

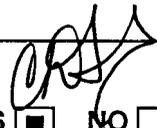
THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Board of Supervisors

BOARD AGENDA # *A-2

Urgent

Routine



AGENDA DATE July 17, 2012

CEO Concurs with Recommendation YES NO

4/5 Vote Required YES NO

(Information Attached)

SUBJECT:

Approval to Authorize the Chairman of the Stanislaus County Board of Supervisors to Sign and Submit Property Owner Ballots in Opposition to the Assessment Fee for Reclamation District No. 2091 - Chase Tract for those Properties Owned by Stanislaus County

STAFF RECOMMENDATIONS:

Authorize the Chairman of the Stanislaus County Board of Supervisors to sign and submit Property Owner Ballots in opposition of the Assessment Fee for the Reclamation District No. 2091 - Chase Tract for those properties owned by Stanislaus County.

Contact person: Christine Ferraro Tallman, Clerk of the Board

Telephone: 525-4494

FISCAL IMPACT:

Currently three ballots have been received. If the majority vote "Yes" on the assessment increase, the increase will take effect in Fiscal Year 2012-2013 and continue thereafter indefinitely. The fiscal impact will be on the property owned by Stanislaus County, in this case roadways. The total maximum assessment to be levied to Stanislaus County is \$7,692.14. The assessment will impact the budget of the Department of Public Works.

BOARD ACTION AS FOLLOWS:

No. 2012-358

On motion of Supervisor Chiesa, Seconded by Supervisor Withrow,
and approved by the following vote,

Ayes: Supervisors: Chiesa, Withrow, Monteith, De Martini, and Chairman O'Brien

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

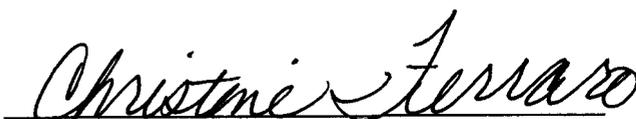
1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

SUBJECT: Approval to Authorize the Chairman of the Stanislaus County Board of Supervisors to Sign and Submit Property Owner Ballots in Opposition to the Assessment Fee for Reclamation District No. 2091 - Chase Tract for those Properties Owned by Stanislaus County
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DISCUSSION:

Proposition 218 was a statewide initiative approved by the voters in November 1996. It requires that property owners through a ballot procedure approve certain assessments and increases in those assessment districts. Since the County is an owner of properties within Reclamation District No. 2091 it is therefore eligible to vote in the ballot process for this district. This item authorizes the Chairman of the Board to be the authority authorized to cast the ballots of protest on behalf of the County.

Reclamation District No. 2091 – Chase Tract (RD 2091) is located in Stanislaus County at the eastern edge of the San Joaquin River, approximately 3.2 miles east of the City of Patterson. RD 2091 contains approximately 7,152 acres and is bounded by the San Joaquin River on the west, the San Joaquin River East Levee on the north, Vivian Roads, S. Carpenter Road and Crows Landing Road on the east, and Linwood Avenue and Simmons Road on the south. Currently most of the land within the District is devoted to agricultural uses.

RD 2091 is responsible for maintaining the north 7.59 miles of the San Joaquin River East Levee along the west boundary of Chase Tract. In addition to maintaining the Levee, RD 2091 pays a prorate share of Gomes lake drainage pump station. The Gomes Lake drainage pump station is maintained through a Joint Powers Agreement (JPA) between Turlock Irrigation District (TID), the City of Turlock, County of Stanislaus, Reclamation District No. 2063 (RD 2063), and RD 2091 dated August 16, 2011.

Stanislaus County Public Works requests that the Board cast a protest ballot based on the following concerns:

- The Engineer's Report, dated June 2012, (Exhibit A) identifies the County's assessable property as those portions of S. Carpenter Road, Jennings Road, and West Main Street that lie within, and receive benefit from the district. In regards to Public Lands the report states: "...each public parcel within the District is reviewed and a determination is made to the actual use being conducted and the appropriate classification is assigned to each parcel including major roadways that provide ingress/egress onto, off of and through the District." For the purposes of this Proposition 218 ballot, roadways were given the classification of Commercial/Industrial. The Commercial/Industrial classification results in an assessment ratio of 10:1, compared to the Agricultural ratio of 1:1 and the Residential ratio of 5:1. No supporting documentation is provided in the Engineer's report to justify this classification.
- The Engineer's Report states that the basis of assessment is based upon designations assigned by the County Assessor. Assessment ratios and maximum assessments are

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based upon classifications from Stanislaus County Assessor's Use Code Designations. Roadways are not designated by the County Assessor, nor are they assessed by the County Assessor. *Article XIII D, Section (h) of the California Constitution defines property-related service as "a public service having a direct relationship to property ownership."* Public roadways are primarily easements for roadway purposes. Easements are not parcels. The Engineers Report states that "The proportions are in the range of those of other Districts with similar services and uses." No other district or similar district within Stanislaus County attempts to assess public roadways. In general public rights of way are not parcels and cannot be assessed a special benefit tax.

- The inclusion of costs associated with the repair and maintenance of the Gomes Lake drainage pump station results in double jeopardy for Stanislaus County. The Gomes Lake facility serves the City of Turlock, TID, RD 2063 and RD 2091. The JPA agreement of August 16, 2011 obligates Stanislaus County to fund 16% of the annual operations and maintenance costs for the Gomes Lake facility (not to exceed \$10,000). When defined as a percentage of the total area being protected by the levee and pumping system, the roadway area benefiting from the Gomes Lake facility is approximately 2%. Therefore, Stanislaus County is already paying more than their fair share of maintenance of the Gomes Lake facility. The inclusion of Gomes Lake costs in calculation of the proposed assessments amplifies that discrepancy.
- RD 2091 contains approximately 7,152 acres. There are approximately 65 land parcels occupying 6,812.5 assessable acres, plus 2 roadways (fee and easement) occupying approximately 44.8 acres. Parcels and roadways account for 6,857.3 acres. The Engineers report does not account for the remaining 294.7 acres. This remaining acreage could potentially be assessable thereby reducing the assessment on the other lands.
- Benefits to each parcel is defined by avoidance of risk to human health and safety, property destruction, loss of income and loss of present and future use both within and outside the District. Roadways are not occupied, nor does flooding of roadways cause excessive damage, based upon experience of flooding of roadways throughout the county. In the event of flooding, detours exist to avoid loss of access around the district.
- Roadways, especially West Main Street are at a higher grade than surrounding lands thereby having less risk to flooding and also thereby receiving less protection from district facilities.

The Public Hearing on the proposed assessment is being held on Tuesday, July 24, 2012 at 10:00 a.m. at the City of Modesto Treatment Plant located at 7007 Jennings Road. Stanislaus County

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Director of Public Works, Matt Machado will be attending the public hearing to communicate the County's concerns.

POLICY

ISSUE:

One of the Board's mission statements is to promote the public health, safety, welfare and the local economy.

STAFFING

IMPACTS:

None

RECLAMATION DISTRICT 2091
7007 Jennings Road
Modesto, California 95358

Dear Parcel Owner:

Public Hearing
Tuesday, July 24, 2012 at 10:00 a.m.
7007 Jennings Road
Modesto, California 95358

June 5, 2012

Dear Parcel Owner:

Reclamation District No. 2091 ("District"), the governmental agency responsible for operating and maintaining facilities providing flood control and drainage services in and around the Chase Tract area (see attachment A), is conducting its first Proposition 218 election on July 24, 2012. Previously, the only funding source for the District was comprised of voluntary contributions from property owners within the District. The District does not receive any funding from the State or Federal Governments and does not receive any property or sales tax revenue.

1. Reasons for the Assessment

The District is responsible for maintaining and operating ("activities") the flood and water control facilities in the District to protect the lands within the District from flood waters. These activities include removal of vegetation on and repairs to the levees, as well as access thereto, operating and maintaining the water control facilities, including the maintenance and repair of the pumps at Gomes Lake that discharge water from the lake into the San Joaquin River. In order to provide a steady source of annual revenue to the District in order to pay for the ever increasing activities costs, the Board of Trustees have elected to seek to develop assessments in accordance with the requirements of the California Constitution. Without voter approval of an assessment, the District will not have a source of income to provide flood protection and drainage services.

2. Authority for the Assessment

The Board of Trustees (consisting of Wendel Trinkler, Jr., Dan Lamb, and Laura Anhalt who are landowners or are the agent of a landowner within the District elected by the landowners within the District) proposes to levy a new assessment on each parcel within the District based

on the Engineer's Report and pursuant to the requirements of Proposition 218 (California Constitution, Article XIII D, and the California Government Code).

3. The Amount and Duration of the Assessment

The District is proposing a maximum annual assessment of \$125,491.29 per year commencing with the 2012-2013 fiscal year and then continuing thereafter indefinitely. The proposed maximum annual assessment was determined by examining the District's annual operating costs and outstanding liabilities. It is important to note that the assessment proposed establishes a maximum amount that can be assessed. The Board of Trustees will have the authority to assess all properties at an amount less than what appears on the attached ballot.

4. The Basis Upon Which the Proposed Assessment was Calculated

The total assessment is spread among all of the properties within the District using criteria described in detail in the Engineer's Report. The assessments reflect the proportion in which the types and uses of property found within the District enjoy those benefits. The classifications in the assessment rate/ratio schedule include those types of uses that are significant in this District and are associated with the land use designations assigned by the County Assessor. The classifications are also sufficiently broad so as to include all property to be assessed. The judgment as to proportionality has been made as objectively as possible after viewing each of the parcels and the works of the District.

The relative benefits are based on all the services provided by the District, which most importantly include levee maintenance. Levee maintenance includes patrolling, placing and maintaining all weather road material on the levee patrol road, maintaining freeboard and slopes, controlling vegetation and performing periodic levee rehabilitation projects. The cost of these services including the supporting administration and overhead are allocated to each parcel by way of applying a base assessment rate to the assessment ratios assigned to each parcel. The assessment ratios reflect the opinion of the undersigned as to the proportion in which the types and uses of property within the District benefit from the services of the District. The proportions are in the range of those of other Districts with similar services and uses. Each parcel and its use have been evaluated in terms of the benefit received. The benefit received included consideration of the avoidance of risk to human health and safety, property destruction, loss of income and loss of present and future use both within and outside the District.

The Engineer's Report is available to all landowners in the District upon request from Kjeldsen, Sinnock & Neudeck, Inc. or via e-mail kmaynard@ksninc.com.

5. The Proposed Assessment of Your Parcel

The proposed annual assessment for your property is shown on the ballot included as part of this notice. The District intends to collect up to this assessment during each fiscal year commencing with the 2012-2013 fiscal year. The District cannot collect a higher assessment

unless a majority of the parcel owners approve it in another Proposition 218 Assessment process like this one.

6. Time, Date, and Location of the Public Hearing on the Proposed Assessment

The District will hold a public hearing at 10:00 a.m. at the City of Modesto Treatment Plant located at 7007 Jennings Road, Modesto, CA 95337 on Tuesday, July 24, 2012

7. The Ballot, Procedure for Casting Your Vote, and Tabulation of the Ballots

A ballot for expressing your support or opposition to the proposed assessment is included with this notice. The ballot shows your parcel number, your name and mailing address, and the amount of the proposed annual assessment for your parcel. It also includes a blank for "YES" or "NO". If you own several parcels, you must complete, sign and return the ballot for each parcel.

Please check "YES" or "NO", indicating your approval or disapproval for the proposed assessment. Please sign the ballot. Please return it to the District (c/o Kjeldsen, Sinnock & Neudeck, Inc. 711 North Pershing Avenue, P.O. Box 844 Stockton, California 95201-0844) in the enclosed envelope, or bring it to the public meeting on Tuesday, July 24, 2012 at the time and place described in the above paragraph. If you deliver it, please use the envelope, as the ballot will remain sealed until the public hearing. At that hearing, the ballots will be counted; only the ballots actually returned will be counted; each proposed dollar of assessment is a vote: e.g., an assessment of \$10 would be counted as 10 votes.

If the total of "NO" votes received (counted by the amount of the proposed assessment) is greater than the total of "YES" votes received (counted by the amount of the proposed assessment), there will be no assessment, and the District will receive no revenues for assessments. In other words, if a majority of the ballots submitted are in favor of the assessment it will pass.

If you have questions about the information contained in this letter you may contact Trustee Dan Lamb, at (209) 831-0815.

Sincerely,



Wendel Trinkler, Jr., President
Reclamation District 2091



Dan Lamb, Trustee
Reclamation District 2091



Laura Anhalt, Trustee
Reclamation District 2091

ATTACHMENT "A"

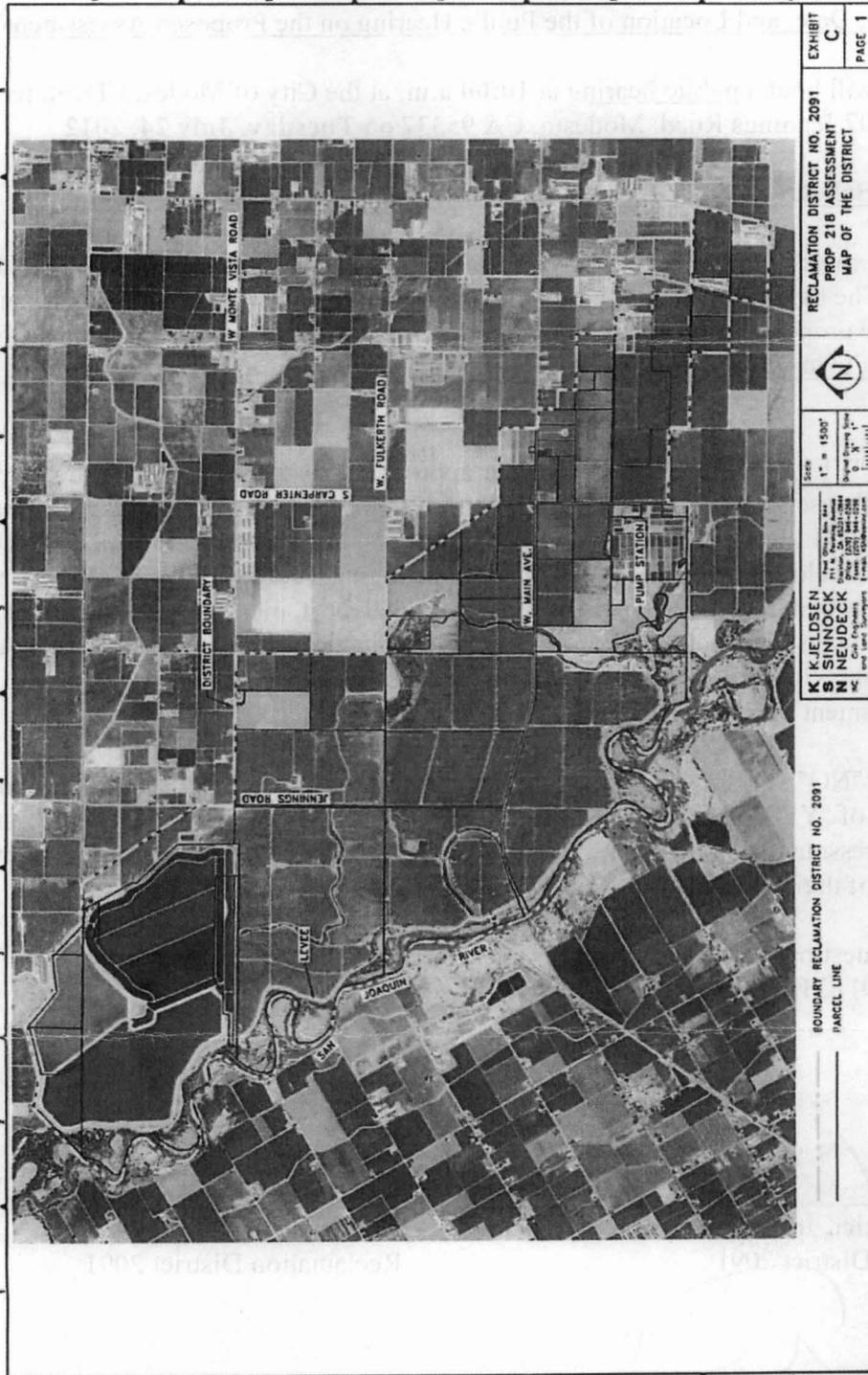


EXHIBIT
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PAGE 1

RECLAMATION DISTRICT NO. 2091
PROP 216 ASSESSMENT
MAP OF THE DISTRICT



Scale
1" = 1500'
Graphic Scale
0 100 200 Feet

K. KJELSEN
S. SINNOCK
N. NEUDACK
Civil Engineers
and Land Surveyors
11111 1st St.
San Diego, CA 92121
Phone (619) 444-2288
Fax (619) 444-2288
Email: ksk@knsurvey.com

BOUNDARY RECLAMATION DISTRICT NO. 2091
PARCEL LINE

OFFICIAL ASSESSMENT BALLOT

Reclamation District 2091

Chase Tract

STANISLAUS CO
1010 10TH ST SUITE 6700
MODESTO, CA 95354

INSTRUCTION FOR COMPLETING BALLOT

- Mark an "X" in the box next to the "Yes," or "No."
- Sign and print your name in the space provided and date your ballot.
- Mail your ballot by folding it in the postage-paid official ballot return envelope, or deliver it by hand to the public hearing set for 10:00 am., Tuesday, July 24 at the City of Modesto Secondary Wastewater Treatment Plant conference room located at 7007 Jennings Road, Modesto, CA. Ballots must be received by the close of the public hearing on July 24.

Ballot Question

Shall the Board of Trustees for Reclamation District 2091 set a maximum annual assessment commencing with the current fiscal year 2012/13 and each year thereafter based on the assessment rates for each parcel set forth in the Engineer's Report dated June 2012? Annual assessment revenues will be used to pay the local cost share for the ongoing operations and maintenance of RD 2091 levees and other District improvements, that provide critical flood protection and drainage.

APN	Classification	Parcel Area	Assessment Rate	Proposed Maximum Annual Assessment
OJENNINGS	COM-IND	13.06	142	\$1,854.52

YES, I support the proposed maximum annual assessment



No, I oppose the proposed maximum annual assessment



I, the undersigned declare under penalty of perjury that I am a landowner/easement owner or representative of a landowner/easement owner or proxy and I am entitled to cast all the votes as listed hereon.

Executed at _____, California, this _____ day of _____ 2012.

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

OFFICAL ASSESSMENT BALLOT

Reclamation District 2091

Chase Tract

STANISLAUS CO
 1010 10TH ST SUITE 6700
 MODESTO, CA 95354

INSTRUCTION FOR COMPLETING BALLOT

- Mark an "X" in the box next to the "Yes," or "No."
- Sign and print your name in the space provided and date your ballot.
- Mail your ballot by folding it in the postage-paid official ballot return envelope, or deliver it by hand to the public hearing set for 10:00 am., Tuesday, July 24 at the City of Modesto Secondary Wastewater Treatment Plant conference room located at 7007 Jennings Road, Modesto, CA. Ballots must be received by the close of the public hearing on July 24.

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TOTAL NUMBER OF VOTES ENTITLED TO CAST 1,326.28

APN	Classification	Parcel Area	Assessment Rate	Proposed Maximum Annual Assessment
OCARPENTR	COM-IND	9.34	142	\$1,326.28

YES, I support the proposed maximum annual assessment



No, I oppose the proposed maximum annual assessment



I, the undersigned declare under penalty of perjury that I am a landowner/easement owner or representative of a landowner/easement owner or proxy and I am entitled to cast all the votes as listed hereon.

Executed at _____, California, this _____ day of _____ 2012.

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

OFFICAL ASSESSMENT BALLOT

Reclamation District 2091

Chase Tract

STANISLAUS CO
 1010 10TH ST SUITE 6700
 MOSTESTO, CA 95354

INSTRUCTION FOR COMPLETING BALLOT

- Mark an "X" in the box next to the "Yes," or "No."
- Sign and print your name in the space provided and date your ballot.
- Mail your ballot by folding it in the postage-paid official ballot return envelope, or deliver it by hand to the public hearing set for 10:00 am., Tuesday, July 24 at the City of Modesto Secondary Wastewater Treatment Plant conference room located at 7007 Jennings Road, Modesto, CA. Ballots must be received by the close of the public hearing on July 24.

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TOTAL NUMBER OF VOTES ENTITLED TO CAST		4,511.34		
APN	Classification	Parcel Area	Assessment Rate	Proposed Maximum Annual Assessment
OWESTMAIN	COM-IND	31.77	142	\$4,511.34

YES, I support the proposed
 maximum annual assessment



No, I oppose the proposed
 maximum annual assessment



I, the undersigned declare under penalty of perjury that I am a landowner/easement owner or representative of a landowner/easement owner or proxy and I am entitled to cast all the votes as listed hereon.

Executed at _____, California, this _____ day of _____ 2012.

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

RECLAMATION DISTRICT 2091
7007 Jennings Road
Modesto, California 95358

BOARD OF SUPERVISORS
2012 JUN 28 A 10:35

June 27, 2012

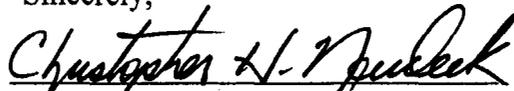
STANISLAUS CO
1010 10TH ST SUITE 6700
MODESTO, CA 95354

RE: Public Hearing
Tuesday, July 24, 2012 at 10:00 a.m.
7007 Jennings Road
Modesto, California 95358

DEAR STANISLAUS CO,

On June 5, 2012, Reclamation District No. 2091 ("District") mailed you a letter informing you that it will be conducting its first Proposition 218 assessment election ("Election") on July 24, 2012. However, that letter contained the incorrect phone number for Trustee **Dan Lamb**. The correct telephone number to reach Trustee Dan Lamb regarding questions about the Election is **(209) 613-0815**.

Sincerely,


Christopher H. Neudeck
RD 2091 Assessment Engineer