes extending through the levee at the end of Lateral No. 5, including the slide gates and flap gates.
- (b) The Gomes Lake Pumping Plant and sump, including the gates and pipes.
- (c) The levee located immediately north of Gomes Lake, approximately 2,100 feet in length, known as the "stub levee".
- (d) The bypass ditch running from the end of TID's Lateral No. 5 parallel to the project levee and extending to Gomes Lake (known as the "Bypass Ditch").

3. FACILITIES EXCLUDED FROM THIS AGREEMENT: The parties do not accept from the State Reclamation Board the responsibility to administer the following facilities and equipment covered by the proposed State Maintenance Area 14:

- (a) The levee, levee toe, or any part thereof which shall remain the responsibility of RD 2063 and RD 2091 and shall be maintained in accordance with the U.S. Army Corps of Engineers Operating Manual.

4. OPERATION AND ROUTINE MAINTENANCE OF FACILITIES AND EQUIPMENT:

- (a) The parties shall provide for the operation and routine maintenance of said facilities and equipment in accordance with the U.S. Army Corps of Engineers Operating Manual.
- (b) The parties agree that the operation and routine maintenance of said facilities and equipment can be accomplished by the use of either contractors or by one of the parties to this Agreement. If a contractor is used, said contractor shall be chosen by following the purchasing requirements of Stanislaus County. Said contractor must also be approved by a majority of the parties to this Agreement. A contractor may be removed and a contract terminated also by a vote of the majority of the parties to this Agreement. If one of the parties to this JPA provides for operation and maintenance, then an agreement shall be negotiated that clearly explains the duties to be performed and clearly establishes procedures and liabilities.
- (c) The parties agree that said facilities and equipment shall be continuously operated and maintained so as to accomplish the intended purpose of flood control and land reclamation, provided that the scope of such operation shall not be enlarged without the written agreement of each party.
- (d) The cost of operation and routine maintenance of said facilities and equipment shall be apportioned among the following parties to this agreement as follows:

| | |
|-------------------------------|-----|
| Turlock Irrigation District | 20% |
| City of Turlock | 35% |
| Stanislaus County | 45% |
| Reclamation District No. 2063 | 0% |
| Reclamation District No. 2091 | 0% |

- (e) The parties agree to a review of the cost-sharing ratio every five years hereafter.

5. ADMINISTRATION OF FACILITIES AND EQUIPMENT:

- (a) Subject to the specific conditions and limitations herein provided, Stanislaus County, by and through its Board of Supervisors and established departments, shall be the agency which shall administer this Agreement.
- (b) In pursuance thereof, it shall possess the common powers specified in this Agreement to contract and acquire property, real and personal, to be held in the name of Stanislaus County for the benefit of the joint powers, employ agents and employees, and maintain and operate sites and facilities for the purpose hereof.
- (c) Administration of this Agreement and the operation of said facilities and equipment shall be performed in accordance with the "Operation Manual" prepared by the U.S. Army Corps of Engineers dated September 1961.

6. CAPITAL IMPROVEMENTS: For the purpose of this Agreement, a "capital improvement" shall mean the construction of a new facility or the replacement of an existing facility that is subject to this agreement. Capital improvements shall also include emergency measures necessary to prevent flooding and major repairs, including, but not limited to, replacing a motor in a pump or replacing a gravity drain. Capital improvements shall not include ordinary operation and maintenance, including, but not limited to, the cost of operating the pumps, inspecting the facilities, cleaning the facilities, and replacing minor components of any of the facilities.

- (a) Capital improvements to increase land side flood protection and/or increase ability of party to discharge storm flows (e.g., increased pumping capacity at

Gomes Lake): Shall be at the sole expense of the part or parties desiring to increase landslide flood protection and/or increase their ability to discharge storm flows at Gomes Lake and not according to the proportions set forth in paragraph 4(d) above. Additionally, in the event that capital improvements are made to the Gomes Lake Pumping Plant to accommodate increased discharges of storm flows, those parties initiating the improvements will increase their respective share of the operation and maintenance costs, set forth in paragraph 4(d) above in proportion to the increased pumping capacity, as it relates to the existing pumping capacity.

(b) All other capital improvements (including emergency repairs and replacement of facilities): Shall be apportioned according to paragraph 4(d) above.

7. MANAGEMENT OF NON-JPA FACILITIES:

The parties will manage their non-JPA facilities in an effort to prevent flooding of the facilities subject to this Agreement to the best of their ability. The parties recognize and acknowledge that a large amount of the water present in TID's facilities is storm runoff over which TID has no control or ability to control.

8. LIABILITY INSURANCE

The parties to the JPA can, based upon a majority vote of the parties to this Agreement, obtain up to one million dollars in insurance in order to cover both potential liability and damage to the facilities and equipment. The premium and cost shall be apportioned according to paragraph 4(d) above. The amount of such insurance can be increased by a majority vote of the parties to this Agreement.

9. TID'S RIGHT TO DRAIN

(a) The parties agree that TID has a right to drain water through its system and to the San Joaquin River up to the capacity of TID's canals, and that the parties

shall not take any action that limits or restricts TID's right. Further, the parties agree that TID has a right to drain water through the facilities subject to this Agreement, and these facilities were designed and constructed to ensure TID's continued right to drain. Nothing in this Agreement, or in the operation and maintenance of the facilities subject to this Agreement shall limit, restrict, or adversely impact TID's right to drain. For the purpose of this Agreement, TID shall have the sole discretion to determine whether any action arising out of this Agreement, or out of the operation and maintenance of the facilities subject to the agreement, impact or restrict TID's right to drain.

- (b) If TID determines that any action arising out of this Agreement, or out of the operation and maintenance of the facilities subject to the agreement, impacts or restricts TID's right to drain, TID shall give immediate notice (orally or in writing) of such impact or restriction to either Stanislaus County, or to the party operating the facilities. If after giving notice, TID determines that no action has been taken or that additional action is necessary to ensure its right to drain TID may operate and maintain the facilities in order to eliminate such impact or restriction.

10. ADMINISTRATION OF FUNDS:

- (a) Stanislaus County shall administer the funds received pursuant to this agreement in accordance with standard accounting procedures. All funds received from the parties pursuant to this agreement shall be deposited with the Stanislaus County treasurer and shall be disbursed by warrant in the usual manner or on the order of the Board of Supervisors.
- (b) Stanislaus County shall annually report to each party hereof and shall account for all receipts and disbursements into and out of the fund created for this purpose.

- (c) Stanislaus County shall prepare an annual budget which shall be reviewed by each party hereto and approved by the STATE.
- (d) Stanislaus County may, at its discretion, establish a capital improvement/ replacement reserve account upon 60 days written notice to the parties. The purpose of the account is to provide for adequate available funds to replace facilities and equipment in emergencies or as may be necessary to replace facilities and equipment to ensure they operate to design capacity. Payment into this fund shall be apportioned according to paragraph 4(d) above. The balance of this account shall not exceed \$100,000.


11. TERMINATION:

- (a) This agreement shall continue for a period of three years and continue on a year-to-year basis thereafter. It can be terminated by a party giving each of the other parties written notice of termination at least one year prior to the annual renewal date. For the purposes of this agreement, the annual renewal date shall be August 1st of each year.
- (b) This Agreement may be amended at any time, including addition of new parties, by the unanimous written consent of the parties hereto.
 - (1) In order to continue the flood control and land reclamation purposes of this Agreement, upon termination hereof, all remaining assets acquired pursuant hereto shall be transferred to any successor agency or to the State Reclamation Board; provided, however, in the event the operation is to be discontinued, such assets shall, upon liquidation, be disbursed to the parties hereto in proportion to the contributions made by the parties.

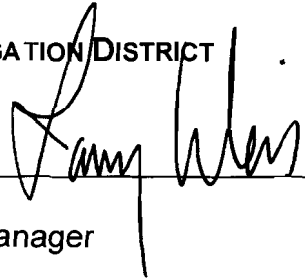
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IN WITNESS WHEREOF, the parties have executed this Gomes Lake JPA Agreement
on October 2, 2001.

COUNTY OF STANISLAUS

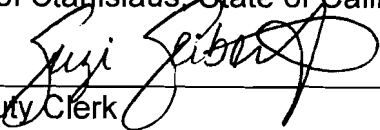
By 
PAT PAUL
Chair of the Board of Supervisors
"County"

TURLOCK IRRIGATION DISTRICT

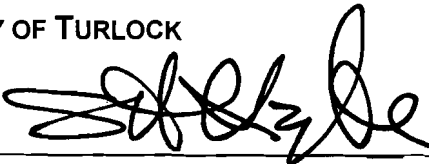

By 
Larry Weis
General Manager

ATTEST:


CHRISTINE FERRARO TALLMAN
Clerk of the Board of Supervisors of the
County of Stanislaus, State of California

By 
Deputy Clerk


CITY OF TURLOCK

By 
TURLOCK CITY ATTORNEY
APPROVED AS TO FORM
BY: 

**APPROVED AS TO CONTENT:
DEPARTMENT OF PUBLIC WORKS**

By 
George Stillman, Director

RECLAMATION DISTRICT No. 2063

By 

**APPROVED AS TO FORM:
MICHAEL H. KRAUSNICK
COUNTY COUNSEL**

By 
John P. Doering
Deputy County Counsel

RECLAMATION DISTRICT No. 2091

By 