

## ITEM 4.17

### **CITY MANAGER'S REPORT JULY 8, 2019 CITY COUNCIL REGULAR MEETING**

**ITEM:** **ADOPT THE ADEQUATE PROGRESS FINDINGS TOWARD PROVISION OF 200-YEAR URBAN LEVEL OF FLOOD PROTECTION FOR RECLAMATION DISTRICT 2062 (RIVER ISLANDS)**

**RECOMMENDATION:** **Adopt Resolution, Acting as the Land Use Agency, Adopting Adequate Progress Findings toward providing a 200-Year Urban Level of Flood Protection in Phase 1 (Stage 1, 2A and 2B) area Levees of Reclamation District 2062 by the Year 2025**

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#### **SUMMARY:**

Senate Bill 5 (SBS), and related companion bills created a new requirement for certain land use decisions made by cities and counties in the California Central Valley. Starting on July 2, 2016, prior to approving discretionary land use decisions for non-residential projects, and prior to approving ministerial land use decisions (building permits) for new residential buildings, land use agencies are required to make a Finding of Adequate Progress toward provision of Urban Level Flood Protection (ULOP) 200-year flood protection.

On June 20, 2016, City Council approved an Adequate Progress Finding (APF) for the River Islands at Lathrop Phase 1 area based on certification by Reclamation District 2062 (RD 2062) that the levee system would provide ULOP upon completion of the procedural requirements in the ULOP criteria. This allowed the City of Lathrop to continue to issue, within Phase 1 areas that are fully flood protected, discretionary permits to commercial and industrial uses, and ministerial permits (building permits) for new residential homes through June 2017. In April 2017 and June 2018, the City Council approved an updated APF, documenting changes in the flood protection system for the River Islands development area that allowed approvals through June 2018 and June 2019, respectfully.

Tonight, staff requests the City Council adopt a resolution which finds RD 2062 to continue to make adequate progress for the River Islands at Lathrop Phase 1 Area, which includes Stage 1, Stage 2A and Stage 2B Areas (all of Phase 1 of River Islands) within RD 2062. This would allow the City of Lathrop to continue to issue, within the entire River Islands at Lathrop Phase 1 Area, discretionary permits to commercial and industrial uses, and ministerial permits (building permits) for new residential homes through June 2020 while RD 2062 continues to make progress towards providing an ULOP by the year 2025.

**JULY 8, 2019 CITY COUNCIL REGULAR MEETING****ADOPTING ADEQUATE PROGRESS FINDINGS TOWARD PROVIDING A 200-YR ULOP IN PHASE 1 (STAGE 1, 2A & 2B) AREA LEVEES OF RD 2062 BY THE YEAR 2025****BACKGROUND:**

The California Department of Water Resources (DWR) developed both technical and procedural criteria in response to requirements outlined in the Central Valley Flood Protection Act of 2008, enacted by SB5 in 2007 and amended by subsequent legislation (2007 California Flood Legislation). DWR developed the ULOP Criteria to assist affected cities and counties within the Sacramento-San Joaquin Valley, in making the findings related to an ULOP before approving certain land use entitlements in accordance with the 2007 California Flood Legislation.

The ULOP Criteria requires a scope of work for completion of the Flood Protection System. The annual report of Adequate Progress Towards Urban Level of Flood Protection (included as Attachment B) identifies the progress made in the past year since the last APF, and the present efforts underway and planned that will accomplish an ULOP for the Stage 1 area.

River Islands constructed Stage 2A Levee in 2016 and 2B levee in 2017, both of which was designed to protect against the 200-year ULOP. Stage 2A Levee essentially extended Stage 1 interior levee to the west by creating a loop expanding the protected area. FEMA also certified Stage 2A and 2B levees as providing 100-year flood protection. In 2017, River Islands constructed Stage 2B Levee, which further expands the protected area. Stage 1, 2A, and 2B areas collectively make-up the "Phase 1 Area" (Attachment C).

**2019 DOCUMENTATION BY RD 2062:**

The APF for the RD 2062 Phase 1 Area relies upon the previous APF for the River Islands at Lathrop Stage 1, Stage 2A and 2B area adopted last year and the Annual Report attached to this report. These documents provide substantial evidence in the record to support the requested finding of Adequate Progress. According to the letter dated June 26, 2019 (Attachment D), RD 2062 Board of Trustees acting as the Local Flood Management Agency, approved the Annual Report and transmitted it to the City for the City Council's consideration at this meeting.

The Annual Report is being provided for the Council's action in accordance with the 2007 California Flood Control Legislation that requires the local flood management agency to report annually to the Central Valley Flood Protection Board (CVFPB) on the status of progress toward completion of the flood protection system. RD 2062 has provided this report to the CVFPB on behalf of both the District and the City in the past and will send the letter (Attachment E), to the CVFPB should the Council adopt the attached resolution and approve the Adequate Progress Finding.

**JULY 8, 2019 CITY COUNCIL REGULAR MEETING****ADOPTING ADEQUATE PROGRESS FINDINGS TOWARD PROVIDING A 200-YR ULOP IN PHASE 1 (STAGE 1, 2A & 2B) AREA LEVEES OF RD 2062 BY THE YEAR 2025****REASON FOR RECOMMENDATION:**

Both the RD 2062 District Engineer and the City Engineer believe there is substantial evidence in the record for the City Council to make a finding of adequate progress for the Phase 1 River Islands development area.

Adoption of the resolution will allow the City of Lathrop to continue to approve, through 2020, discretionary permits for all uses, including non-residential uses, and ministerial permits (building permits) for all new residential homes within the RD 2062 Stage 1, 2A and 2B areas while RD 2062 completes the ULOP Flood protection. Although 200-year adequate progress is being approved, FEMA is still required to first certify 100-year flood protection.

**FISCAL IMPACT**


To date, all technical reports and studies have been funded by RD 2062 and River Islands at a cost in excess of \$2 million. This includes City staff time to review these documents.

**ATTACHMENTS:**

- A. Adopt Resolution, Acting as the Land Use Agency, Adopting Adequate Progress Findings toward providing a 200-Year Urban Level of Flood Protection in Phase 1 (Stage 1, 2A and 2B) area Levees of Reclamation District 2062 by the Year 2025
- B. Report of Adequate Progress Towards Urban Level of Flood Protection, dated June 2019
- C. Vicinity Map of River Islands Phase 1 Area
- D. Letter from RD 2062, as the Local Flood Management Agency, dated May 29, 2018; presenting the Adequate Progress Documentation to the City of Lathrop (Enclosure referenced is included as Attachment "B" to this staff report dated, July 8, 2019)
- E. Draft Letter from RD 2062 to the Central Valley Flood Protection Board providing required notification of the Adequate Progress Finding. (Enclosure referenced is included as Attachment "B" to this staff report dated, July 8, 2019)

**CITY MANAGER'S REPORT**  
**JULY 8, 2019 CITY COUNCIL REGULAR MEETING**  
**ADOPTING ADEQUATE PROGRESS FINDINGS TOWARD PROVIDING A 200-  
YR ULOP IN PHASE 1 (STAGE 1, 2A & 2B) AREA LEVEES OF RD 2062 BY THE  
YEAR 2025**

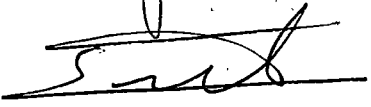
**APPROVALS:**

  
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Glenn Gebhardt  
City Engineer

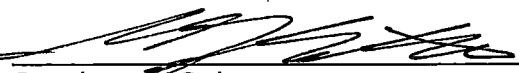
6/27/19  
Date

  
\_\_\_\_\_  
Cari James  
Administrative & Finance Service Director

6/27/19  
Date

  
\_\_\_\_\_  
Salvador Navarrete  
City Attorney

6-27-19  
Date

  
\_\_\_\_\_  
Stephen J. Salvatore  
City Manager

6-28-19  
Date

**RESOLUTION NO. 19-**

**A RESOLUTION OF THE CITY COUNCIL CITY OF LATHROP ACTING AS THE LAND USE AGENCY, ADOPTING ADEQUATE PROGRESS FINDINGS TOWARD PROVIDING A 200-YEAR URBAN LEVEL OF FLOOD PROTECTION IN PHASE 1 (STAGE 1, 2A AND 2B) AREA LEVEES OF RECLAMATION DISTRICT 2062 BY THE YEAR 2025**

**WHEREAS**, California Senate Bill 5 (SB5), passed in 2007 and later amended by various bills, requires the State to develop and adopt a comprehensive Central Valley Flood Protection Plan (CVFPP), which was approved by the Central Valley Flood Protection Board (CVFPB) in June 2012; and

**WHEREAS**, SB5 also required all cities and counties in the Central Valley to incorporate the CVFPP into their general plans by July 2, 2015 and into their zoning ordinances by July 2, 2016, and both actions were completed by Lathrop within the deadlines; and

**WHEREAS**, SB5 restricted development beyond July 2, 2016 unless the land use agency makes a finding related to an Urban Level of Flood Protection (ULOP), a 200-year level of flood protection; and

**WHEREAS**, Island Reclamation District 2062 ("RD 2062"), as the local maintenance agency for the levee system associated with the River Islands at Lathrop Phase 1 project, provided documentation to the City for its adequate progress findings made in conformation with SB5 for 2016, 2017 and 2018, which allowed development to occur within the River Islands at Lathrop Phase 1 Area; and

**WHEREAS**, the 2019 Adequate Progress Finding pursuant to Government Code Section 65962 may be approved by the City as the local land use agency, and the passage of this Resolution will allow the City to continue to approve discretionary and ministerial permits within the River Islands at Lathrop Phase 1 Area; and

**WHEREAS**, this Adequate Progress Finding is based on substantial evidence in the record, including the Annual Report of Progress provided by RD 2062 and its District Engineer, included as Attachment B to the July 8, 2019 staff report and incorporated herein.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Lathrop, acting as the Land Use Agency as defined by State law, hereby adopts this Adequate Progress Finding pursuant to California Government Code Section 65962 based on substantial evidence in the record, including the report from Reclamation District 2062, included as Attachment B to the July 8, 2019 staff report, that adequate progress towards providing a 200-year Urban Level of Flood Protection by the year 2025 for the River Islands at Lathrop Phase 1 (Stage 1, Stage 2A and Stage 2B) is being made.

**PASSED AND ADOPTED** by the City Council of the City of Lathrop this 8th day of July, 2019, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Sonny Dhaliwal, Mayor

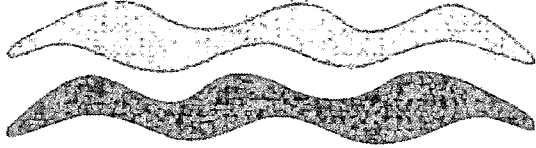
**ATTEST:**

\_\_\_\_\_  
Teresa Vargas, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Salvador Navarrete, City Attorney

# RD 2062



**RIVER ISLANDS AT LATHROP  
PHASE 1 AREA**

**REPORT OF ADEQUATE PROGRESS  
TOWARDS URBAN LEVEL OF FLOOD  
PROTECTION**

**ANNUAL REPORT**

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**JUNE 2019**

## PURPOSE

In April 2017, the City of Lathrop adopted a finding of adequate progress (APF) toward an Urban Level of Flood Protection (ULOP) for the River Islands at Lathrop, Phase 1 urban area protected by the RD 2062 levees. When a local land use agency makes an APF, as described in the *Urban Level of Flood Protection Criteria* (ULOP Criteria), issued by the Department of Water Resources in 2013, Government Code Section 65007 (a) (5) requires the Local Flood Management Agency annually report to the Central Valley Flood Protection Board (CVFPB) on the progress toward the completion of the flood protection system. This report serves as that Annual Report. As required by the ULOP Criteria, this report will be made publicly available at [www.ci.lathrop.ca.us](http://www.ci.lathrop.ca.us).

## ADEQUATE PROGRESS FINDING

The City of Lathrop's APF was based on several supporting documents including: RD2062's *River Islands at Lathrop Stage 2A and 2B Levees, Adequate Progress Towards an Urban Level of Flood Protection Engineer's Report*, dated January 2017; RD2062's *River Islands at Lathrop Stage 1 Levee System, Urban Level of Flood Protection Engineer's Report*, dated March 2016; and RD2062's *River Islands at Lathrop, Phase 1 Area, Report of Adequate Progress towards an Urban Level of Flood Protection* (APF Report), dated February 2017. These documents collectively describe an attainable, reasonable approach toward providing an urban level of flood protection for the River Islands at Lathrop, Phase 1 Area by 2025. Specifically, these documents describe the levee system and the urban area it protects; provide substantial evidence, including data and references, demonstrating the levee system will provide an urban level of flood protection; and the scope, schedule, cost and identified sources of funding and their expected timing to provide an urban level of flood protection. The Engineer's Reports and APF Report are hereby incorporated by reference. Pursuant to DWR's ULOP Criteria, a finding based on adequate progress has an effective period of 10 years or until the finding is superseded, whichever is sooner, provided that the adequate progress requirements per California Government Code Section 65007(a) are met. Based upon this criterion, the finding made by the City of Lathrop based upon the APF is valid until December 31, 2025,<sup>1</sup> so long as the requirements of Government Code §65007(a) are met by RD2062, the local flood management agency.

## PROGRESS

The APF Report identified two construction projects as being necessary to provide an urban level of flood protection to the Phase 1 Area: the River Islands Stage 2B Levee Project (Stage 2B Levee Project) and the scour prevention projects. In addition, the APF Report identified non-structural actions required for certification of the levee system. The status of these actions is described below.

The Stage 2B Levee Project was completed as reported in the 2018 annual report. Since the time of the APF for the River Islands Phase 1 Area in 2017, a portion of the Stage 1 Interior Levee was removed, joining the Stage 1 and Stage 2A protected areas. Similarly, a portion of the Stage 2A levee was also removed (in 2018) to join the combined Stage 1-2A and Stage 2B protected areas. These removals do not affect the APF, and are described in detail in the APF Report and Engineer's Report for the Phase 1 Area.

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<sup>1</sup> Pursuant to Government Code Sections 65865.5, 65962, and 66474.5, for area protected by SPFC levees, an urban level of flood protection shall be achieved by 2025, therefore, after 2025, a local agency can no longer rely on findings of adequate progress after 2025 for an area protected by SPFC levees.



## RIVER ISLANDS STAGE 2B LEVEE PROJECT

The Stage 2B Levee Project consisted of the construction of a new levee, approximately 16,000 feet in length that will provide protection from the 200-year flood event. The levee is a northwest extension of the Stage 2A Levee.

### Schedule

The schedule identified in the APF Report remains the same. The Stage 2B Levee was constructed in summer 2017, ahead of schedule.

<b>ACTION</b>	<b>ESTIMATED START</b>	<b>ESTIMATED COMPLETION</b>
Stage 2B Levee Project - Design	<i>Complete</i>	<i>Complete</i>
Stage 2B Levee Project - Construction	<i>Complete</i>	<i>Complete</i>

### Costs and Expenditures

The Stage 2B Levee Project was funded by the project developer, River Islands Development, LLC (RID).

### Delays and Changes

There were no significant delays in meeting the scheduled 2018 completion of the Stage 2B Levee Project, nor were there any significant changes to the project's approach. Construction of the flood control features was completed in 2017.

## SCOUR PREVENTION PROJECTS

The scour prevention projects consists of evaluating the potential for erosion and scour failure of the Stage 1 Interior Levee, Stage 2A Levee and Stage 2B Levee caused by failure of the Old River Levee. Similarly, but separate, is a concern for erosion and scour failure of Cross Levee, due to its proximity to the UPRR embankment. Pending the results of the evaluation, a structural solution may be required. The scope identified in the APF Report remains the same.

### Schedule

The schedule identified in the APF Report remains the same. Evaluations of the potential for erosion and scour failure will begin in 2018. Construction is still anticipated to be complete in October 2020.

<b>ACTION</b>	<b>ESTIMATED START</b>	<b>ESTIMATED COMPLETION</b>
Scour Prevention Project - Old River – Design and Permitting	2018	2020
Scour Prevention Project - Old River - Construction	2020	2020
Scour Prevention Project - UPRR – Design and Permitting	2018	2020
Scour Prevention Project – UPRR - Construction	2020	2020



## Costs and Expenditures

A solution for resolving the scour concerns has not yet been identified; therefore a cost estimate has not yet been developed. The scour prevention projects will be funded by RID.

## Delays and Changes

There have been no significant delays in meeting the scheduled 2020 completion of the scour prevention projects, nor are there any significant changes to the project's approach.

## RD 2062 O&M MODERNIZATION AND RIGHT-OF-WAY

The ULDC provides requirements to support a modern levee program. This includes ensuring robust operations and maintenance (O&M) practices and procedures and appropriate right-of-way are in place for urban levees. The scope identified in the APF Report remains the same and progress continues to be made. River Islands has granted easements to RD 2062 for the entire embankment, 20 feet landward of the landside toes, and 15 feet waterward of the waterside toes for the Stage 2A and Stage 2B levees.

## Schedule

The schedule identified in the APF Report has changed. A new O&M Manual for the Phase 1 levee system continues to be developed while the Phase 1 levee system is modified (i.e., levees are built and removed, features are added). Completion of the effort is expected after the construction of the scour prevention projects, scheduled in 2020. Easements to RD 2062 for the Stage 2A and 2B levees have been recorded, ahead of schedule.

<b>ACTION</b>	<b>ESTIMATED START</b>	<b>ESTIMATED COMPLETION</b>
RD 2062 O&M Modernization	<i>Ongoing</i>	2021
RD 2062 Transfer of Real Estate Rights for Stage 2A Levee and Stage 2B Levee	<i>Complete</i>	<i>Complete</i>

## Costs and Expenditures

Progress on the RD 2062 O&M Modernization effort and is not being tracked by costs and expenditures, but instead through production of deliverables such as technical memoranda, updated O&M Manual chapters, plans, etc. A high level cost estimates for performing the work is \$25,000. RD 2062 will accomplish these tasks using funds obtained through its annual assessment and/or through funds provided by RID.






## Delays and Changes

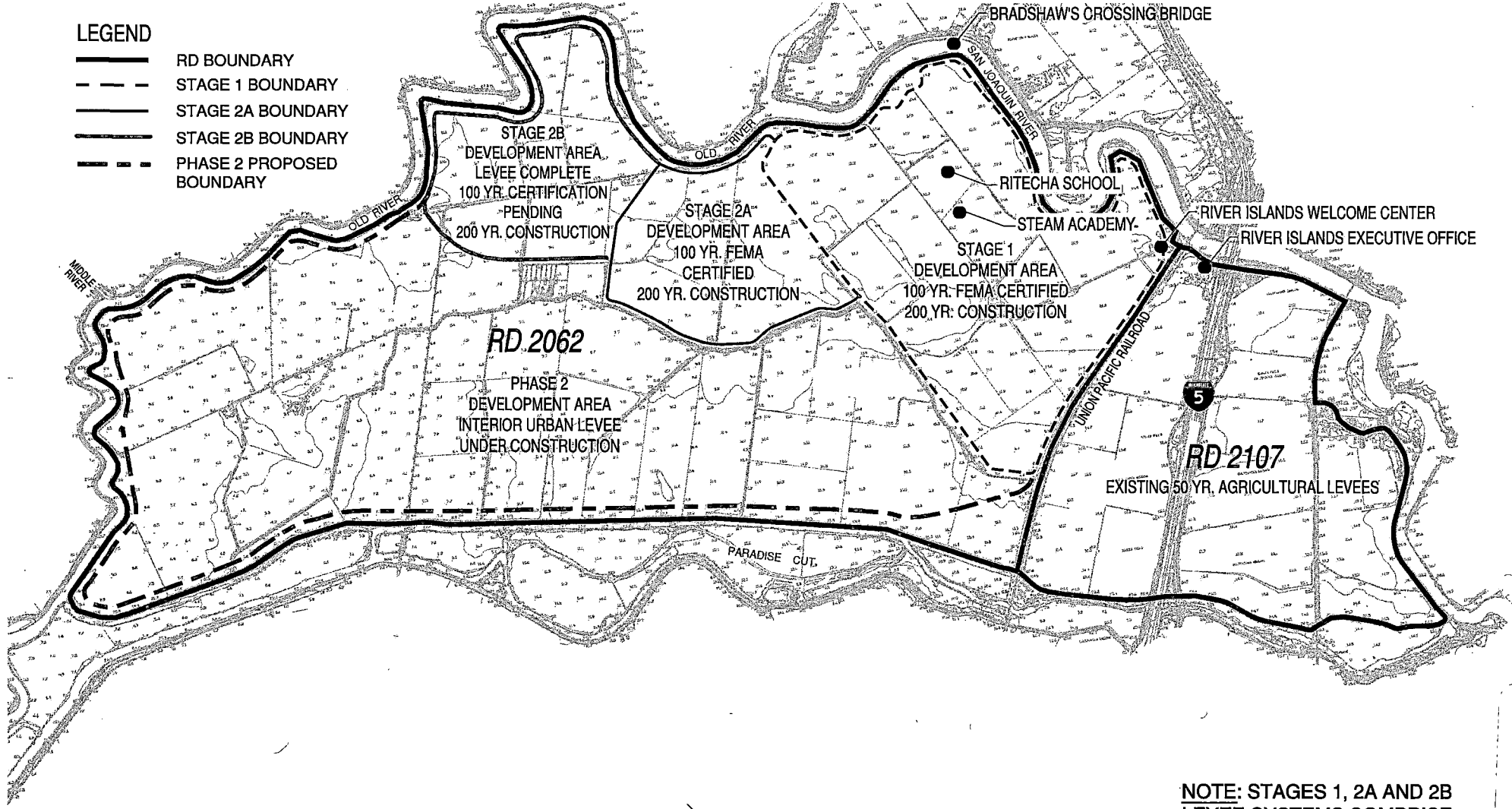
There have been no significant delays in developing a new O&M Manual and program for the Phase 1 levee system, nor were there any significant changes to the project's approach. However, as described above, the O&M modernization will continue to progress until after construction of the scour prevention projects, representing the last construction efforts for Phase 1.

## CONCLUSION

RD2062 continues to make progress towards providing an urban level of flood protection to the River Islands Phase 1 Area by 2025. RD 2062 will continue to make progress and report on this progress annually. The next annual report will be submitted in June 2020.

**LEGEND**

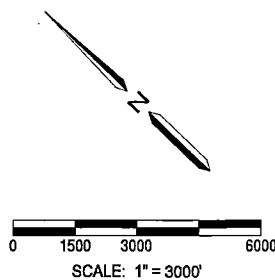
-  RD BOUNDARY
-  STAGE 1 BOUNDARY
-  STAGE 2A BOUNDARY
-  STAGE 2B BOUNDARY
-  PHASE 2 PROPOSED BOUNDARY



**NOTE: STAGES 1, 2A AND 2B  
LEVEE SYSTEMS COMPRISE  
PHASE 1 FLOOD PROTECTION  
AREA FOR RIVER ISLANDS**

**RIVER ISLANDS  
STEWART TRACT  
FLOOD PROTECTION AREAS**

CITY OF LATHROP CALIFORNIA



**O'DELL**  
ENGINEERING  
Modesto Palo Alto Pleasanton

Attachment C

**ISLAND RECLAMATION DISTRICT No. 2062**

STEWART TRACT – SAN JOAQUIN COUNTY

73 W. Stewart Road

LATHROP, CALIFORNIA 95330

TEL: (209) 879-7900

June 26, 2019

Mr. Glenn Gebhardt, City Engineer  
City of Lathrop  
390 Towne Center Drive  
Lathrop, CA 95330

Re: Adequate Progress Finding for Phase 1 – River Islands at Lathrop


Dear Glenn,

At its June 25, 2019 special meeting, the Island Reclamation District 2062 Board of Trustees (RD 2062) unanimously adopted Resolution 19-6, approving "*The River Islands at Lathrop Phase I Area Report of Adequate Progress Towards Urban Level of Flood Protection Annual Report*" ("2019 Annual Report") and directed the President to provide the Annual Report to the City for adoption of an Adequate Progress Finding ("APF").

The enclosed Annual Report incorporates by reference the previous River Islands at Lathrop, Stage 1 Levee System, Report of Adequate Progress Towards an Urban Level of Flood Protection which supported the City's 2016, 2017 and 2018 Adequate Progress Findings for Phase 1 of the River Islands project. River Islands continues to expand the urban levee system within RD 2062, with the Phase 2 levee being constructed currently.

Because the entire Phase 1 Area does not currently have a certified urban level of flood protection, and to support the continued development of the River Islands project, RD 2062's District Engineer has prepared the Annual Report in order to support an APF for the Phase 1 Area by the City. The Annual Report is enclosed with this letter for your review and the City Council's adoption at their next available meeting.

Sincerely,



SUSAN DELL'OSSO  
President, RD 2062

Encl.: 2019 Annual Report

**ISLAND RECLAMATION DISTRICT No. 2062**

STEWART TRACT – SAN JOAQUIN COUNTY

73 W. Stewart Road

LATHROP, CALIFORNIA 95330

TEL: (209) 879-7900

July 9, 2019

Ms. Leslie Gallagher, Executive Officer  
Central Valley Flood Protection Board  
3310 El Camino Avenue, Suite 170  
Sacramento, CA 95821

Re: Annual Report of Progress - River Islands at Lathrop Phase 1 Area, Lathrop, CA

On July 8, 2019 the City of Lathrop adopted an Adequate Progress Finding for the River Islands at Lathrop Phase 1 Area. In accordance with the requirements of Government Code §65007 (a) and the Urban Level of Flood Protection Criteria issued by the Department of Water Resources in 2013, Island Reclamation District No. 2062, as the local flood management agency, respectfully submits the enclosed annual report of progress towards providing an urban level of flood protection for the River Islands at Lathrop Phase 1 urban area.

This report is available to the public at the following website: [www.ci.lathrop.ca.us](http://www.ci.lathrop.ca.us).

Questions on the matter may be referred to Ms. Claire Marie Turner at [turner@mbkengineers.com](mailto:turner@mbkengineers.com) or 916-456-4400.

Sincerely,

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SUSAN DELL'OSSO  
President, RD 2062

Encl.: 2019 Annual Report