

THE FLORIN RESOURCE CONSERVATION DISTRICT: A CASE OF MISTAKEN IDENTITY?

SUMMARY

The 2018-2019 Sacramento County Grand Jury received complaints regarding the Florin Resource Conservation District (FRCD) and its subsidiary, the Elk Grove Water District (EGWD). These complaints alleged issues with a recent water rate increase (improper and misleading notices, procedural errors), problems with the composition of the Board of Directors, and a general lack of oversight by the Board of Directors. Given the serious nature of the complaints, the Sacramento County Grand Jury undertook a thorough and comprehensive investigation of the FRCD, covering many aspects of its operations.

Over the last 18 months, the FRCD approved a major shift in mission and operations, foregoing its resource conservation duties and focusing only on “all future activities, performed by the Florin Resource Conservation District be limited to water related activities that provide a benefit to Elk Grove Water District ratepayers, effective July 1, 2018.”¹ This is a major shift from its original mission and will have profound implications for the FRCD’s future.

The Grand Jury found issues with the process of FRCD’s shift in operations, its representation of district rate-payers, its professional services contracting practices, the manner in which it conducts board meetings, a lack of oversight by the Board of Directors, a lack of general engagement by the ratepayers, and other policies and procedures. We were impressed with the way the District conducted its recent water rate study but had concerns about its water rate increase process. Although the District operations normally run well, we were also concerned about a main line break in December 2018. This report will discuss each of these issues in detail.

BACKGROUND

Resource Conservation Districts are governed by provisions of the California Public Resources Code, Division 9. The California legislature enacted (and subsequently amended) this code to “provide for the organization and operation of resource conservation districts for the purposes of soil and water conservation, the control of runoff, the prevention and control of soil erosion, and erosion stabilization, including, but not limited to, these purposes in open areas, agricultural areas, urban development, wildlife areas, recreational developments, watershed management, the protection of water quality and water reclamation, the development of storage and distribution of water, and the treatment of each acre of land according to its needs.”²

The Florin Soil Conservation District (FSCD) came into being when a group of Florin area farmers felt the need for a locally governed district to ensure efficient use of water for irrigation, improve drainage, improve flood control, and make other land improvements. The district was approved by the public in an election in June 1953. The FRCD is one of 98 Resource Conservation Districts in the State of California and is one of three in Sacramento County. **It is the only Resource Conservation District in the state that directly provides municipal water service.**

During its early years, the District expanded into the areas of Franklin and Elk Grove and became the Florin Resource Conservation District. Over time, the agricultural areas of the FRCD gave way to development and increasing urbanization, diminishing the original role of the FRCD. In 1999, the FRCD bought the Elk Grove Water Works, ultimately renaming it the Elk Grove Water District (EGWD). This move gave the FRCD the ability to fulfill one of the mandates of an RCD (“the development of storage and distribution of water”).

The Sacramento Local Agency Formation Commission (LAFCo) is responsible for conducting periodic reviews of special districts within Sacramento County. These reviews, called Municipal Services Reviews (MSRs), are often the only independent review of a Special District which allows the larger community to consider the effectiveness of the District and the provision of municipal services, such as the distribution of water. LAFCo’s most recent MSR for the Florin Resource Conservation District/Elk Grove Water District was completed at the end of 2016 and was formally presented to the LAFCo Board of Directors on February 1, 2017. Among its findings were: 1) FRCD was unusual in that most of it was comprised of urban areas, and 2) the FRCD, proper, had little in the way of income or resources (EGWD was determined to have sufficient revenues to fund operations and maintenance, both in the near term and long term).³

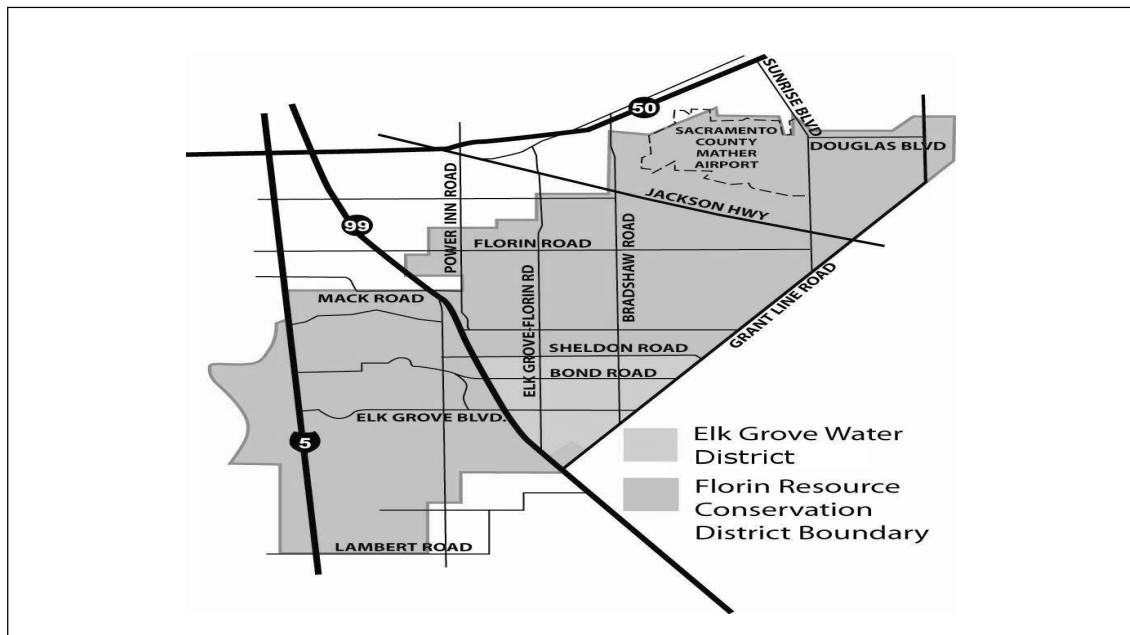
In September 2017, the FRCD Board began a continuing discussion about District goals and challenges. The main issue, as described by LAFCo’s finding, was that FRCD had little income or resources and had no way of generating either, with the exception of grants from various sources. Although not part of the LAFCo study, it must be noted that grant funding is not a certainty, and, as such, is not a sustainable budgetary model.

This discussion culminated during the April 18, 2018 Board meeting. At that meeting, the General Manager reviewed the options available to the Board. The Board voted 4 to 1 to adopt a resolution, declaring that, effective July 1, 2018, activities performed by FRCD would be solely related to water and water related activities, benefitting the EGWD rate payers (Resolution 04.18.18.01). The Board also passed Resolution 04.18.18.02 which requires a two-thirds vote of the Board to change any part of Resolution 04.18.18.01, effectively requiring four of the five Board Directors to concur.⁴

The FRCD replaced its outside legal counsel in June 2018, after experiencing many difficulties with their prior counsel. They appointed an individual on an interim basis. This appointment was extended in December 2018 for a one-year period.

In July 2018, the FRCD Board of Directors approved rate increases to be phased in over the upcoming five-year period, beginning January 1, 2019. At that time, only three of the five Directors lived within the boundaries of the EGWD. All lived within the greater FRCD boundaries. Figure 1, below, shows the EGWD and FRCD boundaries. The EGWD boundaries can be seen, in context within the larger Sacramento County water districts in Figure 2, which can be found in the Appendix.

Figure 1. A map of the boundaries of the FRCD and the EGWD



METHODOLOGY

The Sacramento County Grand Jury:

- Reviewed Special Districts and Resource Conservation Districts, primarily through internet research:
 - California Special Districts Association
 - California Department of Conservation.
 - California Resource Board Directors Handbook
 - California Resource Conservation District Guides, Volumes 1-3.
- Researched the Florin Resource Conservation District by various means:
 - Sacramento LAFCo's most recent Municipal Service Review Report
 - FRCD policies
 - FRCD manuals
 - FRCD meeting agendas and minutes
 - FRCD operational reports
 - FRCD budgets and other financial documents, including its most recent Comprehensive Annual Financial Report
 - FRCD Water Rate Studies.
- Conducted interviews and made observations
 - Individuals who were affected by the FRCD
 - Elected officials of the FRCD
 - An employee of the FRCD
 - Direct observation of an FRCD Board Meeting.

DISCUSSION

BOARD DECISION TO ALTER ITS MISSION

The FRCD Board began a discussion about its goals and challenges in September 2017. Over the course of several months, three options were developed by staff. The review and ultimate recommendations to the Board were made at the FRCD staff level. The eight-page report did not include a discussion of the long-term consequences of the change, nor are they included in the most recent Strategic Plan.

Staff presented three options for Board consideration:

Option 1 was to take no action. The General Manager indicated that it was not a viable option, as the FRCD would not be able to cover any future election costs and that future Directors would be appointed by Sacramento County Board of Supervisors.

Option 2 was to declare that all future activities performed by FRCD would be solely to water related activities, benefitting the EGWD rate payers, effective July 1, 2018. This option would merge all FRCD and EGWD funds and accounts, keep the existing governance structure in place, and preserve its overall boundaries.

Option 3 was to split FRCD and EGWD into two separate entities. Ultimately, this would, in all probability lead to the dissolution of FRCD and the formation of a new water district.

Two resolutions were prepared for the Board assuming the adoption of Option 2. No outside or third-party analysis or recommendations were sought. No outside consultant reviewed the status of the District or explored other possible avenues to address the future of the FRCD and its subsidiary, the EGWD. The decision to look at this only from the narrow perspective of the FRCD/EGWD staff concerns the Grand Jury. It would be prudent, given the magnitude of change being considered, to seek out the broadest possible perspectives to ensure that all options are considered.

The major difference in the California Government Code requirements between Resource Conservation Districts and Water Districts is the composition of the Board of Directors. As a Water District, the Board can only be composed of people living within the boundaries of the Water District, ⁵ ensuring equitable representation of those households within the District.

The General Manager's recommendation was to adopt Option 2. Citing the lengthy process of dissolution of the existing district and the difficult and protracted process of creating a new special district (i.e., a water district), the Board, on a 4 to 1 vote, adopted Option 2. The Sacramento County LAFCo confirmed that the decision was within the scope and authority of the Board as FRCD is an independent special district and is self-governing.

The FRCD was approved under the provisions of the California Public Resources Code, but is now, for all intents and purposes, acting as a water district and should be acting under the

provisions of the California Water Code. As mentioned before, FRCD is the only Resource Conservation District that is a municipal water service provider.

REPRESENTATION OF INDIVIDUAL RATE PAYERS WITHIN THE EGWD BOUNDARIES

A key concern of the Grand Jury is the makeup of the Board of Directors and, under the current structure, the resulting inequity in direct representation. At the time of the decision, two of the five Board members lived outside the boundaries of the EGWD. Currently, two of the five Board members live outside the boundaries of the EGWD. It is conceivable, that in the future, this discrepancy could be even larger.

The California Government Code speaks to this issue directly but offers little, if any, guidance, in this instance. The Public Resources Code states “directors shall (1) reside within the district and either own real property in the district or alternatively have served, pursuant to the district’s rules, for two years or more as an associate director providing advisory or other assistance to the board of directors, or (2) be a designated agent of a resident landowner within the district.”⁶ The Water Code states that “Each district shall have a board of five directors each of whom, whether elected or appointed, shall be a voter of the district.”⁷

As long as the FRCD continues to bill itself as a Resource Conservation District, it maintains the ability to allow its Directors to be selected outside the boundaries of the EGWD, even though they have determined to concern themselves only with matters pertaining to the Elk Grove Water District. This means that all District decisions can be made by individuals who are not subject to those decisions. This has the potential to deny equitable representation to the residents and ratepayers within the boundaries of the EGWD.

WATER RATE STUDIES AND RATE INCREASES

Since acquiring the EGWD in 1999, the FRCD has authorized three general rate increases, with the most recent in July 2018. This increase was effective January 2019.

Proposition 218, the “Right to Vote on Taxes Act,” was passed by popular state-wide vote in November 1996. In brief, it gave taxpayers the right to vote on local tax increases and required taxpayer approval of property-related assessments and fees. Proposition 218’s specific rules and regulations, especially those applying to governmental water providers, can be found in Article XIID of the California Constitution.⁸

In order to raise rates, a public water provider must:

- Identify the parcels of land within its jurisdiction that will be affected by the rate increase
- Send a written notice of the proposed rate increase to all affected landowners and all tenants that pay a bill directly
- Conduct a public hearing at least 45 days after notices have been sent out and count all written protests from affected parties.

The written notice must include the amount of the increase, why it is needed, how it was calculated, and when and where the required public hearing will be held.

A provider cannot raise rates if a majority (50% plus 1) of affected parties within the service district submit written protests. If an affected party (either a property owner or tenant who pays a water bill directly) does not submit a written protest, that affected party is counted as a vote in **favor** of the increase. Written protests may be submitted before or at the public hearing.

Prop. 218 also codified the idea that water charges have to reflect only the cost of services. Governmental water providers are not allowed to earn a profit from water rate increases.

For the 2019 rate increase, the FRCD retained an outside consultant, HDR Engineering, Inc., to prepare a water rate study, which included a financial plan, a cost of services analysis and a rate design plan. The FRCD formed a Community Advisory Committee (CAC) to provide input into the water rate study process. The CAC met publicly at least six times, allowing public testimony. In May 2018, staff recommended to the Board Members that they: ⁹

- “Approve the 2018 Water Rate Fee Study subject to the receipt and consideration of any protests and comments received before and during the public hearing conducted in compliance with Proposition 218.”
- “Direct staff to initiate the Proposition 218 compliance process, including the mailing of a notice of the public hearing for the consideration of the proposed water rates to the record owners of property to be subject to the water service fees and any tenants who are directly liable for the payment of water service fees.”

The Water Rate Study was approved at the Board meeting of May 16, 2018, subject to the subsequent (and mandated) public hearing. Owner and tenant notices were sent the following day (May 17, 2018) with a protest deadline of July 2, 2018. The Public Hearing was set for the July Board meeting, to be held July 18, 2018.

The FRCD met the three basic criteria listed above. It identified affected parcels, sent written notices to affected parties, and conducted a public hearing at least 45 days after notices had been sent. Further, the FRCD went beyond the requirements of Proposition 218 by hiring an independent consultant to prepare a water rate study, identifying the need, the cost of service, and the future rate design. Neither the independent consultant nor the Community Advisory Committee is required by the mandates of Prop 218, and the Grand Jury commends the FRCD for taking those proactive steps.

The FRCD erred in setting the protest deadline at July 6, 2018, as the law mandates that written protests be accepted until and at the public rate hearing (scheduled to be July 18, 2018). The notice sent to the public did not clearly state that written protests would be accepted until and at the public hearing. In fact, the notice specifically stated that “All written protests must be received by the District by the close of business on **July 6, 2018.**” (emphasis added) Further, the notice stated that the Board of Directors would consider timely submitted written protests and oral protests at Public Hearing on the Rate Increase. In the next sentence, however, the notice stated that “Oral comments at the Public Hearing will not qualify as formal protests.” The notice

did not state that the absence of a protest letter from any given ratepayer would be considered a vote for the rate increase (“Notice To Property Owners Of Public Hearing On Proposed Water Service Rates,” undated), and may have led people to a conclusion that they did not have to take any action if they did not approve of the rate increase.

FRCD DEBT AND DEBT SERVICE

When the FRCD acquired the EGWD, it took on a debt, associated simply with the cost of purchase. The FRCD had been financed in the past by grants, an unpredictable and periodic source of funding.

As the EGWD is reliant on groundwater to serve its customers, a second water treatment plant had to be built after the purchase. This second facility was costly, due in part to the treatment standards in place, and put the District further in debt.

In its 2018-2019 Operating Budget, ¹⁰ the District shows that its outstanding debt is \$44,145,000. In that same budget, the District compared itself to the Carmichael and San Juan Water Districts. Carmichael has an outstanding debt of \$21,170,000, with approximately 84% of the customer bases of the EGWD, while the San Juan Water District has an outstanding debt of \$36,710,000, with approximately 57% of the customer base of the EGWD.

Although the District has made considerable progress in reducing the debt, it has been paying a substantial debt service. Debt service and bond retirement payments account for more than 25% of the District’s yearly operating budget.

The Environmental Finance Center Network (EFCN), in partnership with the University of North Carolina, provides a method of financial benchmarking for Water Utilities. One factor is what is called a Debt Service Coverage Ratio. Simply put, it is a ratio of Net Operating Revenues (Operating Revenues – Operating Expenses [excluding depreciation]) divided by Debt (Principal plus Interest Payments on long term debt). If the ratio is 1.0, it means that the agency has exactly enough money from revenues to cover its annual debt service after all operating expenses have been paid. Ratios of 1.2, according to the EFCN, demonstrate an acceptable level of debt service coverage. The Grand Jury reviewed FRCD’s Debt Service Coverage Ratio averages over the last four budget cycles and next fiscal year’s budget cycle and found that it was not less than 1.8 for any given fiscal year. FRCD maintains adequate revenue to meet all operating expenses and meet both debt and bond obligations.

PROFESSIONAL SERVICES CONTRACTS AND PRACTICES

FRCD’s basic policy regarding Legal Counsel is Policy #17, established by resolution 09.23.09.01. The resolution simply states that the Board recognizes the need to utilize legal services, and that the Board shall appoint legal counsel. In June 2018, the Board dismissed its legal counsel for performance issues and contracted with a new legal counsel, on an interim basis. At that time, no new Request for Proposal (RFP) was issued for applicants. An individual was hired without the benefit of an RFP or background check. That new legal counsel’s tenure was extended in December of 2018, for one year, without any automatic extension.

It is important to note that in the original discussion of June 2018, the staff report specifically stated that the “process does not conflict with the attached Policy No. 3 Purchase of Goods and Services from Outside Vendors (also Resolution 09.23.09.01), which prescribes the solicitation process for professional services, as that policy specifically excludes legal counsel from the definition of ‘professional services’.”¹¹

However, in November 2018, the Board was asked by staff to adopt Resolution 11.14.18.02 to repeal the earlier Policy No. 3 and establish a new policy on the “Purchase of Goods and Services from Outside Vendors.” The Board was also asked by staff to adopt Resolution 11.14.18.03, establishing a new “Professional and Consultant Services Agreements Policy,” as a stand-alone policy. Both resolutions were adopted by the Board at their November 2018 Board meeting. This new policy was in effect when the current legal counsel’s contract was renewed in December 2018.

Although the prior Policy (adopted by Resolution 09.23.09.01) did specifically exclude legal counsel services from the definition of professional services, the newly adopted Resolution 11.14.18.03, “Professional and Consultant Services Agreements Policy,” does not. Resolution 11.14.18.03, in its first paragraph, also states that “All professional and consultant services required by the District shall be made in accordance with this policy.”¹²

Section 6 of that resolution states that “selection for professional and consultant services, defined as the services of a private architect, landscape architect, engineer, doctor, environmental scientist, investment advisor, financial, land surveying, or construction project management firm, or other similar professional services **as defined in Section 37103 of the California Government Code**, shall be based on best qualified and most responsible proposer, as determined by the District”¹³ (emphasis added).

Section 37103 of the California Government Code states that “the legislative body may contract with any specially trained and experienced person, firm, or corporation for special services and advice in financial, economic, accounting, engineering, **legal**, or administrative affairs”¹⁴ (emphasis added).

The extension of current legal counsel’s contract, then, appears to conflict with the policy of the Board, requiring that selection shall be based on the best qualified and most responsible proposer because only one individual was considered; no one else was allowed to propose their services.

MAIN LINE BREAK

In January 2019, members of the Grand Jury observed a Board Meeting of the FRCD. During that meeting, the General Manager delivered a report about EGWD operations during the month of December 2018. During that report, it was disclosed that a water main had broken on the night of December 25th (Christmas Day) and more than a million gallons of water was lost before the breakage was noticed and ultimately repaired.

A response was delayed because there was no automatic notification process in place. FRCD has a policy (Resolution #04.25.12.02) requiring 24-hour response but did not have a mechanism to monitor for such line breaks or pressure losses.

Many modern water systems have flowmeters with telemetry to detect leaks or pressure losses and automated alarm systems to alert standby personnel that repairs are needed. The EGWD should acquire and maintain such a system as it already has a policy to have staff available for emergency purposes at all times.

While most of the water would have found its way back into the underground aquifers that supply a large part of the EGWD's water, there would have been the additional cost of retreating the water. In addition, there is a larger issue of liability. FRCD was fortunate that the break did not create a public safety hazard for nearby businesses, homes and transportation systems. This could have resulted in significant damage and liability issues for FRCD.

HEALTH BENEFITS

In November 2017, the Board of Directors first discussed the issue of health benefits for Board members. Although FRCD/EGWD employees already had health coverage, Directors did not. By law, Board members cannot receive remuneration for the work they do on behalf of the District, but they can receive health benefits. In February 2018, the Board members unanimously approved health benefits (medical, vision, and dental) for themselves.

During our investigation, three facts were revealed: 1) an ad hoc committee was set up to work with staff to develop appropriate policies. The ad hoc committee never met; no policy regarding health benefits for Directors was ever established; 2) the issue was brought up to benefit one individual on the Board who did not have health benefits from any other source; and 3) at this point, health benefits are not provided to Board Directors but could be instituted for them at any time and without any further public discussion.

BOARD MEETINGS AND CLOSED SESSIONS

California regulates legislative bodies in many ways, but the most important way to ensure transparency and citizen participation is through the Brown Act ¹⁷ In general, all meetings of local legislative bodies must be held in open session, with the following exceptions: personnel issues, public security, pending litigation, labor negotiations, and real property negotiations. The subjects of any closed session must be described in a notice or agenda for the meeting, and agendas are required to be posted at least 72 hours in advance of the meeting. Brown Act regulations also require the legislative body to orally announce, in an open session, the issues to be heard at a closed session. If any final actions are taken, the legislative body must report the action, in open session, after the conclusion of the closed session.

Legislative bodies differ on how they conduct their closed sessions. Some hold their sessions prior to regular sessions, and announce any actions taken at the beginning of the regular open session. When Grand Jury members observed an FRCD Board meeting, the FRCD Board held an open session (approximately 1½ hours in length), announced they were going into closed

session, and dismissed the public. We learned that they would allow the public, if any stayed after an indeterminate wait, back in after the closed session, to announce reportable actions, if any.

During the period from 2/15/17 through 1/16/19, FRCD held 22 regular meetings, 15 with closed sessions. All but one of those closed sessions were held after the regular session. The FRCD conducted 12 Special Meetings, 7 with closed sessions. Six of those seven had closed sessions before an open session or the entire meeting was closed. The other had closed sessions before and after the open session. In reviewing agendas for the closed sessions, it was apparent that FRCD had legitimate reasons for conducting the closed sessions.

The Grand Jury is concerned by FRCD's practice of dismissing the public after the open session to go into closed session, instead of holding the closed session before the open session. As stated above, the FRCD Board is required, by provisions of the Brown Act, to return to Open Session and report any final actions taken during the closed session. FRCD does not typically post minutes of any session until those minutes have been approved during the following month's Board meeting, adding to the period of time that the public may be uninformed of closed session actions.

BOARD MEMBER ELECTION

FRCD elections are held on an at-large basis. Candidates are elected from the entire FRCD and not from individual districts within the FRCD. In November 2018, three seats were open for election or re-election. Two of the sitting Directors chose to run for re-election. The remaining seat was open until one individual submitted an application late in the process. There were no other candidates. Since there were three seats open and only three candidates, an election was not necessary; the County Board of Supervisors appointed the three candidates to fill the three vacancies. The Grand Jury was unable to ascertain if this was a recurring issue; the previous election (2016) was contested with three persons vying for two seats.

BOARD OVERSIGHT OF OPERATIONS

Governing Boards are, for the most part, policy and decision makers. Actual control of operations is often delegated to a General Manager, or other named employees. FRCD policies indicate that the Board is "responsible for **formulating** (emphasis added) and approving policies for the operation, administration, and planning of the District's facilities and activities within the District," while the General Manager "shall have complete administrative authority over the District and shall be responsible for the efficient operation of the system in all departments/divisions, as designated in their job description" (both quotes are from the FRCD Board Member Guide Book).

After interviewing board members, the Grand Jury identified differences in the level of understanding and knowledge of FRCD regulations, operations, and institutional history. There was a wide degree of latitude in responses to our questions and inquiries, with some Board members indicating a broad depth of knowledge while others displayed little, if any, operational knowledge, deferring to the General Manager. These responses suggested a certain amount of

deference was afforded to the General Manager in the area of operational activities. This deferral went so far as relinquishing a board member position on the Sacramento Central Groundwater Authority (SCGA), a Joint Powers Authority started to manage groundwater usage, and appointing the General Manager as FRCD's representative.

It is the practice of the FRCD to issue an "FRCD Board Members Guide Book" to each new member of the Board. The Guide is thorough and extensive, but it was apparent that several Board members did not review or use it. It is the Grand Jury's belief that members of the Board of Directors must have a basic operational knowledge of their District in order to make reasoned, sensible, and informed operational, administrative, and planning decisions.

GENERAL CITIZEN INVOLVEMENT AND OVERSIGHT

One of the most obvious and disappointing aspects of our review of the Florin Resource Conservation District is the lack of citizen involvement. When the members of the Grand Jury observed a board meeting, they outnumbered members of the public (3 Grand Jury members; 2 members of the public).

California's Little Hoover Commission recognized this very problem in a report titled "Special Districts: Improving Oversight and Transparency." ¹⁵ The Report noted that a distinct benefit of special districts (focusing on specific services within a specific area) also lowers that district's visibility. This low visibility contributes to District challenges reaching out to the public. As the Commission stated "Low visibility of special districts contributes to challenges with public engagement." ¹⁶

FRCD recognizes this and has undertaken efforts to increase general public involvement. These efforts range from participating at various forums, public gatherings (such as Western Festival, Elk Grove's Multicultural Days, etc.), flyers, bill stuffers, and so on. The FRCD has expanded its board to include Associate Directors, who, while not able to vote on decisions of the board, sit with the Board and have an equal voice and even footing with the elected Board members.

The Little Hoover Commission noted and commended the California Special Districts Association and the Sacramento based Institute for Local Government efforts to help Special Districts improve public engagement practices. If the FRCD has not reached out to these organizations for their guidance, they should.

FINDINGS

- F1.** The FRCD Board decided to alter its basic mission, without benefit of an outside review or other investigation, relying solely on a staff report. The three options did not consider the legal differences between Resource Conservation Districts and Water Districts.
- F2.** Because Board Members are elected at large from the entire area of the FRCD and not from within the smaller boundary of the EGWD, equitable representation of rate-payers may be denied.

- F3.** The FRCD complied with all legal requirements with its decision to adopt a rate increase at the July 18, 2018 Board meeting.
- F4.** The FRCD erred in setting the protest deadline at July 2, 2018, as Prop 218 mandates that written protests be accepted until and at the public rate hearing (scheduled to be July 18, 2018).
- F5.** FRCD is actively working to reduce its debt, debt service and bond retirement payments, while maintaining an adequate debt service coverage ratio.
- F6.** The FRCD did not follow its own policy when extending the current Legal Counsel's contract, which led to the creation of an unfair hiring practice.
- F7.** Because the FRCD policy manual is silent on interim contracts, the potential exists for extending interim contracts in lieu of soliciting proposals for professional services.
- F8.** FRCD is unable to monitor leaks and pressure losses in a timely manner. This is a public safety issue and a potential liability for FRCD.
- F9.** After voting to award health benefits to Board members, no further action was taken, no policies were created, and no health insurance benefits were awarded to Board members. The Board could institute health benefits for themselves with no further public discussion.
- F10.** The practice of conducting closed sessions after open sessions at the Board meeting may lead to an uninformed public and forestalls knowledge or comments. This practice does not encourage public engagement.
- F11.** Candidate pools for Board Member seats are so low that elections are sometimes not required. As a consequence, Board members are appointed by the County Board of Supervisors, denying a voice to the public in selection of those who represent them.
- F12.** The lack of adequate Board member awareness of regulations, operations, and institutional history can lead to poor decisions on the part of the Board and leads to an over-reliance on the General Manager and staff.
- F13.** There is a pronounced lack of public oversight of the FRCD, as shown by poorly attended meetings and few Board candidates.

RECOMMENDATIONS

- R1.** The FRCD Board should review its decision, by December 31, 2019, to alter its basic mission. This action should be taken with an expanded view, educating both the Board and the general public about the differences between Resource Conservation Districts and Water Districts. This review should include the use of outside consultants and expanded public participation and engagement.

- R2.** The FRCD Board of Directors should complete its updated Strategic Plan by June 30, 2020. The new Strategic Plan should include a discussion of its long-term vision and its long-range mission. This discussion should include a comprehensive review of the mission of the FRCD, whether it should continue as an independent district (either as an RCD or a water district) or consolidate with another area water provider (such as SCWA Zone 40).
- R3.** FRCD should consider, by June 30, 2020, a plan to ensure that only those people living within the EGWD boundary are eligible to become Board members. Board members should be elected from within EGWD boundaries to ensure equitable representation of the population served.
- R4.** FRCD should review its actions during the most recent water rate study and rate increase approval, by June 30, 2020, to ensure that such future actions follow the protest period mandated under Proposition 218. Action should be taken to review and amend Board policies to ensure that future rate studies and proposals for rate increases conform to the procedures outlined in Proposition 218.
- R5.** FRCD should review and amend, by December 31, 2019, contracting policies for professional and consultant services to address time limits, types of professional services and other requirements.
- R6.** FRCD should develop, by December 31, 2019, new policies relative to interim contracting for professional services for board approval. Minimize the use of interim contracts and maximize the use of standard contracts using a competitive process for professional services.
- R7.** FRCD should begin, by December 31, 2019, the process of planning and installing flowmeters in its main water transmission lines to monitor for breaks, pressure losses, etc. These monitoring devices should also be connected to an automatic alert system for on-call emergency employees.
- R8.** FRCD should rescind its vote approving health benefits for Board members, by September 30, 2019, since no action has ever been taken to implement them.
- R9.** FRCD should conduct its closed sessions before general Board meetings to ensure the public is notified timely of any actions resulting from those closed sessions. Board bylaws should be updated, by December 31, 2019, to address timing of closed sessions.
- R10.** FRCD should establish policy, by December 31, 2019, to ensure a programmatic on-boarding process for new Board Members that includes both policy and operations. In addition, FRCD should establish, by December 31, 2019, a web-page with Board policies for public review.
- R11.** FRCD should, on an ongoing basis, expand its outreach to its ratepayers, in order to increase their engagement with the business and activities of the district. This could include, but is not limited to, increased inserts with ratepayer's monthly bills, enhanced web interaction, media outreach, such as a periodic column in the Elk Grove Citizen or

other avenues, and practical workshops for ratepayers. FRCD should also engage with both the California Special Districts Association and the Institute for Local Government to learn about any other outreach efforts that are possible.

REQUIRED RESPONSES

Pursuant to Penal Code sections 933 and 933.05 the grand jury requests responses as follows:

From the following elected official within 90 days:

- Florin Resources Conservation District Board of Directors
Tom Nelson, Chair
9257 Elk Grove Boulevard
Elk Grove, California 95624

Mail or hand-deliver a hard copy response to by September 30, 2019 to:

David De Alba, Presiding Judge Sacramento County Superior Court
720 9th Street, Dept. 47
Sacramento, CA 95814

In addition, please email response to:

Becky Castaneda, Grand Jury Coordinator at castanb@saccourt.com

INVITED RESPONSE

- Sacramento Local Agency Formation Commission
Donald Lockhart, Executive Director
1112 I Street, Suite 100
Sacramento, Ca 95814

Mail or hand-deliver a hard copy response to:

David De Alba, Presiding Judge Sacramento County Superior Court
720 9th Street, Dept. 47
Sacramento, CA 95814

In addition, please email response to:

Becky Castaneda, Grand Jury Coordinator at castanb@saccourt.com

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

GLOSSARY

Brown Act - California Government Code 54950-54959 dictates that governmental meetings be open to the public, with a few exceptions

CAC - Community Advisory Committee

CEQA - California Environmental Quality Act

Cortese-Knox Hertzberg -

CSDA - California Special Districts Association

DLRP - Division of Land Resource Protection (within the Ca State Dept of Conservation)

EFCN - The Environmental Finance Center Network

EGWD - Elk Grove Water District

EGWS - Elk Grove Water Service

EGWW - Elk Grove Water Works

FRCD - Florin Resource Conservation District

FSCD - Florin Soil Conservation District

LAFCo - Local Agency Formation Commission

MSR - Municipal Service Review

Prop 218 - “Right to Vote on Taxes Act,” gave taxpayers the right to vote on local tax increases and required taxpayer approval of property related assessments and fees.

RCD - Resource Conservation District

SCGA - Sacramento Central Groundwater Authority

GRAND JURY - Sacramento County Grand Jury

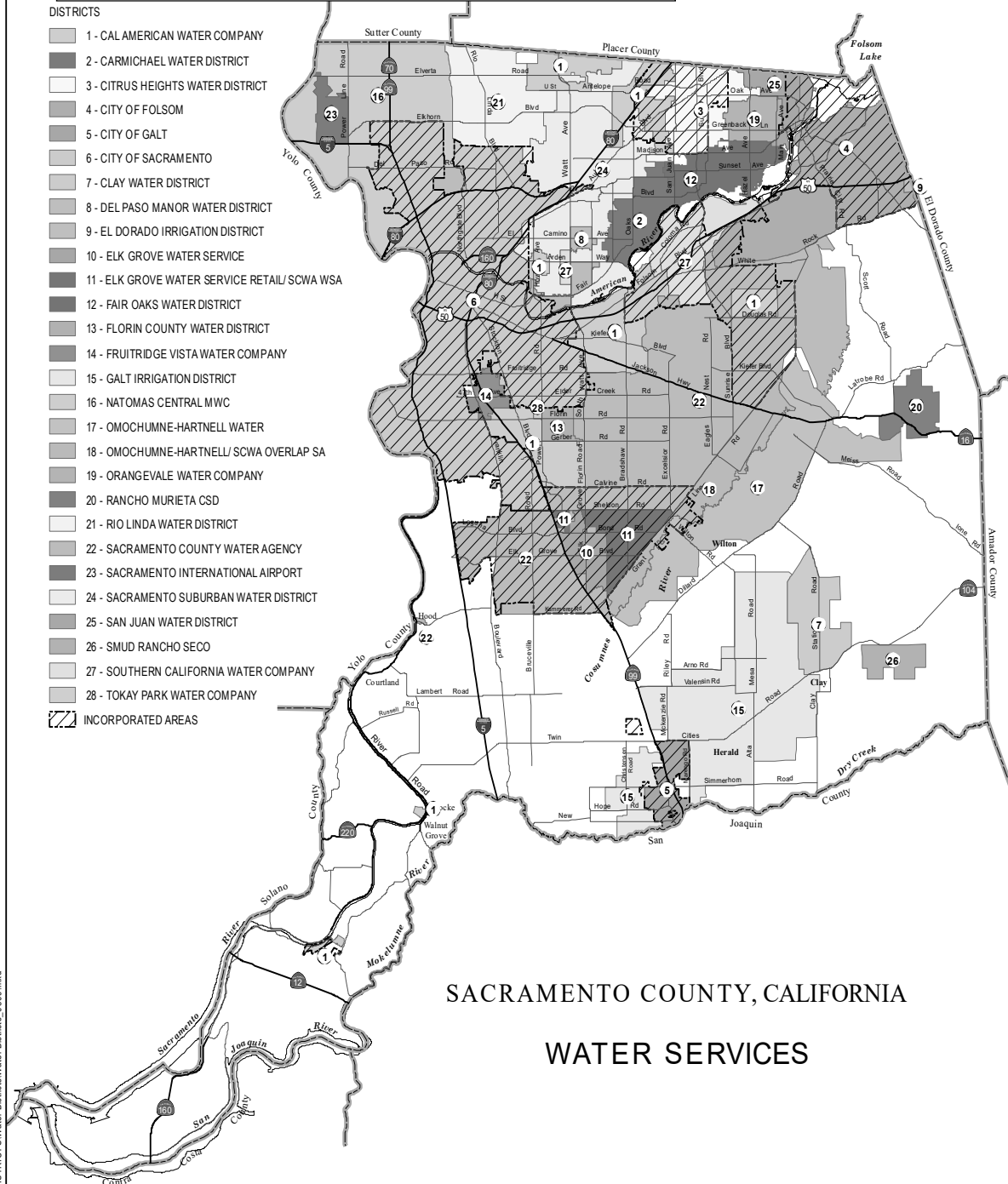
APPENDIX

Figure 1 - FRCD and EGWD Boundaries p. 79

Figure 2 - Water Districts in Sacramento County p. 92

Figure 3 - Resource Conservation Districts in Sacramento County p. 93

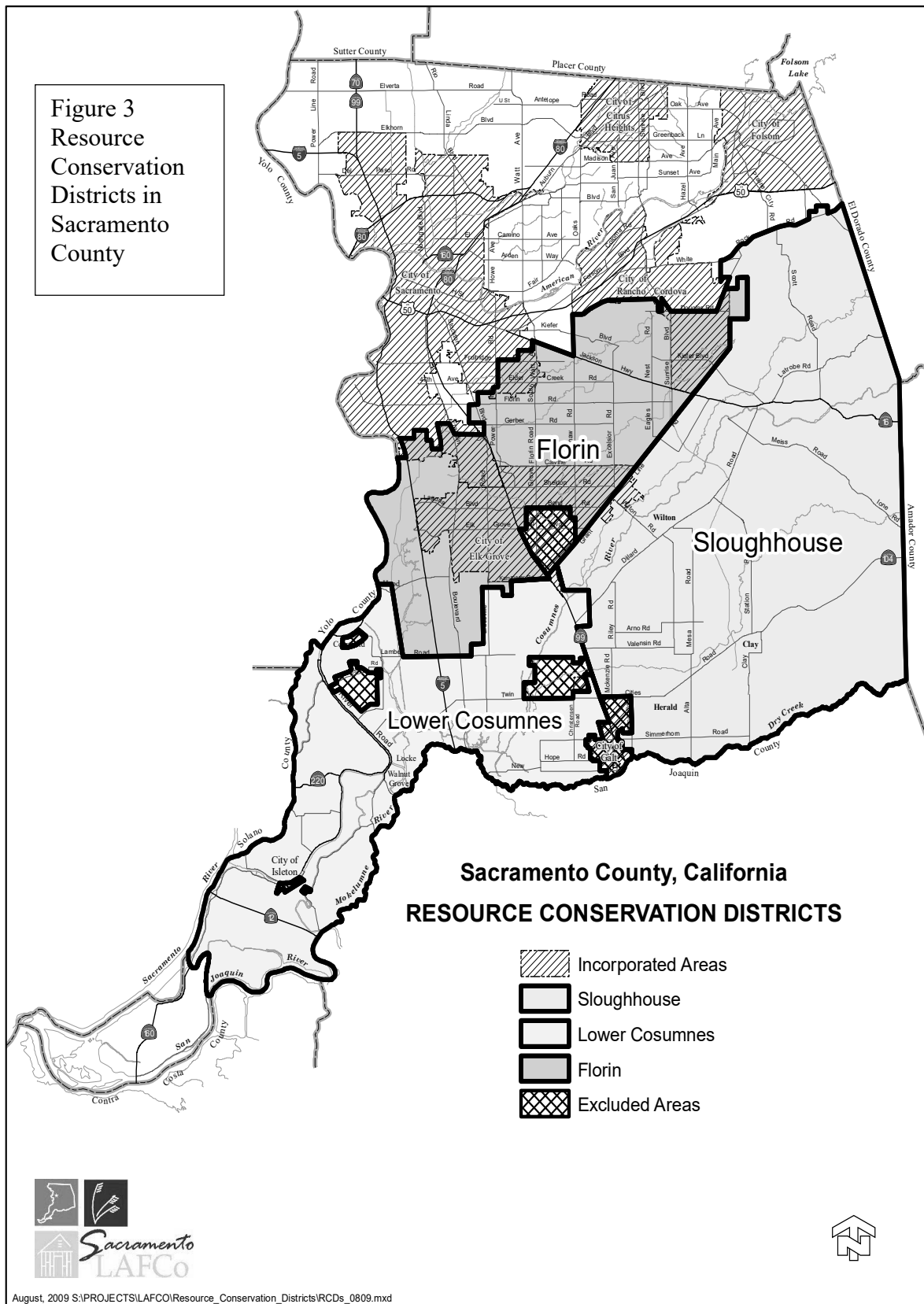
Figure 2 Water Districts in Sacramento County



January 11, 2010: MAPS:PDF-3/LAFCO DISTRICTS/Water Districts/Water Districts_0809.mxd



Figure 3
Resource
Conservation
Districts in
Sacramento
County



Endnotes:

¹Elk Grove Water District. Board of Directors Meeting. Minutes, April 18, 2018. <https://www.egwd.org>.

² California Legislative Information. California Law. Public Resources Code – PRC.

<http://leginfo.legislature.ca.gov>.

³ Sacramento LAFCo. Municipal Service Reviews. “Florin Resource Conservation District/Elk Grove Water District.” <http://www.saclafco.org>.

⁴ Elk Grove Water District. Board of Directors Meeting. Minutes. April 18, 2018. <https://www.egwd.org>.

⁵ California Legislative Information. California Law. Water Code, Division 12, Part 3, Chapter 1, Article 1, Section 30500. <http://leginfo.legislature.ca.gov>.

⁶ Ibid, Public Resource Code, Division 9, Chapter 3, Article 8, Section 9352 (b).

⁷ Ibid. California Law, Water Code, Division 12, Part 3, Chapter 1, Article 1, Section 30500.

⁸ Ibid. California Constitution.

⁹ Elk Grove Water District. Board of Directors Meeting. Minutes. May, 16, 2018. <https://www.egwd.org>.

¹⁰ Elk Grove Water District. Operating Budget. 2018-19. <https://www.egwd.org>.

¹¹ Elk Grove Water District. Board of Directors Meeting. Board Packet. June 18, 2018. <https://www.egwd.org>

¹² Elk Grove Water District. Board of Directors Meeting. Board Packet. November 14, 2018. <https://www.egwd.org>

¹³ Ibid.

¹⁴ California Legislative Information. California Law. Cal. Gov't Code § 37103. <http://leginfo.legislature.ca.gov>

¹⁵ Little Hoover Commission Report #239, August 2017.

¹⁶ Ibid, 36-37.