

City of Lathrop
Comprehensive General Plan

Draft
General Plan Amendment of 2015
SB 5 200-Year Flood Protection

March 25, 2015



City of Lathrop
Comprehensive General Plan

Draft
General Plan Amendment of 2015
SB 5 200-Year Flood Protection

March 25, 2015

Community Development Department
CITY OF LATHROP
390 Towne Center Drive
Lathrop, CA 95330
209-941-7260
rwillis@ci.lathrop.ca.us



Table of Contents

CHAPTER 1.0 INTRODUCTION	1
1.1 City of Lathrop.....	1
1.2 The 200-Year Flood Protection Challenge	1
1.3 Lathrop General Plan	3
1.4 200-Year Flood Requirements for Local Government	5
1.5 General Plan Amendment Organization	7
1.6 Agency Consultation and Review.....	8
1.7 California Environmental Quality Act	8
1.8 GPA Adoption.....	8
1.9 The SB 5 Bills	8
1.9.1 Senate Bill 5 (2007)	9
1.9.2 Senate Bill 17 and Assembly Bill 5 (2007)	9
1.9.3 Assembly Bill 162 (2007)	10
1.9.4 Assembly Bill 70 (2007).....	11
CHAPTER 2.0 AMENDMENT TO THE SAFETY ELEMENT OF THE LATHROP GENERAL PLAN	12
2.1 Introduction	12
2.2 Proposed Amendment of Safety Element	12
2.2.1 Flood Protection Provisions of Existing LGP Safety Element	12
2.2.2 Explicit Amendments of Lathrop General Plan	14
2.3 Flooding in the City of Lathrop.....	16
2.3.1 San Joaquin River Hydrology and Flooding.....	16
2.3.2 Flooding and Flood Protection History	18
2.4 Flood Protection Facilities.....	19
2.4.1 Upstream Reservoirs.....	19
2.4.2 Federal “Project” Levees.....	20
2.4.3 State Plan of Flood Control (SPFC) Levees	20
2.4.4 Reclamation District Levees	22
2.4.5 Reclamation District 17	22
2.4.6 Reclamation District 2062.....	24
2.4.7 Reclamation District 2107.....	26
2.5 Flood Hazard Areas	28
2.5.1 Flood Hazard Zones, National Flood Insurance Program Maps.....	28
2.5.2 U.S. Army Corps of Engineers Flood Hazard Information	30
2.5.3 CVFPB Designated Floodway Maps.....	30
2.5.4 Levee Flood Protection Zones.....	30
2.5.5 Areas Subject to Inundation in the Event of the Failure of Project or Nonproject Levees or Floodwalls.	31
2.5.6 Awareness Floodplain Mapping Program	31
2.5.7 RD 17 Detailed 200-Year Floodplain Mapping.....	31
2.5.8 Dam Failure Inundation Maps.....	34
2.6 Exposure to Flooding: Population, Essential Facilities, Real Property, Planned Growth.....	41
2.6.1 Population, Improvement Values	41
2.6.2 Essential Facilities	41

2.6.3	Planned Development in Lathrop	42
2.7	Emergency Response	43
2.8	Other Non-Structural Flood Management Strategies.....	44
2.8.1	Levee Maintenance.....	45
2.8.2	Exposure Reduction	45
2.8.3	Standards and Criteria	46
2.8.4	Federal Emergency Management Agency (FEMA)	47
2.8.5	United States Army Corps of Engineers (USACE).....	47
2.8.6	California Department of Water Resources (DWR)	48
2.8.7	Central Valley Flood Protection Board (CVFPB).....	50
2.8.8	Governor’s Office of Emergency Services.....	51
2.8.9	Delta Protection Commission.	51
2.8.10	Delta Stewardship Council.	51
2.8.11	San Joaquin County.....	52
2.8.12	San Joaquin Area Flood Control Agency (SJAFCA)	54
2.8.13	San Joaquin County Flood Control and Water Conservation District	54
2.8.14	Paradise Cut Bypass	54
2.9	Flood Protection Goals, Policies and Objectives.....	55
2.9.1	Legislative Requirements	55
2.9.2	Policy Definitions:	56
2.9.3	Flood Protection Goals and Policies.....	57
2.10	Flood Protection Implementation Measures.....	59
CHAPTER 3.0 CONSISTENCY WITH THE LATHROP GENERAL PLAN		61
3.1	Consistency with the Community Development Element.....	61
3.2	Consistency with the Resource Management Element.....	62
3.5	Consistency with the Hazard Management Element	62
SOURCES		63

CHAPTER 1.0 INTRODUCTION

1.1 City of Lathrop

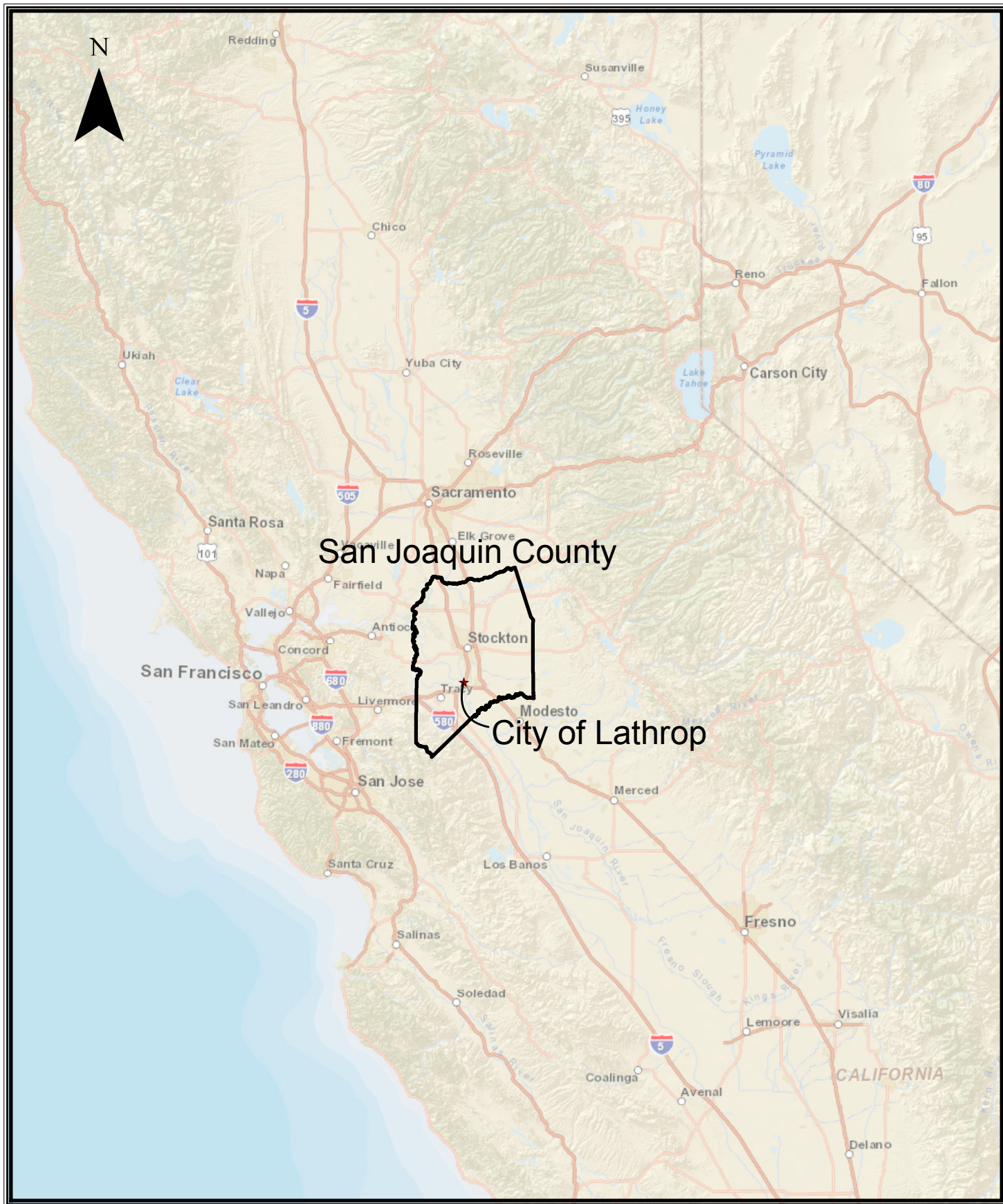
The City of Lathrop is a general law city located in San Joaquin County, California; Lathrop had a 2014 population of 19,800. The City lies east and west of the San Joaquin River as it flows north into the Sacramento-San Joaquin Delta at Mossdale. Interstate 5 (I-5), Interstate 205 (I-205) and State Route 120 (SR 120) intersect within the City (Figures 1, 2 and 3). Lathrop was incorporated in 1989 and adopted an urban growth-oriented general plan in 1991; the Lathrop General Plan has been amended several times since adoption.

The City is responsible for public safety, including policing and fire protection, as well as for water, wastewater, storm drainage and parks and recreation services. City public safety concerns include flood protection, floodplain management and emergency response in the event of flooding. These services are delivered in cooperation with a variety of federal, state and local agencies. Locally, these agencies include the reclamation districts that are directly responsible for levee maintenance, Lathrop Police Services, the Lathrop-Manteca Fire District and San Joaquin County Office of Emergency Services. The various agency involvements are defined in more detail later in this document.

1.2 The 200-Year Flood Protection Challenge

In 2007, the State of California approved Senate Bill 5 (2007) and a series of related Senate and Assembly bills intended to set new flood protection standards for urban areas. This group of bills, described in more detail in Section 1.9, is referred to collectively in this document as “the SB 5 Bills.” The SB 5 Bills establish the State standard for flood protection in urban areas as protection from the 200-year frequency flood. Under the SB 5 Bills, urban and urbanizing areas must be provided with 200-year flood protection no later than 2025. After July 2, 2016, new development in areas potentially exposed to 200-year flooding more than three feet deep will be prohibited unless the local land use agency certifies that 200-year flood protection has been provided, or that “adequate progress” has been made toward provision of 200-year flood protection by 2025. These requirements are to be instituted in local general plans and zoning.

Most of the City of Lathrop is exposed to potential flooding from the San Joaquin River, and from Old River and Paradise Cut, which surround Stewart Tract. Existing 100-year flood protection is provided to much of this area by levees certified by the Federal Emergency Management Agency (FEMA); the levees are maintained by three local reclamation districts (RDs): RD 17, RD 2062 and RD 2107. RDs 17 and 2062 - together with the City of Lathrop - are responsible for providing flood protection to urban and urbanizing portions of Lathrop; RD 17 together with the City of Manteca is responsible for flood protection in portions of Manteca immediately adjacent to Lathrop. The cities are seeking protection from 200-year flooding for these areas. RD 2107 is not currently protected from the 100-year flood, does not include urban or urbanizing areas and is not seeking 200-year flood protection.



Regional Location Map

Figure 1

RD 17, the City of Lathrop and the City of Manteca are in the process of evaluating flooding risk, assessing the capability of the existing levee system to provide 200-year flood protection, and determining what improvements are needed in order to provide the required level of protection. RD 2062 is independently pursuing 200-year flood protection for Stewart Tract, initially for Phase 1 of the River Islands project, which is under construction. The City of Lathrop intends to be able to demonstrate “adequate progress” toward meeting the 200-year flooding requirements for urban and urbanizing areas in RDs 17 and 2062 on or before July 2, 2016.

In addition to setting 200-year flood protection requirements for urban areas, the SB 5 Bills also established new and more comprehensive State flood protection policies and a public investment strategy for flood protection improvements. Generally led by the State Department of Water Resources (DWR), the flood protection effort involves a range of local, state and federal agencies. These agency roles are described in more detail in Section 2.3.7.

The 200-year flood protection requirements imposed by the SB 5 Bills are to be enforced through other requirements of the Bills; the 200-year flood protection requirements must be incorporated into local general plans by July 2, 2015, and into local zoning ordinances by July 2, 2016. Upon its adoption by the Lathrop City Council, this document fulfills the general plan amendment (GPA) requirement of the SB Bills and will serve as the basis of required amendments of the Lathrop zoning ordinance.

1.3 Lathrop General Plan

The California Government Code §65000 *et. seq.* requires each city and county to adopt a general plan “for the physical development of the county or city, and any land outside its boundaries which bears relation to its planning” (§65300). The general plan has been deemed by the California courts to be the jurisdiction’s “constitution for future development.” The general plan describes the community’s land use and development goals, policies, objectives and standards and the measures needed to implement the plan. The general plan includes seven required elements: Land Use, Circulation, Housing, Conservation, Open-Space, Safety and Noise.

Implementation measures may include the means for providing street and utility infrastructure needed to support new development, how natural resources will be conserved, and how public health and safety will be protected. Most local government decisions related to development are required by law to be consistent with the General Plan. The general plan is to be comprehensive in its treatment of land use and related issues, and the multi-faceted plan must also be “internally consistent.”

The City of Lathrop has adopted a comprehensive, long-term general plan that addresses the applicable Government Code requirements in a range of specialized elements adapted to local conditions. The City, incorporated in 1989, adopted the *City of Lathrop Comprehensive General Plan* (the “LGP”) on December 17, 1991. The LGP includes the seven elements required by law. The LGP has been updated several times since adoption; the last major amendment of the LGP occurred in November 2004 in conjunction with the approval of the Central Lathrop Specific Plan; the last update of the Housing Element was completed in 2010. The LGP Land Use/Circulation Diagram is shown on Figure 2.



The LGP divides the City into three “sub-plan” areas as shown on Figure 2; most of the land within the three sub-plan areas contains or is intended for urban development. Sub-Plan Areas 1 and 2 are located east of the San Joaquin River, and are protected from San Joaquin River flooding by RD 17 levees. Virtually all of the undeveloped land area within Sub-Plan Areas 1 and 2 has been entitled for urban development through specific plan approvals. Sub-Plan Area 3 is the approximately 5,000-acre Stewart Tract, site of the approved River Islands planned urban development; most of Stewart Tract is protected from flooding by RD 2062 levees, and nearly all of the Tract was entitled for urban development in 2003. The non-urban southeastern portion of Stewart Tract receives flood protection from RD 2107. City Specific Plan approvals are shown on Figure 3.

California general plans have since 1971 been required to include a Safety Element that addresses flooding, geologic hazards, emergency response and other public safety concern; the adopted Lathrop General Plan includes consideration of these concerns. However, the Hurricane Katrina disaster in 2005 intensified flood protection concerns and underscored the need for better planning and emergency response preparation at all levels of government. The SB 5 Bills outlined a more aggressive State flood protection agenda, established the 200-year flood protection standard and placed most of the responsibility for meeting the new standard, and for implementing new policy, on local government. The individual SB 5 Bills are described in more detail in Section 1.9.

The LGP includes consideration of flood hazards associated with the San Joaquin River, Old River and Paradise Cut. The LGP defines flood hazards with respect to the FEMA 100-year floodplain standard, which is the basis for the National Flood Insurance Program (NFIP), and has until passage of the SB 5 Bills been the land use planning standard for the State and the nation. FEMA makes federal flood insurance available to development within areas subject to potential 100-Year and 500-Year flooding provided that local land use regulations for the area conform to federal standards. The City has been active in land use planning, public involvement and other activities required to conform to federal requirements. The new 200-year flooding requirements of the SB 5 Bills exceed the FEMA 100-year standards but are not presently addressed in the LGP. This general plan amendment incorporates the 200-year standards and other requirements of the SB 5 Bills into the LGP.

1.4 200-Year Flood Requirements for Local Government

The State’s overall long-term program for improving flood protection includes expanded availability of flood risk and planning information, establishment of flood protection and facility design standards, technical assistance to flood protection and land use agencies, and an enforcement system for the new requirements. A key feature of the State program is the *Central Valley Flood Protection Plan* (the “CVFPP”), adopted by the Central Valley Flood Protection Board in 2012; the CVFPP, to be updated on a 5-year cycle, provides an overall understanding of flooding risk and exposure in the Central Valley, the general nature and adequacy of existing flood protection systems, and a statewide strategy for the allocation of available funding for flood protection improvements; the financing strategy is known as the Statewide System Investment Approach (SSIA).

The CVFPP is primarily concerned with State Plan of Flood Control (SPFC) facilities, which are shared federal/state facilities the State is obligated to cooperate in maintaining and improving. In defining the SSIA, DWR considered three principal approaches to flood protection: 1) repair or improvements to SPFC levees, 2) 200-year flood protection improvements in high-risk urban and urbanizing areas, and 3) integrated projects, such as setback levees that improve the flood system capacity while achieving other goals. The SSIA identified \$13-17 billion in phased improvements, including 200-year flood levee improvements along the San Joaquin River and expanding flood flow capacity via the Paradise Cut project.

The CVFPP identifies the need for more area-specific Regional Flood Management Plans. An RFMP has been drafted for the Lower San Joaquin River-South Delta area (SJAFCA, 2014).

Another key requirement of the SB 5 Bills is that “urban and urbanizing” areas must be provided with an Urban Level of Flood Protection (ULOP).

An urban area is defined as: “a developed area in which there are 10,000 residents or more.”

An urbanizing area as “a developed area or an area outside a developed area that is planned or anticipated to have 10,000 residents or more within the next 10 years.”

Levees that are intended to provide ULOP must conform to State-defined Urban Levee Design Criteria (ULDC). The incorporated area of the City of Lathrop, excluding RD 2107, is composed of areas considered “urban” or “urbanizing.” RDs 17 and 2062 have identified providing ULOP as their individual goals for Long-Term Level of Flood Protection. RD 2107 is not currently protected from the 100-year flood, does not include existing or planned urban areas and does not need to or intend to provide ULOP.

After July 2, 2016, the City of Lathrop may not approve new urban development in potential 200-year floodplain areas where predicted flood depths would be 3 feet or more unless ULOP has been provided, or unless the City certifies, based on substantial evidence that “adequate progress” has been made toward provision of ULOP by 2025. “Development” includes certain development agreements, subdivision maps and development permits as described in Government Code §65865.5(a), 65962(a) and 66474.5(a). The City may, however, allow development on sites that will be exposed to “shallow” 200-year flooding (less than 3 feet deep). These requirements will be instituted in the Lathrop General Plan and zoning.

1.5 General Plan Amendment Organization

The requirements of the SB 5 Bills must be incorporated into the LGP on or before July 2, 2015, and into the City’s Zoning Code by July 2, 2016. This document, the GPA, describes the amendments to the LGP needed to reflect the requirements of the SB 5 Bills. The GPA is organized as follows:

Chapter 1.0. Introduction provides an overview of the City of Lathrop, flood protection considerations, and the general requirements of the SB 5 Bills to be met in the GPA.

Chapter 2.0 is the proposed Amendment of the Safety Element of the LGP; the proposed amendment includes:

Background information describing areas subject to flooding, agency flood protection responsibilities, existing and planned flood protection improvements, and emergency response responsibilities with respect to flooding,

Goals, policies and implementation measures that address flood protection as required by the SB 5 Bills.

Chapter 3.0 reviews the consistency between the GPA and the LGP, and the need for amendments to the LGP to maintain internal consistency.

Appendices

1.6 Agency Consultation and Review

Government Code §65352(a), which governs the preparation and amendment of general plans, includes general requirements for review of general plans and amendments prior to adoption but also mandatory consultation requirements for the amendment of Safety Elements as required by the SB 5 Bills. Documentation of the City's consultation and review efforts, comments submitted in response to these efforts, and the City's consideration of comments are shown in Appendix A.

1.7 California Environmental Quality Act

The GPA is a "project" as defined in the California Environmental Quality Act (CEQA), and therefore its potential environmental effects must be considered before the GPA can be adopted. An Initial Study of potential environmental effects of the GPA was prepared; on the basis of the Initial Study, the City believes that a Negative Declaration should be adopted and will provide public notice of its intent to do so as required by CEQA. Prior to adoption of this GPA, after the required public and agency review of the GPA and the proposed Negative Declaration, and based on the recommendation of the Lathrop Planning Commission, the City Council will consider whether the GPA would or would not involve a significant effect on the environment, and consider adopting the Negative Declaration.

1.8 GPA Adoption

The City of Lathrop will conduct public hearings with respect to the GPA before the Lathrop Planning and City Council in June and July, 2015. Hearings will be noticed in accordance with the requirements of Government Code §65353 and §65091. After consideration of public comment and adoption of the Negative Declaration, and after considering the Planning Commission's recommendations, the City Council will consider approving the GPA.

1.9 The SB 5 Bills

The SB 5 Bills consist of five interrelated Assembly and Senate bills passed in 2007, and several other related bills passed between 2009 and 2013. Overall, the Bills set in motion the State's plan for improvement of flood protection statewide; they establish the 200-year flood protection standard and ensure that 200-year protection will be provided to all Central Valley urban and urbanizing areas as soon as possible but no later than 2025 by requiring the amendment of local general plans and zoning to institute the requirements. The Bills provide that adequate flood hazard information be available to all portions of the State, in particular the Central Valley, and especially areas protected by State Plan of Flood Control (SPFC) levees – such as the City of Lathrop.

The primary SB 5 Bills consist of SB 5, AB 5 and SB 17, AB 70 and AB 162. The full text of each of the bills are shown in Appendix B, and the primary bills are summarized below. Some of the 200-year floodplain requirements are applicable to all cities and counties in the State; some are applicable only to agencies within the Sacramento-San Joaquin Valley, and others are applicable only to agencies within the Sacramento-San Joaquin Drainage District. The City of Lathrop is located, at least partially, within all of these geographic areas (see Figure 4).

1.9.1 Senate Bill 5 (2007)

SB 5 establishes the State flood protection standard for urban areas in Water Code §9602(i) as the Urban Level of Flood Protection (ULOP). ULOP is defined as the “level of protection that is necessary to withstand flooding that has a 1-in-200 chance of occurring in any given year (i.e. 200-year flooding) using criteria consistent with, or developed by, the (Department of Water Resources).” These criteria are described in the Department of Water Resources (DWR) publication *Urban Level of Flood Protection Criteria* (2013), including by reference DWR’s *Urban Levee Design Criteria* (2012).

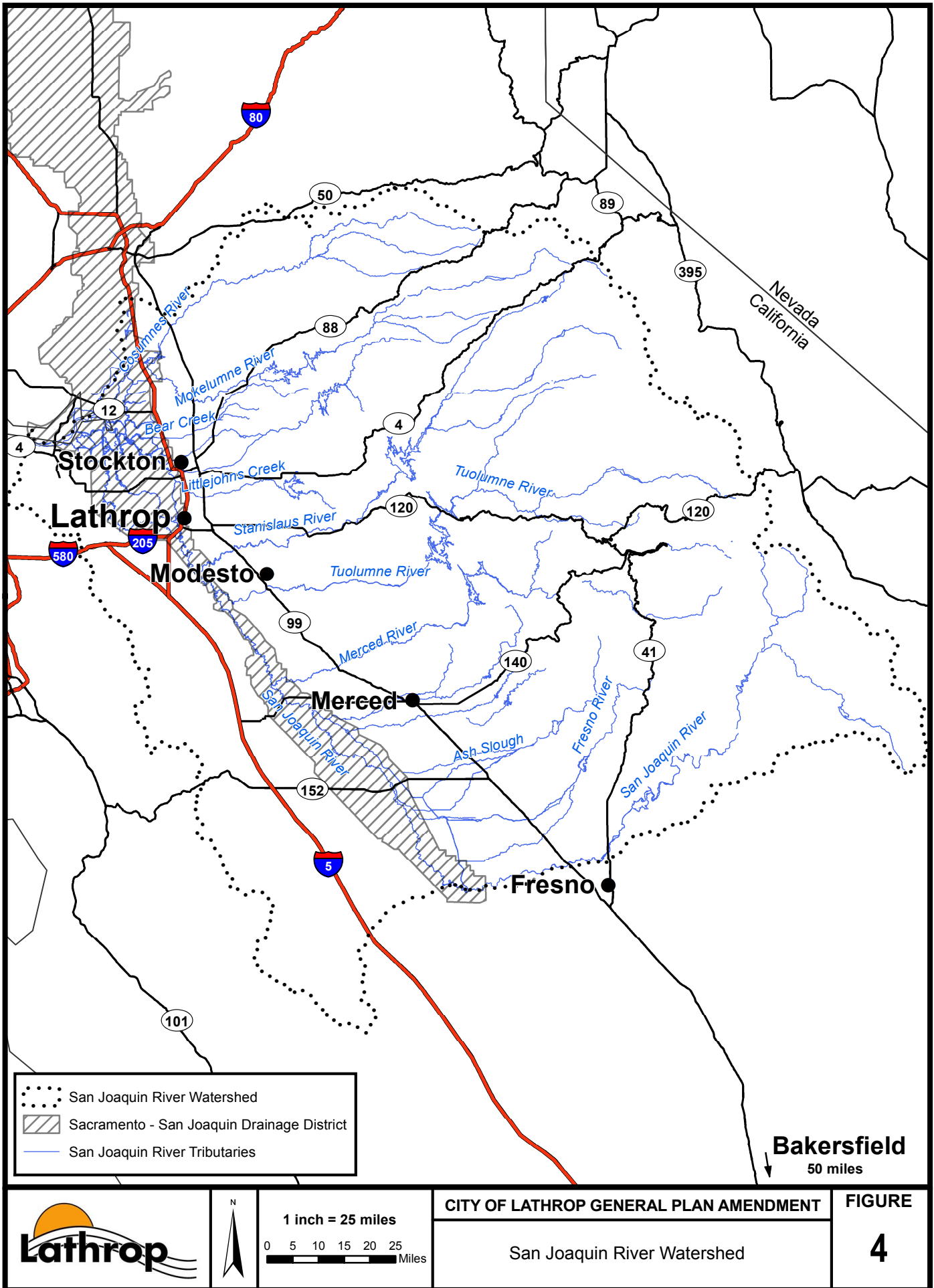
The 200-year flood protection standard is to be implemented by cities and counties through required amendments of their general plans and zoning codes. The amendments must establish goals, policies and implementation measures consistent with State flood protection standards. Upon the effective date of the zoning amendment, local governments are prohibited from approving urban development projects - including certain development agreements, subdivision maps and other permits as specified in Government Code §65865.5(a)(3), 65962(a) or 66474.5(a) - within defined “flood hazard zones” if ULOP is not in place, or alternatively unless the local government certifies based on substantial evidence that “adequate progress” has been made toward provision of ULOP by 2025.

In addition, SB 5 requires revisions to the California Building Standards Code for areas subject to flooding. Each County is required to prepare flooding emergency response plans in collaboration with the incorporated cities within its boundaries.

SB 17 and Assembly Bill 162 are companion bills that were signed into law at the same time as SB 5. The contents of these related bills are discussed below.

1.9.2 Senate Bill 17 and Assembly Bill 5 (2007)

These bills rename the State Reclamation Board as the Central Valley Flood Protection Board (CVFPB), defines the transfer of responsibilities between the entities and sets the administrative requirements for the CVFPB. The DWR is directed to prepare a preliminary report on the status of the State Plan of Flood Control and to prepare and adopt a “strategic flood protection plan.” The status report is the *State Plan of Flood Control Descriptive Document*. Adopted in 2012, the strategic plan is known as the *Central Valley Flood Protection Plan* (CVFPP). The CVFPP is intended to guide more-detailed Regional Flood Management Plans, flooding provisions of local general plans and zoning, and local flood management and facility improvement plans. Likewise, these local plans must be consistent with the CVFPP.



1.9.3 Assembly Bill 162 (2007)

AB 162 augments the SB 5 requirement that cities and counties amend their general plans to reflect State standards and strategies. AB 162 sets forth more specific requirements for amendment of the Land Use, Conservation, and Safety Elements of the general plan, including required content of the elements. In addition to the Government Code's requirements related to consultation with agencies during preparation and amendment of general plans, AB 162 requires specific consultations and reviews that must take place during the amendment of Safety Elements in response to the SB 5 Bills. These include a required review of the GPA by the CVFPB and a requirement that the local agency consider and document its response to CVFPB comments.

AB 162 also contains specifications related to future Housing Element updates; no changes to the Lathrop Housing Element are proposed at this time.

1.9.4 Assembly Bill 70 (2007)

AB 70 provides that the City may be liable for its contribution to flood damage costs from unreasonably approving new development in areas protected by SPFC facilities.

CHAPTER 2.0 AMENDMENT TO THE SAFETY ELEMENT OF THE LATHROP GENERAL PLAN

2.1 Introduction

The City of Lathrop is a general law city incorporated in 1989. Most of the City is developed or planned for urban development and is at the same time potentially affected by 200-year flooding from the San Joaquin River and its distributaries. The City is responsible for public safety, including floodplain management and emergency response. The City is seeking to provide ULOP for urban and urbanizing areas by 2025, and to be able to certify that “adequate progress” toward this objective has been made by July 2, 2016. The City in conjunction with the City of Manteca and Reclamation Districts 17 and 2062 are actively evaluating flooding risks, the effectiveness and condition of existing levees, and levee improvements needed to provide ULOP.

Lathrop’s general plan – the LGP – needs to be amended to reflect the requirements of the SB 5 Bills. This amendment of the Safety Element of the LGP amendment has been prepared in accordance with the applicable requirements of the SB 5 Bills. After adoption of the GPA, the Lathrop Zoning Ordinance (Chapter 17 of the Lathrop Municipal Code) will be amended to conform to the amended LGP and to the requirements of the SB 5 Bills.

The SB 5 Bills included detailed new Safety Element requirements related to flood protection, including requirements for inclusion of certain data and analysis, and for establishment of goals, policies and implementation measures that reflect statewide flood protection strategies and feasible implementation measures. These detailed requirements are described in GC §65302(g)(2) and shown below.

As required by the SB 5 Bills, preparation of this GPA included consultation with specified agencies listed in Appendix A. This GPA is being circulated to agencies with interests in flood protection for review and comment, including a required referral to the Central Valley Flood Protection Board and to local flood protection agencies with direct responsibility for flood protection. The City of Lathrop will consider the recommendations of the agencies, and they will be reflected in the adopted version of the GPA. Consultation that has occurred to date is documented in Appendix A.

2.2 Proposed Amendment of Safety Element

2.2.1 Flood Protection Provisions of Existing LGP Safety Element

The LGP contains an existing Safety Element prepared in accordance with the requirements that preceded the SB 5 Bills. At the time of the last modification of the LGP, the general plan content requirements for Safety Elements were described as follows:

California Government Code §65302,
General Plan Content Requirements
GC §65302(g) Safety Element Content Requirements

§65302(g)(2) The safety element, upon the next revision of the housing element on or after January 1, 2009, shall also do the following:

(A) Identify information regarding flood hazards, including, but not limited to, the following:

Flood hazard zones. As used in this subdivision, "flood hazard zone" means an area subject to flooding that is delineated as either a special hazard area or an area of moderate or minimal hazard on an official flood insurance rate map issued by the Federal Emergency Management Agency (FEMA). The identification of a flood hazard zone does not imply that areas outside the flood hazard zones or uses permitted within flood hazard zones will be free from flooding or flood damage.

- (i) National Flood Insurance Program maps published by FEMA.
- (ii) Information about flood hazards that is available from the United States Army Corps of Engineers.
- (iii) Designated floodway maps that are available from the Central Valley Flood Protection Board.
- (iv) Dam failure inundation maps prepared pursuant to Section 8589.5 that are available from the Office of Emergency Services.
- (v) Awareness Floodplain Mapping Program maps and 200-year flood plain maps that are or may be available from, or accepted by, the Department of Water Resources.
- (vi) Maps of levee protection zones.
- (vii) Areas subject to inundation in the event of the failure of project or nonproject levees or floodwalls.
- (viii) Historical data on flooding, including locally prepared maps of areas that are subject to flooding, areas that are vulnerable to flooding after wildfires, and sites that have been repeatedly damaged by flooding.
- (ix) Existing and planned development in flood hazard zones, including structures, roads, utilities, and essential public facilities.
- (x) Local, state, and federal agencies with responsibility for flood protection, including special districts and local offices of emergency services.

(B) Establish a set of comprehensive goals, policies, and objectives based on the information identified pursuant to subparagraph (A), for the protection of the community from the unreasonable risks of flooding, including, but not limited to:

- (i) Avoiding or minimizing the risks of flooding to new development.
- (ii) Evaluating whether new development should be located in flood hazard zones, and identifying construction methods or other methods to minimize damage if new development is located in flood hazard zones.
- (iii) Maintaining the structural and operational integrity of essential public facilities during flooding.
- (iv) Locating, when feasible, new essential public facilities outside of flood hazard zones, including hospitals and health care facilities, emergency shelters, fire stations, emergency command centers, and emergency communications facilities or identifying construction methods or other methods to minimize damage if these facilities are located in flood hazard zones.
- (v) Establishing cooperative working relationships among public agencies with responsibility for flood protection.

(C) Establish a set of feasible implementation measures designed to carry out the goals, policies, and objectives established pursuant to subparagraph (B).

65302(g)(1) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence; liquefaction; and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of Division 2 of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wildland and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, military installations, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards.

The LGP contains information, goals and policies related to Safety Element requirements in two locations:

Part IV Community Development Element, Section D “Water, Sewerage, Drainage and Flood Control” beginning on page 4-D-6.

Part VI Hazard Management Element, Section A “Safety” beginning on page 6-1.

The discussion of flooding in Part IV provides that FEMA 100-year flood protection is already provided for Sub-Plan Areas #1 and #2 area east of the San Joaquin River as a result of developer-funded and FEMA-accredited improvements to the RD 17 levees. FEMA 100-year flood protection was at that time the accepted flood protection standard; 200-year flood protection was not required nor addressed. The LGP contains no goals or policies specifically related to the RD 17 area.

This portion of the LGP also addresses flood exposure in the Stewart Tract (Sub-Plan Area #3); at the time of construction, levees protecting the Stewart Tract were designed to prevent only 50-year frequency flooding. The LGP acknowledges that floods exceeding the 50-year design criteria have occurred in both the RD 2062 and RD 2107 portions of Stewart Tract, including the floods of 1997, and that additional improvements would be needed to provide adequate flood protection for urban development. The LGP provides additional detail and policy guidance regarding improvements that would need to be made to provide 100-year FEMA flood protection to planned urban development in the River Islands project. FEMA-accredited 100-year levees protect areas currently undergoing urban development. Provision of urban flood protection to the RD 2107 portion of Stewart Tract is not addressed. Like the RD 17 area, 200-year flood protection is not addressed for any portion of the Stewart Tract.

The Hazard Management Element provides very limited information related to flooding. Technical information, analysis, goals and policies are provided related to geologic, seismic, soils, criminal activity, urban fire, emergency response and evacuation as well as peak demands on infrastructure under evacuation conditions. This section references the potential for flooding from the failure of upstream dams or levee breaks, but detailed information related to flooding-from the San Joaquin River and the flooding-related information required by the SB 5 Bills is not provided here.

2.2.2 Explicit Amendments of Lathrop General Plan

Upon the adoption of this GPA, portions of the existing LGP Community Development Element related to flooding are amended, more specifically, as follows:

The third paragraph of LGP page 4-A-15 is amended to read as follows:

State Law requires that the Land Use Element of the General Plan provide also for “...the proposed general distribution and general location and extent of the uses of the land for . . . agriculture, natural resources, recreation and enjoyment of scenic beauty ...” and “...solid and liquid waste disposal facilities.” Areas subject to flooding must also be identified as part of the Land Use Element. ~~In this regard, only lands within the Stewart Tract are within the 100-year flood plain.~~ Most of the urban and urbanizing land within the City of Lathrop is exposed to potential 200-year flooding as defined in SB 5 and related legislation. Urbanized and urbanizing areas of potential flooding are protected by levees accredited by FEMA to provide 100-year flood protection. The City is currently working in cooperation with the reclamation districts to improve the flood protection levees to the 200-year standard established by the State in SB 5 and related legislation. A complete discussion and specific identification of areas potentially subject to flooding as identified by the Federal Emergency Management Agency (FEMA) and the California Department of Water Resources (DWR) is provided in the *General Plan Amendment of 2015, SB 5 200-Year Flood Protection*, adopted by the City Council on July 2, 2015..

Page 4-D-6, delete “and Flood Control” from the section title “Surface Water Drainage and Flood Control.”

Page 4-D-6, delete from the beginning of paragraph 3 at “The potential for flooding . . .” to the end of the second paragraph on page 4-D-7 “ . . . under the Specific Plan process.”

On page 4-D-7, Policy 2, delete first sentence after from “meet Project levee Standards . . .” to the end of sentence and replace with “meet 200-year Urban Levee of Protection standards.”

On page 4-D-8, add new heading and text after Policy 9 as follows:

Floodplain Management

Additional information and provisions related to flooding are included in the Hazards Management Element, Section A Safety, of the Lathrop General Plan, beginning at page 6-1. The major portion of this information is included in a separate document entitled “*City of Lathrop Comprehensive General Plan, General Plan Amendment of 2015, SB 5 200-Year Flood Protection*” as adopted by the Lathrop City Council on __, 2015. On adoption, that made a part of the Safety Element of the Lathrop General Plan.

On page 6-1, add the following title and text prior to the title: “SEISMIC HAZARDS”

FLOODING HAZARDS

The Hazard Management Element of the Lathrop General Plan is amended to include the technical information, analysis, goals, policies, objectives and implementation measures required by Government Code §65302 as described in a separate document entitled “*City of Lathrop Comprehensive General Plan, General Plan Amendment of 2015, SB 5 200-Year Flood Protection*” as adopted by the Lathrop City Council on July 2, 2015. That document is hereby added to and made a part of the Safety Element of the Lathrop General Plan.

2.3 Flooding in the City of Lathrop

2.3.1 San Joaquin River Hydrology and Flooding

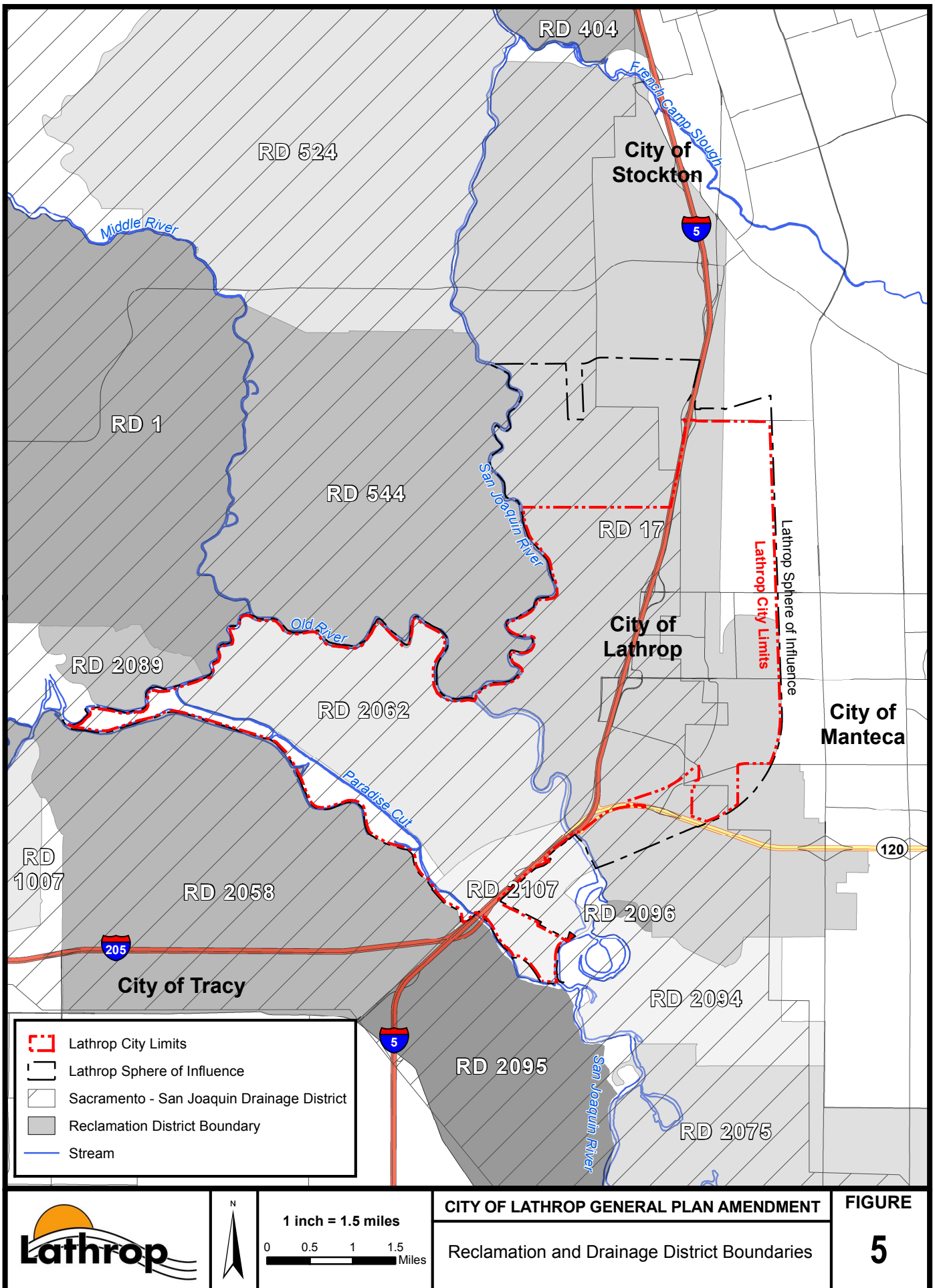
The City of Lathrop is adjacent to the mainstem San Joaquin River as well as portions of Old River and Paradise Cut as they flow from the San Joaquin River to and through the Sacramento-San Joaquin Delta. Upstream (south) of the City of Lathrop, the San Joaquin River collects runoff from all of the major rivers draining the 13,500-square mile San Joaquin Valley; the drainage area, excluding the Tulare Lake Basin, includes over 40% of the land area in California (Figure 4). The San Joaquin River and its distributaries are the primary source of flooding in Lathrop; each convey seasonally high flows, which can result from prolonged rainfall, snow melt and rain-on-snow events in the watershed. The Lathrop area, with the exception of the most western portion of Stewart Tract, is not subject to tidal flooding, although water surface elevations during high flows through the City can be influenced by the tides.

High flows on the San Joaquin River that are derived from rainfall generally occur between November and April and are characterized by high peak flows of moderate duration. Snowmelt floods, on the other hand, normally occur later in the year, between April and June; high flows derived from snowmelt may be sustained for weeks and months. The quantity of flow reaching the Lathrop area under either high flow condition is moderated by upstream reservoirs operated by federal, state and local agencies for various purposes, primarily water supply but including flood protection. Local flood protection systems are primarily levee constructed and maintained to federal standards by RDs 17, 2062 and 2107 (Figure 5) under the authority of the State (SJAFCA, 2014).

The San Joaquin River discharges an average of more than 3 million acre-feet of water annually. Historically, as recorded by the US Geological Survey at Vernalis, monthly average flows have ranged from less than 100 cubic feet per second (cfs) in the late summer of some years to sustained winter and spring flows of 40,000 cfs. The highest recorded flow on the San Joaquin River at Vernalis was 79,000 cfs in 1950, including estimated flows through failed levees; the river reached its maximum flood elevation in 1997.

The *Regional Flood Management Plan (RFMP) for the Lower San Joaquin River/Delta Region* (SJAFCA, 2014) estimated 100-year frequency and 200-year frequency San Joaquin River flows in cfs at several locations in the Lathrop area. The 200-year flow estimates were later refined by PBI in their 2014 study for the City of Lathrop, as shown below:

<u>Location</u>	<u>100-year</u>	<u>200-year</u> (RFMP/PBI)
Upstream of Paradise Cut	68,106	81,305/78,330
Downstream of Paradise Cut	43,049	61,330/56,860
Mossdale Railroad Bridge	42,796	63,772/62,100
Upstream of Old River	42,792	63,757/62,080
Downstream of Old River	13,879	29,024/32,140



DWR's *Regional Flood Atlas* (DWR, 2013) estimates the design capacity of the San Joaquin River for floodwater passage at 52,000 cfs south and upstream of the City of Lathrop, 37,000 cfs along the San Joaquin River through the City, and 15,000 and 30,000 cfs in upper and lower Paradise Cut, respectively.

2.3.2 Flooding and Flood Protection History

According to the San Joaquin County General Plan (SJGP, 2009), floods in the San Joaquin Valley have been recorded for over 175 years. The County reports that the "Great Flood" of 1861-1862 was followed by "major" floods in 1867, 1881, 1890, and that other major floods occurred in 1904, 1907, 1909, 1911 and 1928. One of these floods washed out the UPRR crossing of the San Joaquin River and cut the US 50 connection between Lathrop and the San Francisco Bay area (Gatto, Freeman, pers. comms.).

These and other events led to establishment of the cooperative federal-State flood protection system in the early 1900s. Under this system, the federal government reconstructed existing private levees and constructed new levees to federal standards, including several projects in San Joaquin County. These include the 1966 Lower San Joaquin River and Tributaries Project, which includes all of the "project levees" protecting the City of Lathrop; these levees are the responsibility of RD 17, RD 2062 and RD 2107. Constructed by the federal government, the State's contribution was acceptance of maintenance responsibility for the levees in perpetuity. This responsibility was later assigned to the reclamation districts.

Notwithstanding the development of "project" levees over time, according to the San Joaquin County General Plan, major damaging flood events occurred in 1950, 1955, 1958, the 1962/63 season, the 1968/69 season and four times since 1980, most recently in January 1997. The most recent floods were caused by regional-scale storms that produced very high runoff in the San Joaquin River basin. The 1997 flood was the result of a rain-on-snow event that caused extensive flooding along the San Joaquin River and in the Delta, including flooding from 27 levee failures along the San Joaquin River. The 1997 flooding inundated both RD 2107 and RD 2062 as a result of floodwater spill from RD 2107 to RD 2062.

Long-time local residents and Planning Commissioners Bennie Gatto and Mac Freeman report that flooding in Lathrop was relatively rare after the floods of the early 1900s.

Despite levee improvements initiated in 1922, RD 2062 was flooded in 1938 and again in 1950-1951 with the failure of the San Joaquin River levee. Following City approval of the River Islands project in 2003, RD 2062 improved levees surrounding the River Islands Phase 1 area, approximately 900 acres in the eastern portion of Stewart Tract, which were accredited by FEMA in 2006. No portion of the Stewart Tract has been subject to flooding since that time. Substantial additional improvements to RD 2062 levees will be required to support planned urban development of the River Islands project; these improvements are in the federal permit process, as discussed in more detail below.

High river flows during the winter of 1982-1983 caused flooding from increased groundwater levels in the area between the San Joaquin River and I-5. In 1997, there were no failures of the RD 17 levees although high flows required sandbagging along the levee top (Gatto, Freeman, pers. comms.). The levees also sustained considerable seepage damage in 1997; RD 17 subsequently completed two phases of levee seepage improvements and restored FEMA accreditation. A third phase of RD 17 seepage improvements is planned and undergoing permit review by the USACE.

The flood history of RD 2107 is not well-documented, but the District did flood in the 1938, 1950-1951 and 1997 events. As noted, the 1997 flooding of RD 2107 also resulted in the flooding of the Stewart Tract. Planned improvements to the River Islands levees will include measures to prevent overflow of RD 2107 floodwater to RD 2062 and provide an avenue for release of RD 2107 floodwater back to Paradise Cut.

DWR's Regional Flood Atlas (DWR, 2013) contains a more detailed flood history of the Lower San Joaquin area as a whole as well as descriptions of individual events. The *Lower San Joaquin River/Delta RFMP* (SJAFCA, 2014) estimates average annual equivalent damages from floods in the Lower San Joaquin River basin at approximately \$25 million annually; about 60% of the estimated amount is attributed to crop damage.

2.4 Flood Protection Facilities

The role of federal agencies in providing flood protection, primarily through the USACE, has historically been to evaluate flood risk, develop federal design standards and to design and construct federally-authorized flood control facilities such as reservoirs, bypasses and levees. The State has not historically had a major role in flood protection planning, standards development or construction projects. In its long-term partnership with the federal government, the State has assumed responsibility primarily for maintenance and inspection of levees and other flood protection facilities constructed by the federal government.

2.4.1 Upstream Reservoirs

Primary existing flood protection facilities in City of Lathrop are the federal "project" and State Plan of Flood Control levees maintained and improved by the reclamation districts, as discussed below. Outside and upstream of the Lathrop area, however, potential flood flows in the River are mitigated to a greater or lesser extent by federal, state and local agencies responsible for operation of upstream reservoirs, as coordinated by the USACE. Federal reservoirs constructed and operated by the USACE are primarily flood control facilities with secondary water supply functions. The USDI Bureau of Reclamation facilities are primarily water supply projects that include some flood protection storage, or are operated to reduce flood flows, on an individual basis. Irrigation districts and municipalities operate yet other water supply reservoirs that provide some flood control benefits.

Reservoir Name	Waterway	Managing Entities
Camanche Reservoir	Mokelumne River	East Bay MUD
New Hogan Reservoir	Calaveras River	USACE
New Melones Reservoir	Stanislaus River	US Bureau of Reclamation, OID, SSJID
New Don Pedro Reservoir	Tuolumne River	Modesto and Turlock IDs, City of San Francisco
Lake McClure	Merced River	Merced Irrigation District
Millerton Lake	San Joaquin River	US Bureau of Reclamation

The reservoirs are operated in accordance with USACE flood control rules that require, during the flood season, a portion of the storage space in the lake to be reserved for capturing flood flow peaks and then releasing them gradually. The required flood control space is adjusted to reflect seasonal precipitation, soil moisture, and snowpack and the runoff characteristics of each river basin. During major flood events, there is close coordination between State, federal, and local agencies to forecast weather and runoff conditions, manage and coordinate flood releases from the reservoir system, patrol and floodfight along the levee and bypass system, and operate the weirs, drainage pumps, and other flood control structures (CVFPB, 2012).

2.4.2 Federal “Project” Levees

Flood management facilities protecting the City of Lathrop consist of “project” levees along both sides of the San Joaquin River, and along the sections of Paradise Cut and Old River enclosing Stewart Tract. The levees are a portion of the San Joaquin River Flood Control System (SJRFCS), which includes levees on the San Joaquin River, adjacent reaches of its tributaries and distributaries, and bypasses such as Paradise Cut from Gravelly Ford in Fresno County to the southern Delta. According to the USACE, the SJRFCS was “visionary” when conceived in the early 1900s. The SJRFCS has supported the economic prosperity of the Central Valley and fostered more intensive land uses in areas such as Lathrop that remain physically vulnerable to flood risks. This area is also one of the fastest growing parts of California, with much of the urban growth planned to occur in flood prone areas (USACE, 2002). The SJRFCS was developed and originally constructed by the USACE and the Central Valley Flood Control Board (formerly The Reclamation Board). The location of the project levees is shown on Figure 6.

In addition to the “Project” levees, there are two segments of “non-project” levees located in RDs 17 and 2062. These are described in the following discussion of facilities managed by each district individually.

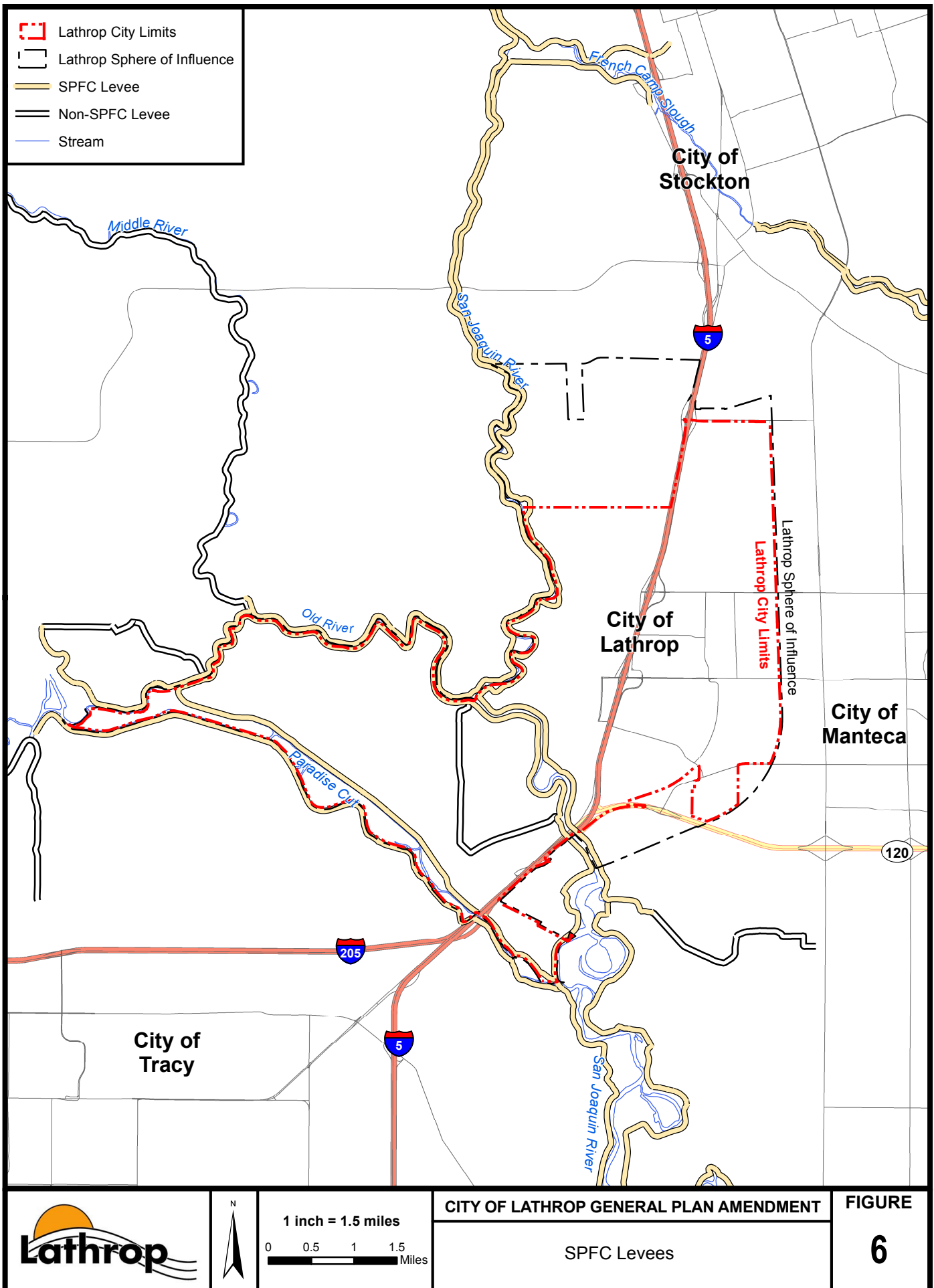
2.4.3 State Plan of Flood Control (SPFC) Levees

The “project” levee system is the result of long-term federal-State agreements under which the State commits to the maintenance of the federally-constructed levees; these are known as State Plan of Flood Control (SPFC) facilities. The SPFC by definition consists of

“the state and federal flood control works, lands, programs, plans, policies, conditions, and mode of maintenance and operations of the . . . flood control projects in the Sacramento River and San Joaquin River watersheds . . . for which the (state) has provided the assurances of nonfederal cooperation to the United States . . .”

Actual maintenance work is delegated by the State to the Local Maintaining Agencies (LMAs), which in the Lathrop area are the reclamation districts; the work is overseen and inspected by the State.

The riverbank levees protecting the City of Lathrop are SPFC facilities, which are also “project” levees (Figure 6). The SPFC inventory is somewhat fluid as facilities added or modified; the current SPFC inventory is presented in the *State Plan of Flood Control Descriptive Document* (CVFMPP, 2010).



Historically, reclamation district levees were funded by the benefitted landowners, but some financial support has been provided by the State subventions program administered by DWR. Even with assistance from the State, many of the RDs have struggled to maintain and improve levees (SJAFCFA, 2014).

2.4.4 Reclamation District Levees

RD 17, RD 2062 and RD 2107 are directly responsible for flood protection levees in the City of Lathrop. The State accepted responsibility for maintenance and improvement of the federally-constructed “project” levee, which was delegated to reclamation districts, which are also known as Local Maintaining Agencies (LMAs). All land in the Lathrop incorporated area is located in one of the three districts.

The reclamation districts were established in the 1800s and early 1900s to reclaim low-lying lands for agriculture. As urban development expanded into former agricultural areas, the levees were improved to higher standards as a part of USACE “projects” such as the Lower San Joaquin River and Tributaries Project; the Lathrop area levees were improved to “modern” standards as a part of this project, which was completed in 1966.

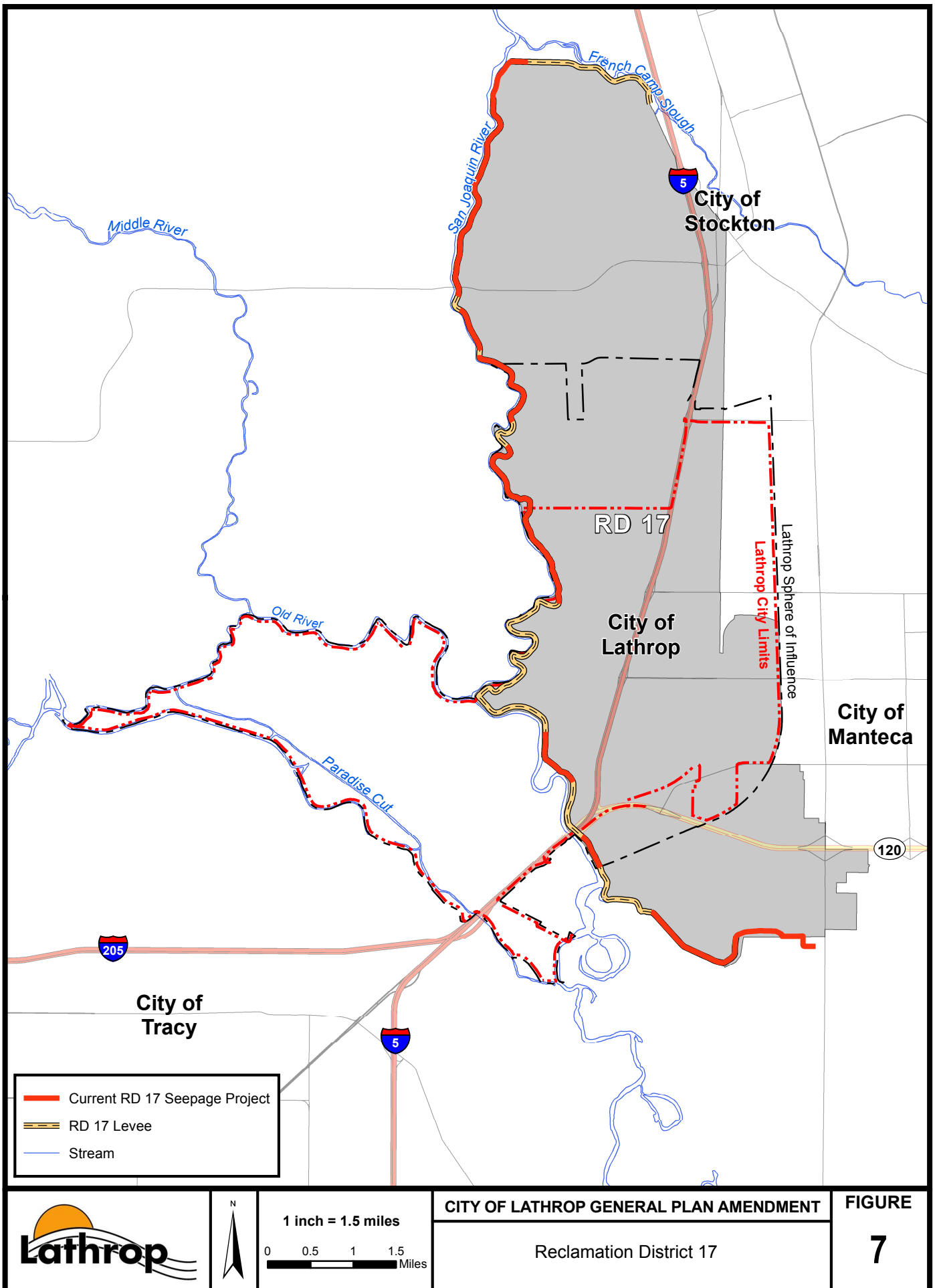
Reclamation districts are special districts that are authorized and created under the California Water Code and governed in accordance with the Government Code by an elected local board, usually composed of major landowners. Operation and maintenance costs are covered by property taxes, but the costs of major improvements must be met with State and federal funding managed through cooperative agreements.

AB 156 requires public agencies that maintain levees that protect more than 1,000 people, such as RD 17 and RD 2062, to adopt Flood Safety Plans and sign cooperative agreements with the City or County in order to receive State funds for Project Levee upgrades. These agreements and plans are in place for RD 17. RD 2062 and RD 2107 do not presently meet the 1,000-person threshold but will be subject to these requirements when the threshold is reached. The RDs have been proactively working on their Flood Safety Plans, which are nearly complete. Flood Safety Plans must be approved by the City Engineer

2.4.5 Reclamation District 17

Those areas of the City of Lathrop located east of the San Joaquin River are protected from flooding by RD 17 levees. RD 17 is bounded on the west by the San Joaquin River, on the north by French Camp Slough and on the south by a dry land levee protecting the District from flood waters passing through Reclamation Districts 2094 and 2096; high ground defines the District boundary on the east. RD 17 levees also protect portions of the cities of Manteca and Stockton as well as nearby unincorporated areas (Figure 7). The overall population in RD 17 was estimated to be in excess of 43,000 residents in 2013 (RD 17, 2013).

RD 17 was organized in 1863 when initial levee construction began. By 1930 RD 17 had developed a levee system considered “adequate” by the USACE, but the District was subject to levee failure and flooding in 1938, and again in 1951. USACE development of the Lower San Joaquin River and Tributaries Project from 1959-1966, and then further improvements to these “project” levees by land developers in the late 1980s led to FEMA 100-year accreditation of the RD 17 system in 1990.



During the floods of 1997, the RD 17 levees did not fail but were subject to seepage damage. Two phases of seepage improvements since then have preserved RD 17's FEMA accreditation. A permit application for a third phase of seepage improvements is under consideration by the USACE.

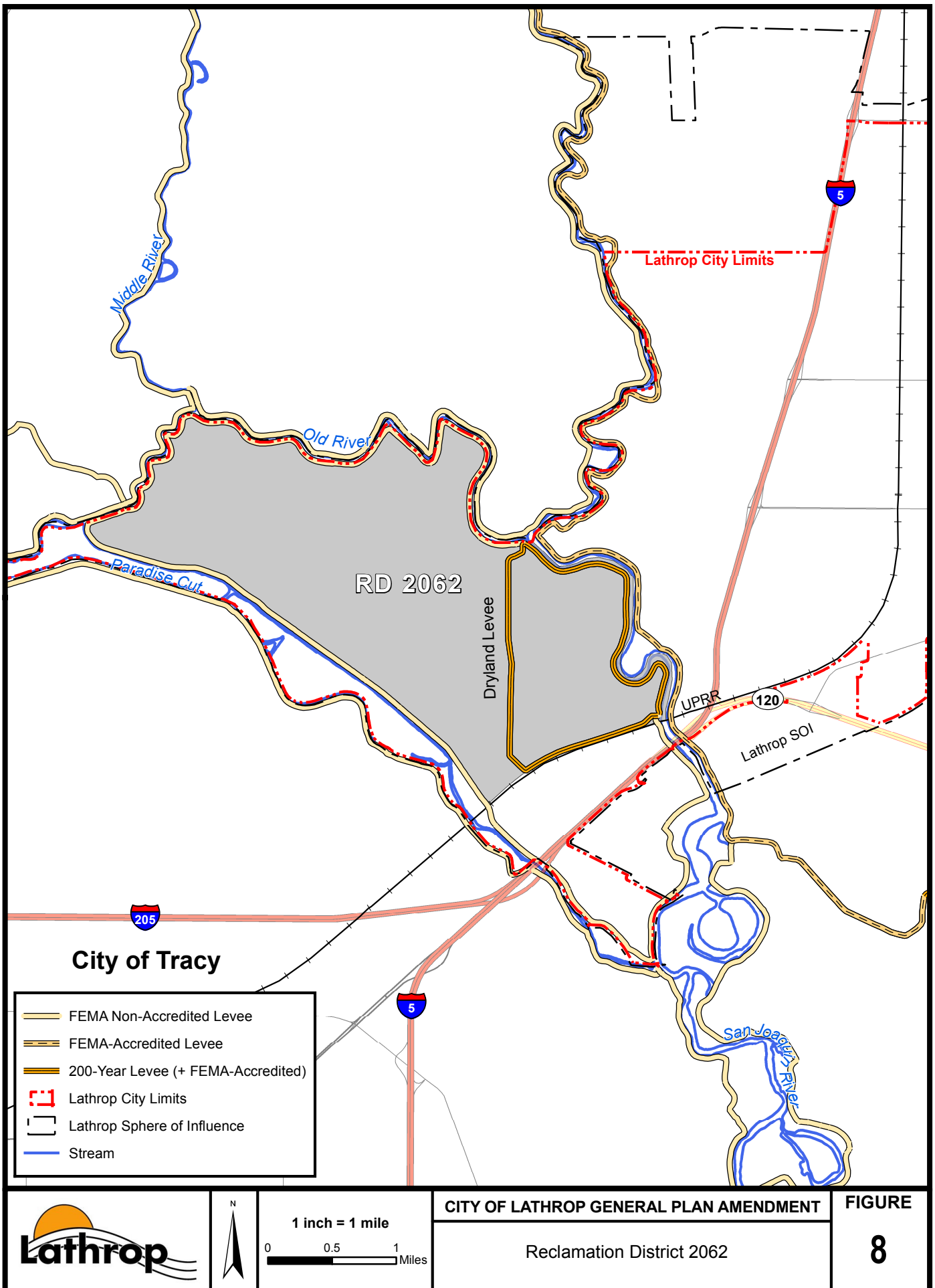
The DWR completed detailed Urban Levee and Non-Urban Levee Evaluations (ULE, NULE) program as reported in the *Urban Levees Evaluation Program, Regional Flood Atlas 2013*. The ULEP considered general levee conditions, evaluated possible deficiencies and identified improvements needed to meet ULDC requirements. Evaluation factors included levee geometry, seepage, structural instability, erosion, settlement, penetrations, levee vegetation, rodent damage and encroachments. Based on this analysis, the RD 17 levees were classified as being of "Higher Concern" together with the western RD 2062 levees, and the RD 2107 levees. The levees surrounding River Islands Phase 1 are classified as being of "Lower Concern," and the Stewart Tract levees along Paradise Cut are classified as being of "Medium Concern." The Atlas identified seepage problems in all three levee systems as well as isolated areas of slope instability, erosion and other performance problems.

The City of Lathrop, City of Manteca and RD 17 are developing a program for design, funding and improvement of the RD 17 levees, including the "non-project" levee, to meet the ULDC and provide ULOP. A \$1.1 million technical evaluation of levee conditions, improvements needed to meet ULDC and a preliminary cost estimate for improvements was completed in 2014 (KSN, 2014) based on existing data, including the DWR ULEP studies and the *200-Year Freeboard Analysis and Floodplain Mapping within RD 17* (PBI, 2014). The evaluation found that there were no ULDC deficiencies in height, geometry or other physical characteristics. The primary concern with respect to meeting the ULDC is potential for underseepage. The primary proposed remediation is the installation of cutoff walls in the existing levees together with other relatively minor improvements to correct levee top width, acquire right-of-way and correct slope stability and existing penetration concerns. The total projected cost of improvements is approximately \$168 million. The cities are moving forward with an additional \$1.4 million program to complete levee evaluations, secure construction funding, and then design and construct necessary improvements.

2.4.6 Reclamation District 2062

RD 2062 Stewart Tract is responsible for flood protection for approximately 4,900 City acres located west of the San Joaquin River and north of the UPRR, which is the site of the River Islands planned urban development. Flood protection for the Stewart Tract as a whole is provided by "project" and SPFC levees along the banks of the San Joaquin River, Old River and Paradise Cut (Figure 8). RD 2062 was organized, and initial levee plans were approved, in 1922.

The entirety of Stewart Tract, including the levee system, was annexed to the City of Lathrop and approved for urban development in 1997. In 2003 the River Islands planned urban community was approved. Stage 1 of the River Islands project is currently under development. This portion of the Stewart Tract is protected from 100-year flooding by FEMA-accredited levees constructed in 2005 and 2006. The Stage 1 area is mapped as Zone X (areas protected by levees) by the FEMA FIRMs. The remainder of Stewart Tract north of the UPRR, approximately 3,800 acres, is located within the FEMA 100-year floodplain, Zone AE.



The Stage 1 levee improvements included a ring levee constructed landward of the “project” levees along the waterways; the “project” levees were reconstructed landward of the waterside crown, and the area between the ring levees and reconstructed “project” levees was subsequently filled with levee material to create what are termed “super-levees.” Dry-land (interior) levees were constructed within the Tract to complete 100-year flood protection for Stage 1; the interior levees are “non-project” levees and provide ULOP.

The Stage 1 levees were designed and constructed in accordance with DWR 200-year flooding standards and levee design criteria in effect in 2006. The adopted ULDC were not in place at the time. RD 2062 is completing a detailed engineering evaluation of the Stage 1 levees to confirm they comply with ULDC.

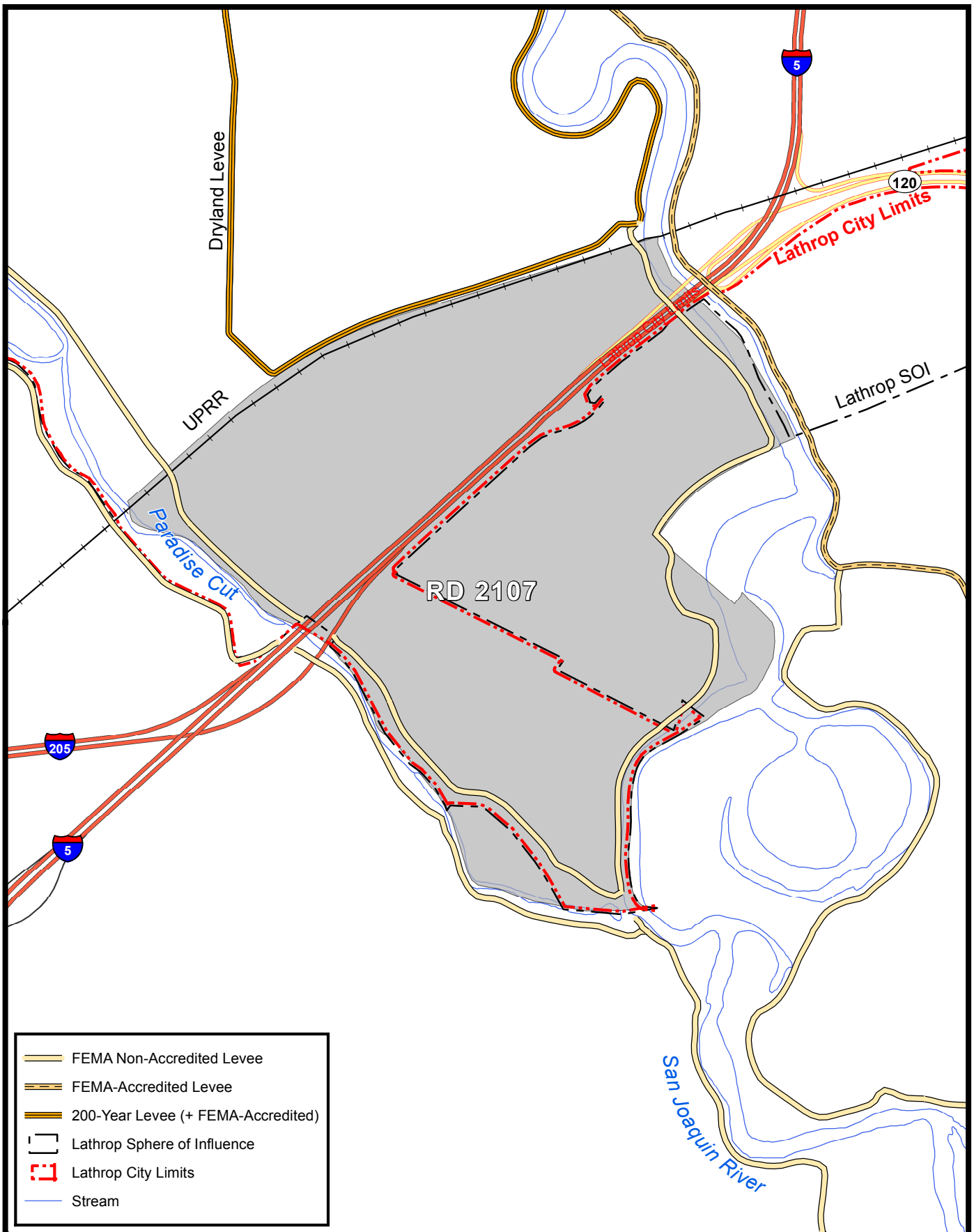
The Draft Engineering Report indicates that the Stage 1 levees meet all applicable ULDC, including levee height, width, seepage and stability. Due to the unusual nature of the super-levees, there are minor variances from the exact ULDC requirements but none that affect the ability of the levees to provide ULOP. Once the ULDC analysis is complete and reviewed by the independent review board, the goal is for the City to be able to certify that existing levees provide ULOP for new development in the Stage 1 area.

Existing “project” levees surround the western 3,800 acres of the River Islands project and provide 50-year flood protection appropriate to agricultural areas. The existing RD 2062 levees were also analyzed by the DWR Urban Levees Evaluation Program with respect to levee geometry, seepage, structural instability, erosion, settlement, penetrations, levee vegetation, rodent damage and encroachments. The Old River levees were classified as being of “Higher Concern” while the levees along Paradise Cut were classified as being of “Medium Concern.” DWR’s Regional Flood Atlas (DWR 2013) reported the design and condition of RD 2062 levees protecting River Islands Stage 1 as being of “Lower Concern.”

RD 2062 is planning and will improve the balance of the levees to provide ULOP for planned urban development; an application has been submitted to the USACE for approval of levee and related improvements within the USACE jurisdiction, including improvements that will prevent flooding of River Islands caused from a levee failure in the RD 2107 portion of Stewart Tract. The USACE prepared and released a Draft Environmental Impact Statement covering this work for public review in November 2014. Because these levees will be improved after July 2016, River Islands intends to submit a plan prior to that date illustrating how those levees will be able to meet “Adequate Progress” for an ultimate 200-year level of certification in 2025.

2.4.7 Reclamation District 2107

RD 2107 encompasses the southernmost portion of the Stewart Tract, the area south of the Union Pacific Railroad and outside of the River Islands project area. RD 2107 is bounded on the southwest by Paradise Cut and on the east and southeast by the San Joaquin River (Figure 9). The majority of RD 2107 is agricultural land but also includes a sand and aggregate mine, the Dell’Osso Farms event facility and other areas of non-urban residential and commercial development. The Dell’Osso facility is located in the City of Lathrop. The I-5 / I-205 combined freeway passes through RD 2107.



RD 2107 is mapped as being within the FEMA floodplain, Zone AE. This area is protected from flooding by levees but not to either 100-year or urban 200-year standards. RD 2107 levees were also considered by the DWR Urban Levees Evaluation Program and were classified as being of “Higher Concern.” RD 2107 is not seeking to provide ULOP and is not involved in detailed levee evaluation.

The flood history of RD 2107 is not as well documented, but the District was flooded in the 1938, 1950-1951 and 1997. As noted, the 1997 flood also resulted in the flooding of the adjacent RD 2062. The River Islands Phase 2 flood protection project will include measures to prevent further RD 2062 flooding and provide an avenue for release of floodwaters entering RD 2107 to Paradise Cut.

RD 2107 is not seeking to provide ULOP but will continue to maintain its levees at PL 84-99 levels (SJAFCA, 2014). Like RD 17 and 2062, RD 2107 is responsible for floodfighting and coordination with other agencies in emergency response situations.

2.5 Flood Hazard Areas

GC §65302(g) requires that the Safety Element include a range of information related to flooding, including “flood hazard zones,” FEMA National Flood Insurance Program maps, “flood hazard information available from the USACE,” CVFPB floodway maps, dam failure inundation maps, Awareness Floodplain Mapping, 200-year floodplain maps available from DWR, Levee Protection Flood Zone maps, and maps of areas potentially subject to flooding in the event of a failure of levees and floodwalls. There are information overlaps between several of the listed items, and in some cases the required information has been superseded by more recent and/or accurate information. Nonetheless, each of the listed items is addressed in the following subsections.

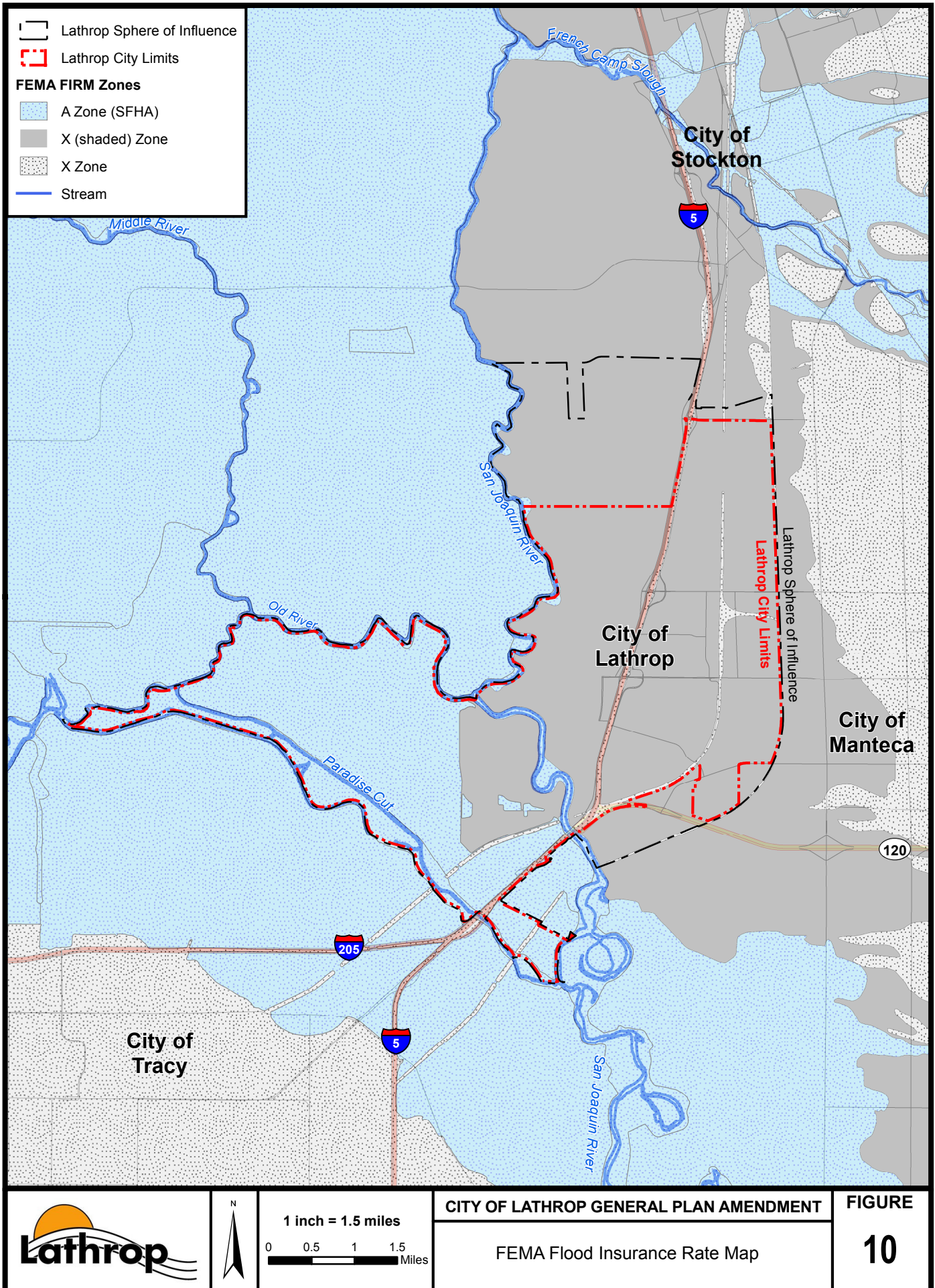
The cities of Lathrop and Manteca, as a part of their program to provide ULOP for urban and urbanizing areas exposed to 200-year flooding, have developed local and more precise 200-year floodplain area and depth maps. These maps, a refinement of the FEMA 100-year and 500-year floodplain mapping, are the foundation for the cities’ efforts to plan and design levee improvements needed to provide ULOP.

2.5.1 Flood Hazard Zones, National Flood Insurance Program Maps

A “flood hazard zone” is defined in SB 5 as:

“an area subject to flooding that is delineated as either a special hazard area or an area of moderate or minimal hazard on an official flood insurance rate map issued by the Federal Emergency Management Agency.”

Flood Insurance Rate Maps (FIRMs) for the City of Lathrop have been issued by the FEMA. Figure 10 shows those areas in Lathrop that are shown on the FIRMs as being subject to flood risk in the various FEMA classifications. FEMA floodplain mapping is also shown in the *Regional Flood Atlas*, Map 16.



According to the FIRMS, the San Joaquin River, Old River, most of Stewart Tract, and Paradise Cut between the existing levees are located in Zone AE, 100-year floodplain areas where Base Flood Elevations have been determined. These are classified by FEMA as Special Flood Hazard Areas (SFHAs). Areas outside of the SFHAs are classified as areas of “moderate or minimal hazard.”

As shown on the FIRMS, approximately 990 acres of RD 2062, and virtually all of the City of Lathrop east of the San Joaquin River is located in Zone X. Zone X areas are protected from the 100-year flood by FEMA-accredited levees; these are also areas that would be exposed to flooding in the event of levee failure and that would be subject to potential 500-year flooding hazards. Zone X areas are “areas of moderate or minimal hazard” as defined by AB 162. RD 17, RD 2062 and the City are seeking to provide ULOP for both reclamation districts.

The Interstate 5 embankments and railroad embankments within the City are mapped as “Other Areas” that are outside the area subject to 500-year flooding.

2.5.2 U.S. Army Corps of Engineers Flood Hazard Information

The USACE is responsible for preparing the *Sacramento and San Joaquin River Basins Comprehensive Study* (SSJRCS) after the floods of 1997. This SSJRCS (USACE, 2002) addressed the entire Central Valley flood control system, including 1) a post-1997 flood risk and damage assessment, 2) development of plans for flood control and environmental restoration, and 3) development of a hydrologic/hydraulic model of the entire system, including the operation of the existing reservoirs.

Among other things, the SSJRCS included mapping of the 100-year floodplain and of the 200-year and 500-year floodplains; the information provided in these maps are largely coincident with the FEMA FIRMS and are superseded by the FEMA regulatory maps. More recent and locally-accurate 200-year floodplain maps have been developed for the cities of Lathrop and Manteca (PBI, 2013). The SSJRCS maps are posted and available for review on the DWR Best Available Mapping web site (http://www.water.ca.gov/floodmgmt/lrafmo/fmb/fes/best_available_maps/).

2.5.3 CVFPB Designated Floodway Maps

Designated floodways are the primary non-structural flood management program employed by the State through the CVFPB (CVFMPP, 2010). Land use in designated floodways is managed to maintain flood passage capacity. Designated floodway maps that are available are posted on the CVFPB web site. Although the City of Lathrop is exposed to flooding risks, review of the web site, and followup contact with CVFPB staff (Thatch, pers. comm.), confirms that the CVFPB has not designated any floodways in or adjacent to the City of Lathrop.

2.5.4 Levee Flood Protection Zones

Levee Flood Protection Zones (LFPZs) are theoretical areas that could be flooded in the event of levee failure in levee-protected areas. More specifically, the LFPZs describe areas that would be flooded to depths of three feet or more, or to depths of less than 3 feet, if the river water level contained by a State-federal “project” or SPFC levee is at the top of the levee, and then released as a result of levee failure. These maps were developed by California DWR, as required by Water Code Section 9130, to estimate the maximum potential flooded area from levee failure. The LFPZ inundation areas in Lathrop are shown on

Figure 11. The LPFZ maps are shown on Map 3 of the LSJR/D Regional Flood Atlas (DWR 2013) and online at <http://gis.lfpz.water.ca.gov/lfpz/>. As noted by DWR, the LPFZ maps are not regulatory tools and may not describe all potential flooding hazards.

2.5.5 Areas Subject to Inundation in the Event of the Failure of Project or Non-Project Levees or Floodwalls.

As discussed in the previous section, maximum potential flooding from failure of project levees is described by Levee Flood Protection Zones (LFPZs) discussed in the previous section. Areas subject to potential inundation as a result of levee failure of project levees are also described by the FEMA Flood Insurance Rate Maps and floodplain mapping in the USACE Sacramento-San Joaquin Rivers Comprehensive Study. These same maps also describe flooding that could result from failure of the non-project RD 17 dryland levee (Walthall Slough Dryland Levee).

2.5.6 Awareness Floodplain Mapping Program

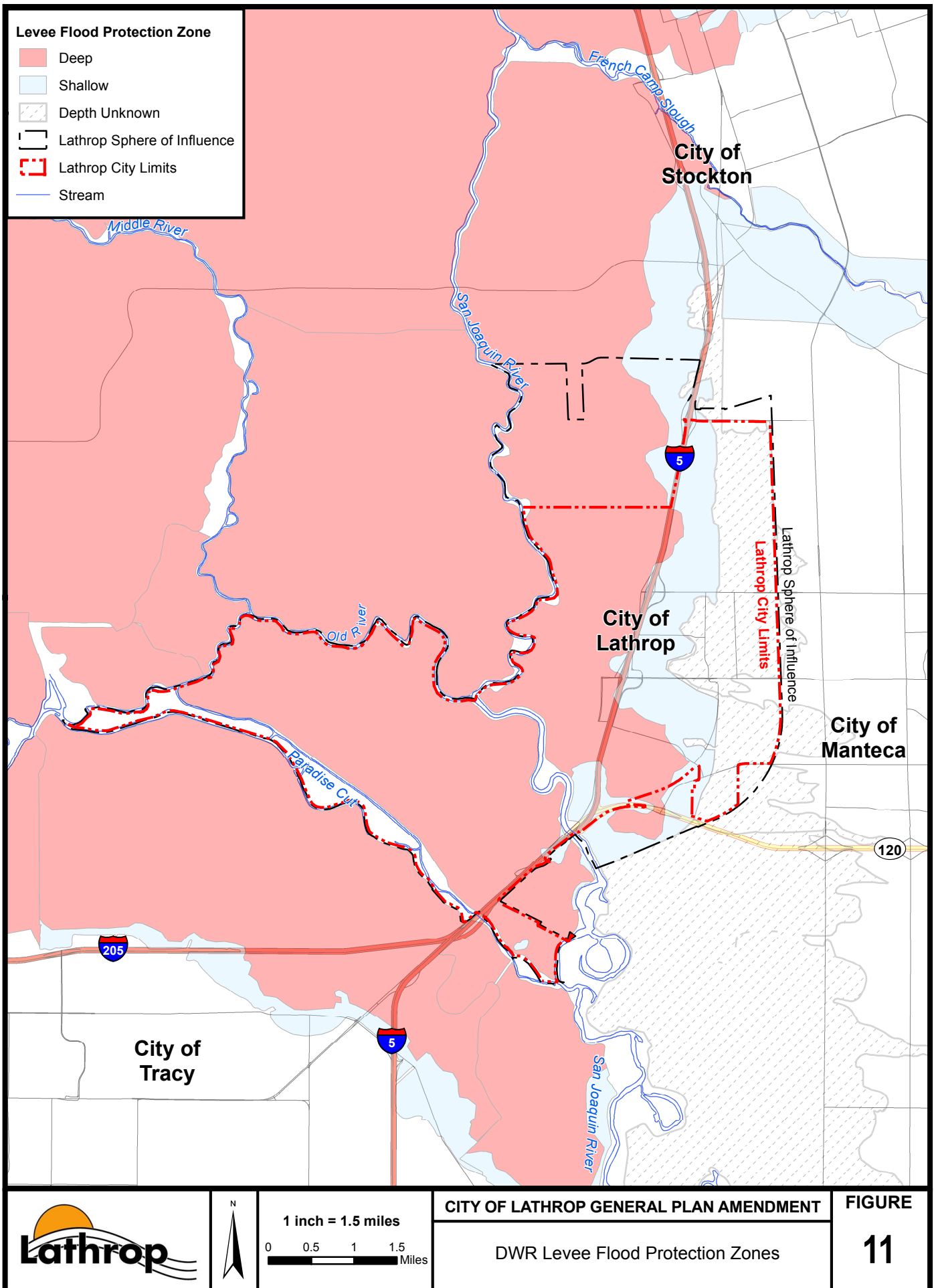
DWR established the Awareness Floodplain Mapping project to identify flood hazard areas that may not otherwise be mapped, e.g. under the FEMA National Flood Insurance Program (NFIP), and to provide communities with an additional tool for understanding potential flood hazards. The DWR Awareness Floodplain Maps (DWR, 2015) do not show any areas in or near the City of Lathrop that are potentially subject to flooding and that are not already shown on the FEMA FIRMs or other federal or state floodplain maps.

2.5.7 RD 17 Detailed 200-Year Floodplain Mapping

The City of Lathrop, in conjunction with the adjacent City of Manteca, the reclamation districts and other flood protection and funding agencies are taking action toward providing an Urban Level of Flood Protection (ULOP), including protection from the 200-year flood, in potentially-inundated portions of both cities. As a part of this effort, the cities jointly funded an initial contract with consultants Peterson Brustad Inc. (PBI) to produce the *200-year Freeboard Analysis & Floodplain Mapping Within RD 17*. This analysis produced 1) a refined version of available federal and state hydraulic modeling, 2) 200-year water surface profiles in the San Joaquin River, and 3) mapping of the 200-year floodplain area (and depth) for all areas protected by RD 17 levees. The analysis addressed a number of potential levee “break points,” including one or more points along the non-project Walthall Slough Dryland Levee.

This initial effort was completed in May 2014. Mapping results are shown on Figure 12, which shows areas of 200-year flood inundation by depth.

The cities have also developed a reconnaissance-level assessment of ULDC “deficiencies” based on existing information produced by RD 17 and DWR, and a programmatic cost estimate for the levee rehabilitation needed to meet ULDC. The assessment indicates that the existing levees are generally consistent with geometric criteria and other ULDC. The cost of correcting deficiencies is estimated at approximately \$150 million, primarily installation of cutoff walls to prevent seepage through the levee (KSN, 2014).



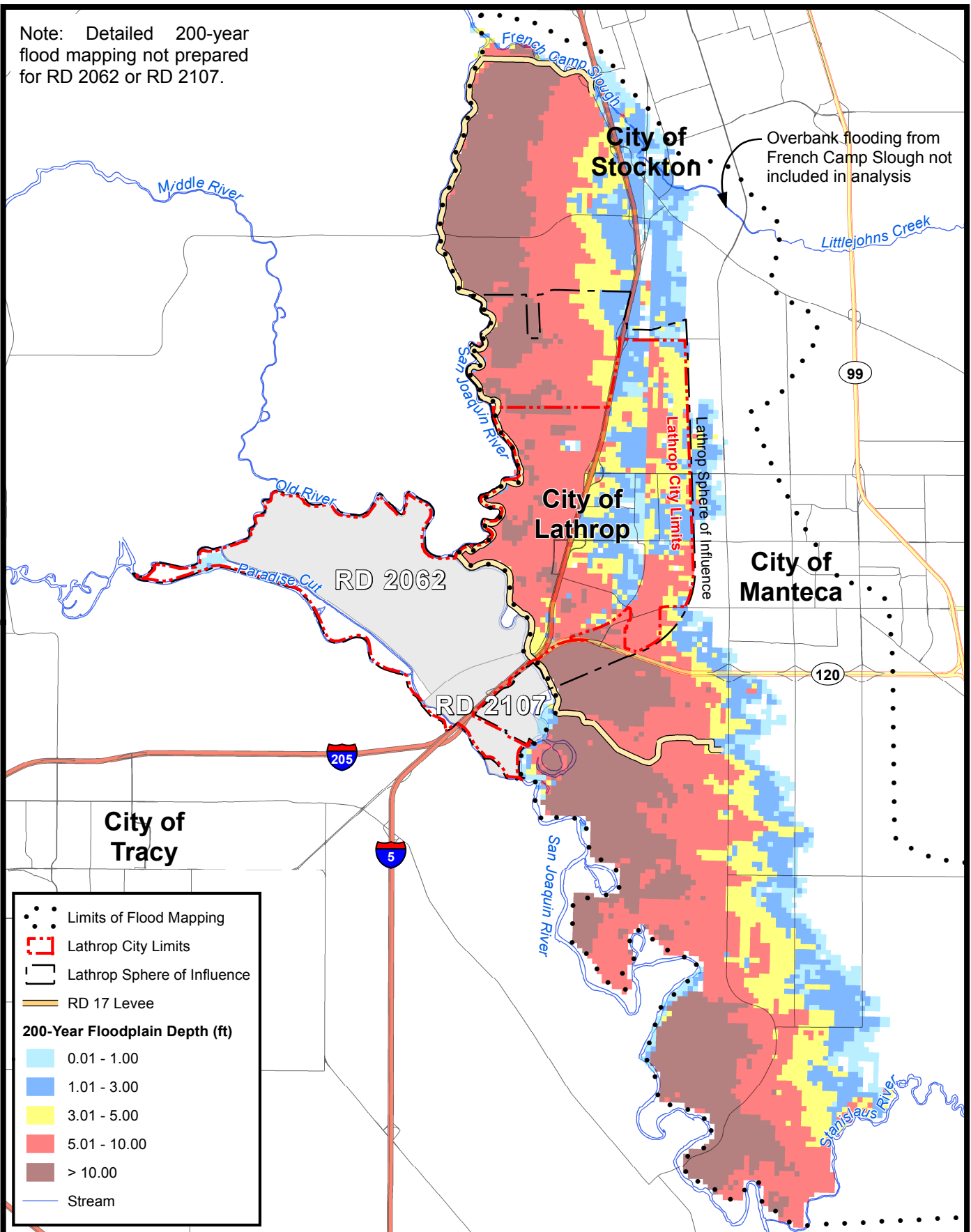
CITY OF LATHROP GENERAL PLAN AMENDMENT

DWR Levee Flood Protection Zones

FIGURE

11

Note: Detailed 200-year flood mapping not prepared for RD 2062 or RD 2107.



1 inch = 2 miles

0 0.5 1 1.5 2 Miles

CITY OF LATHROP GENERAL PLAN AMENDMENT

200-Year Floodplain by Depth
East of San Joaquin River

FIGURE

12

The cities' consultants are collecting more detailed geotechnical design information, in order to produce improvement plans and develop a more refined rehabilitation cost estimate so that financing can be secured and the necessary improvements permitted and constructed. This analysis will be documented in a Preliminary Design Report, which will be subject to review by an Independent Panel of Experts, as a part of providing substantial evidence of documenting ULOP "adequate progress" requirements.

2.5.8 Dam Failure Inundation Maps

The San Joaquin River watershed includes numerous dams ranging from small stock ponds to federal project reservoirs capable of storing more than 2 million acre-feet of water. These facilities, distributed throughout the San Joaquin River drainage, provide storage for agricultural and urban water supply, power generation and in some cases flood control.

State law requires that dams be evaluated regularly to verify their structural integrity, including resistance to earthquake damage. However unlikely, failure of a dam would release stored water that could inundate downstream areas and result in loss of life, damage to property, displacement of residents and damage to water resource and other infrastructure. San Joaquin County (SJGP, 2009) has identified the major dams with potential to inundate portions of San Joaquin County in the event of a dam failure. Of 15 major dams identified by the County, six have the potential to inundate all or portions of the City of Lathrop area in the event of a dam failure. Maps estimating potential areas of inundation from failure of each of these dams are shown on Figures 13-18.

Failure of the largest reservoirs, New Melones and San Luis, has the potential to inundate the entire Lathrop community and surrounding areas. Failure of the New Exchequer or Pine Flat Reservoirs has the potential to inundate Stewart Tract and other areas west of I-5. Failure of New Hogan Reservoir would cause inundation of Delta areas adjacent to but not within the Stewart Tract. Failure of Tulloch Reservoir could inundate only areas located within RD 2107. The storage volume and estimated elapsed time from dam failure to flood water arrival at the City of Lathrop, where available, is shown below (SJOES, 2003).

Reservoir	Storage (million acre- feet)	Time to reach Lathrop
New Exchequer (Lake McClure, Merced County)	1.0 MAF	NA
New Hogan Reservoir (Calaveras County)	0.3 MAF	3+ hours
New Melones Reservoir (Calaveras County)	2.4 MAF	11 hours
Pine Flat Lake (Fresno County)	1.0 MAF	NA
San Luis Reservoir (Merced County)	2.0 MAF	30 hours
Tulloch Reservoir (Calaveras, Tuolumne County)	0.07 MAF	6-7 hours

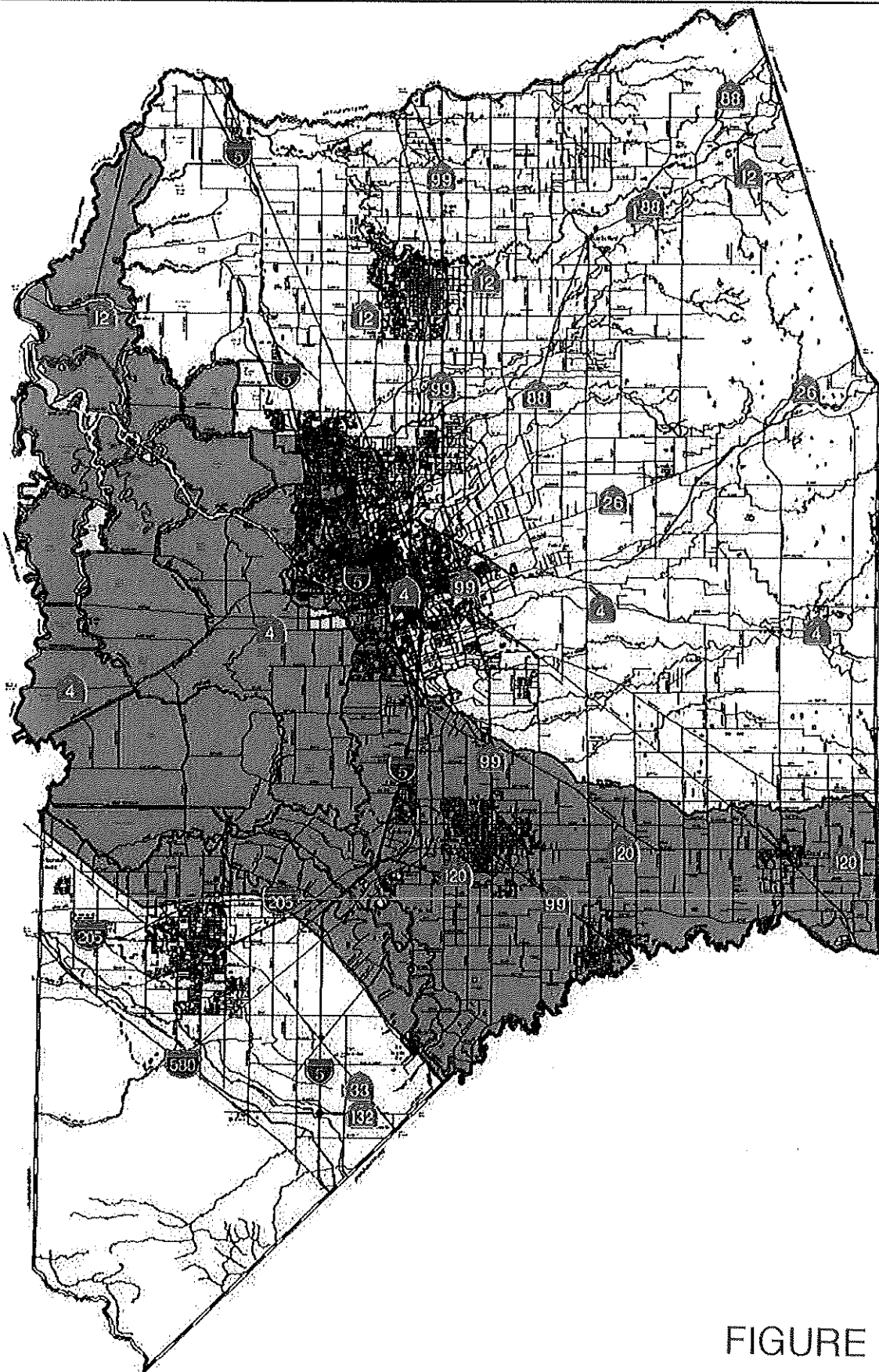


FIGURE 13

Dam Inundation **New Melones**

San Joaquin County Geographic Information Systems
1910 East Hazelton Avenue, Stockton, CA 95205

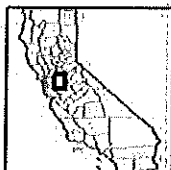
This document is the property of the San Joaquin County Geographic Information Systems. It is to be used for informational purposes only. It is not to be reproduced or distributed without the written permission of the San Joaquin County Geographic Information Systems. It is to be stored in the San Joaquin County Geographic Information Systems database.

- Legend**
- County Line
 - City Line
 - Roadway
 - Highway
 - Water
 - Inundation



0 1 2 3 Miles

August 21, 2003 08



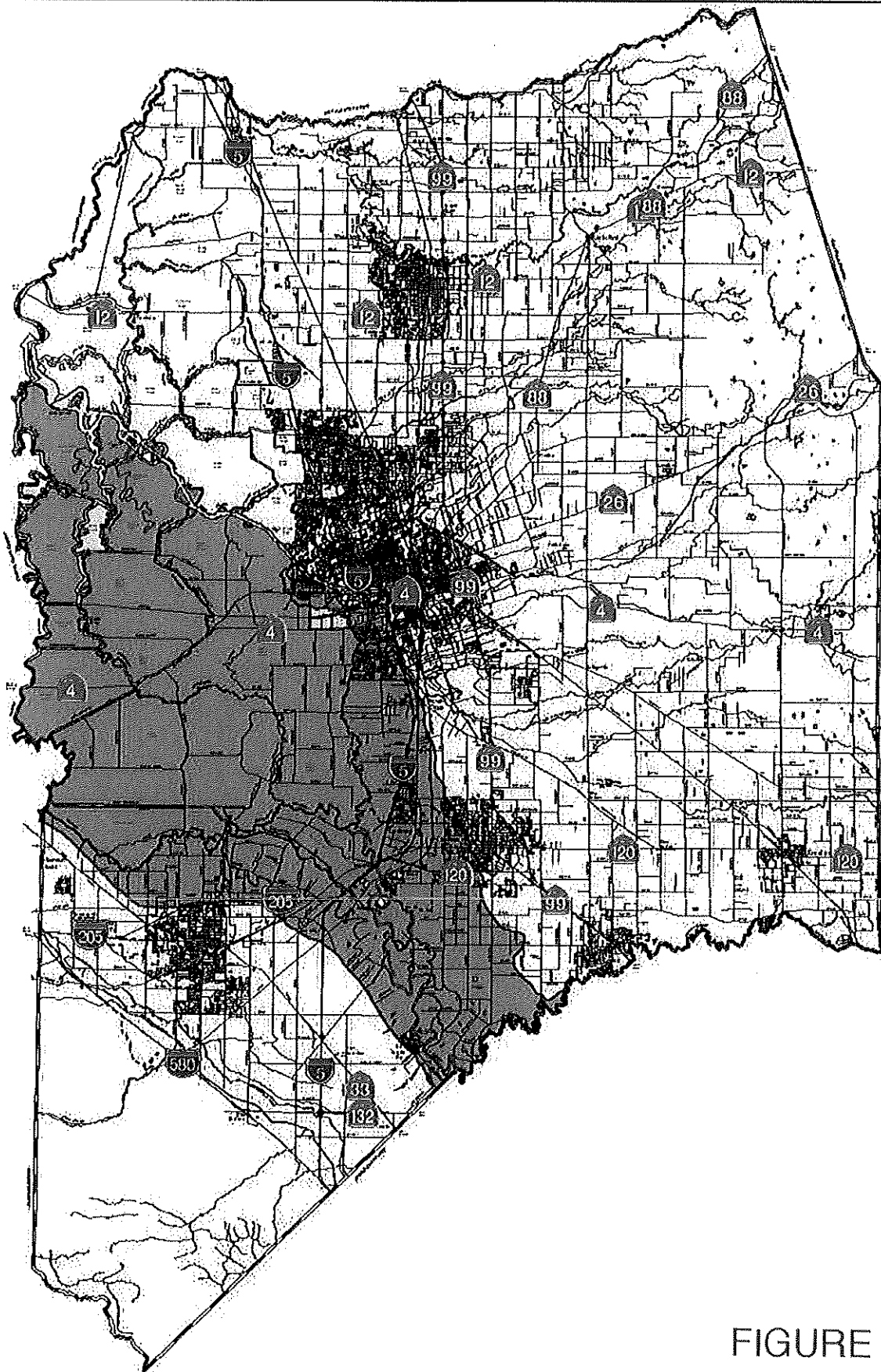
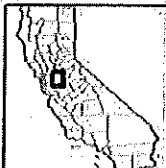


FIGURE 14

Dam Inundation San Luis

San Joaquin County Geographic Information Systems
1810 East Hazelton Avenue, Stockton, CA 95205

This map was prepared by the San Joaquin County Geographic Information Systems. It is not intended to be used for any purpose other than the one for which it was prepared. The user assumes all liability for any use of this map.



- Legend**
- County Line
 - City Line
 - Road
 - State
 - Water
 - Inundation



0 1 2 3 4 Miles

August 2001 / 2003 08

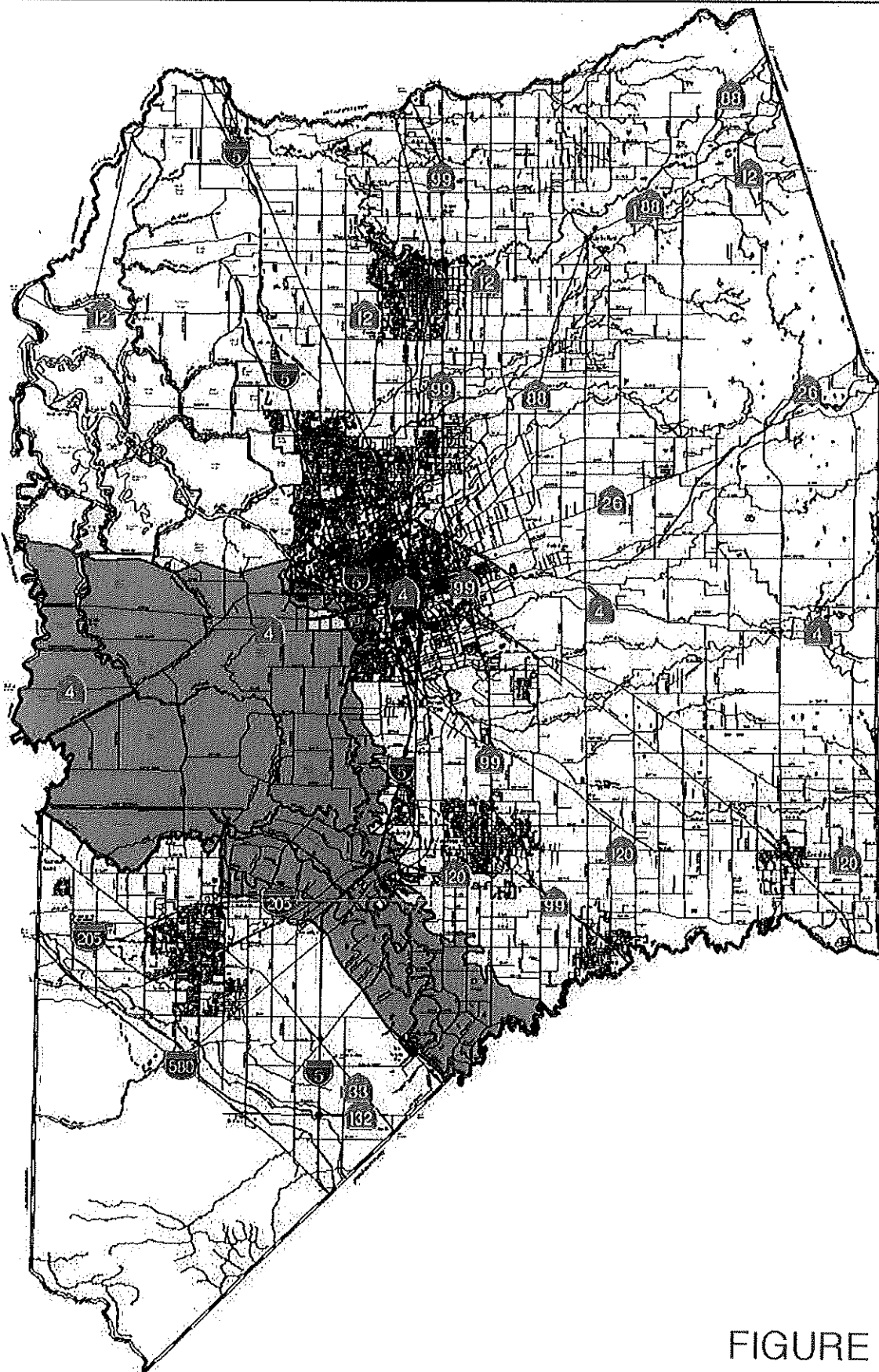


FIGURE 15



Dam Inundation Lake McClure

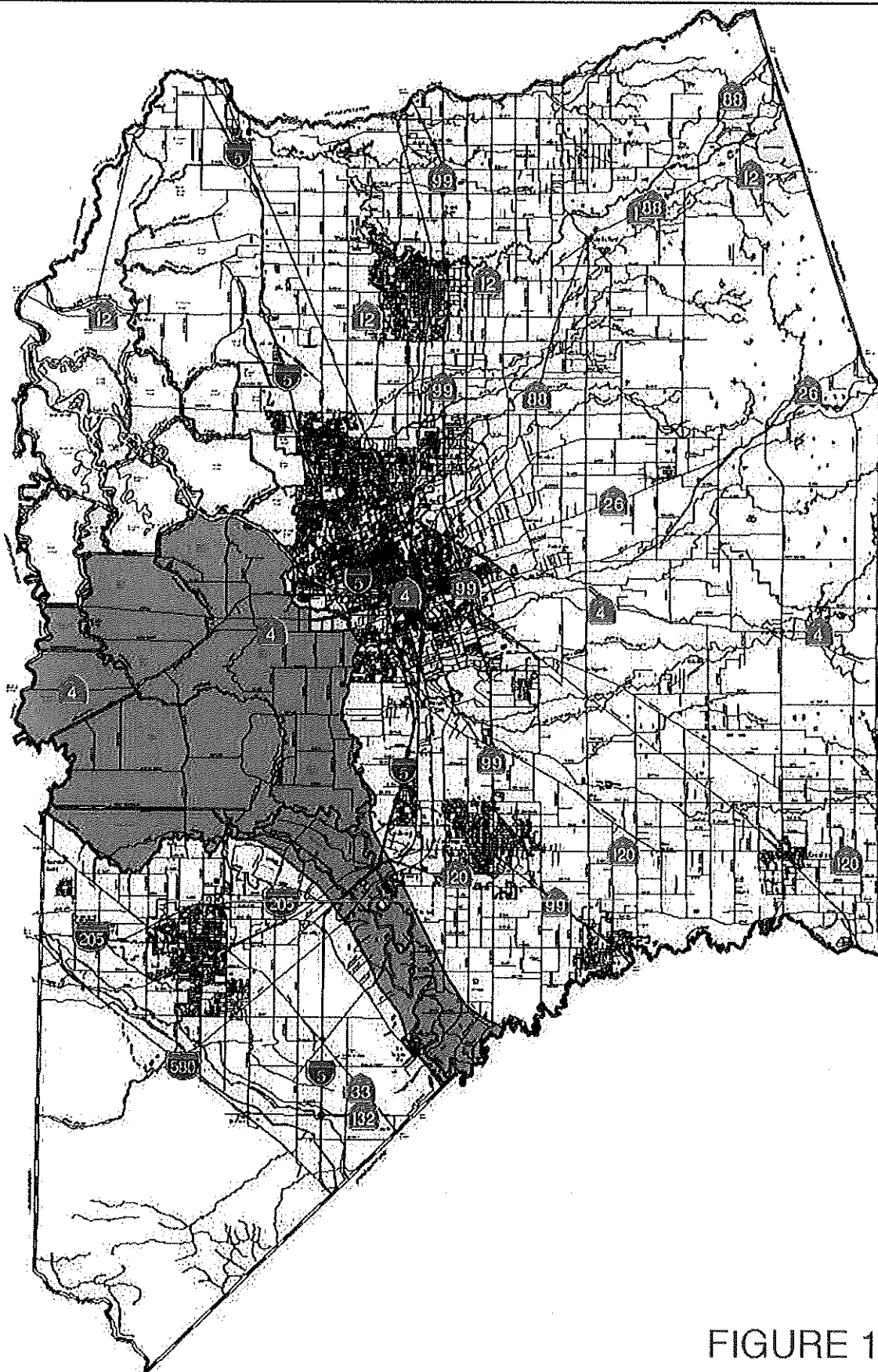
San Joaquin County Geographic Information System
1010 East Hazelton Avenue, Stockton, CA 95205

With the use of this system, users can obtain information about the location and status of the Lake McClure Dam. The system is designed to provide information about the location and status of the Lake McClure Dam. The system is designed to provide information about the location and status of the Lake McClure Dam.

Legend
 County Line
 City Line
 Road
 Street
 Water
 Inundation



0 1 2 3 4 Miles
 August 11, 2003 CS



Dam Inundation

San Joaquin County Geographic Information Systems
1810 East Hazelton Avenue, Stockton, CA 95205

1. The Commission has received information from the Department of the Interior, Bureau of Land Management, that the Bureau is currently reviewing the application for the proposed project. The Bureau is currently reviewing the application for the proposed project.

Legend:

- Coastline
- City line
- Harbour
- Strait
- Water
- Land



0 1 2 3 4 5 6 7 8 9 10 11 12

APR 22 1993

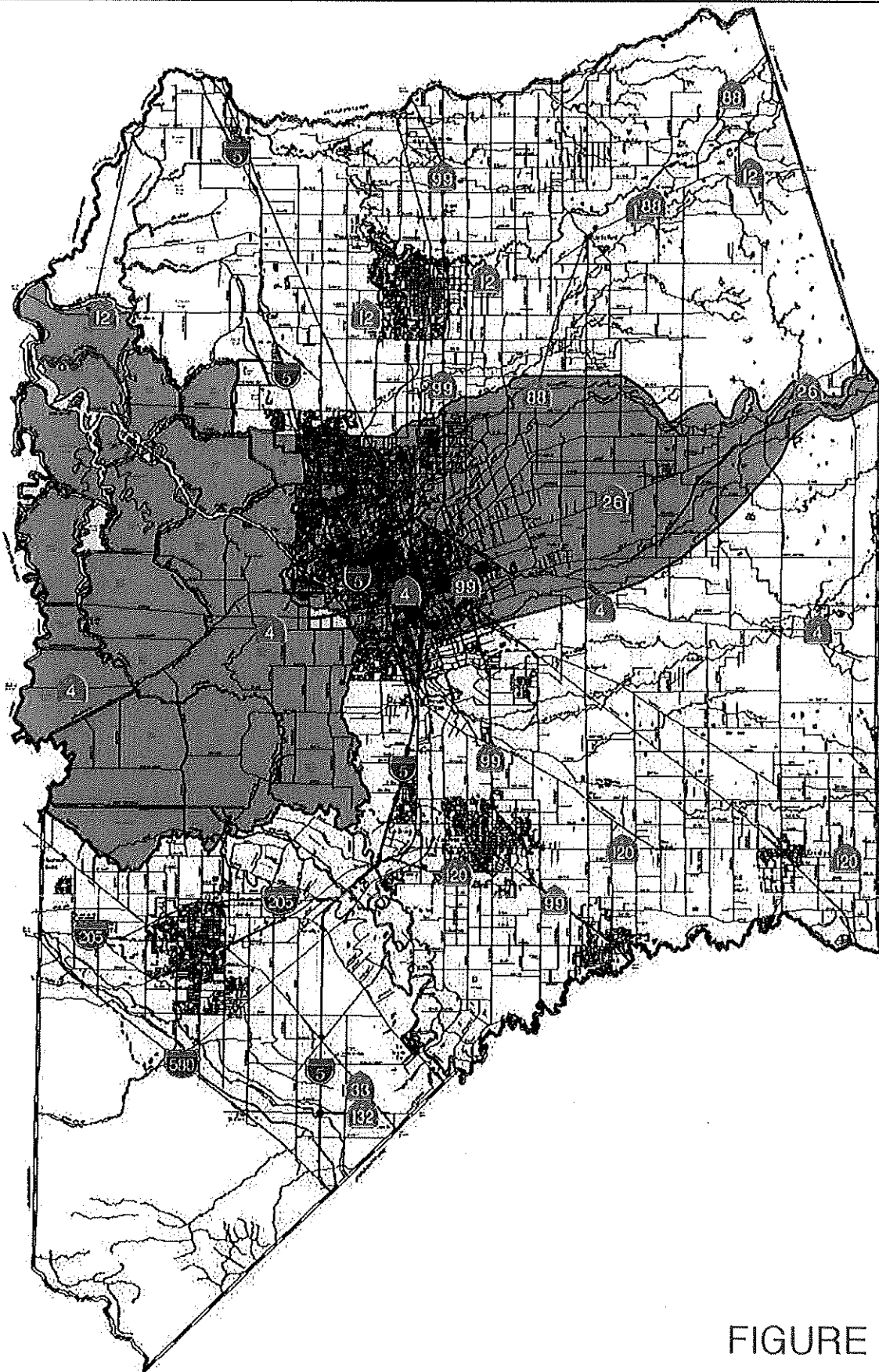


FIGURE 17

Dam Inundation New Hogan

San Joaquin County Geographic Information Systems
1810 East Houston Avenue, Stockton, CA 95205

This map is a computer-generated graphic representation of data stored in a digital format. It is not intended to be used as a legal document. The user assumes all responsibility for the use of this map. The map is provided as a reference only and should not be used for any other purpose.



Legend
 County line
 City line
 Highway
 Water
 Inundation



0 1 2 3 4 Miles
 August 11, 2003 DO

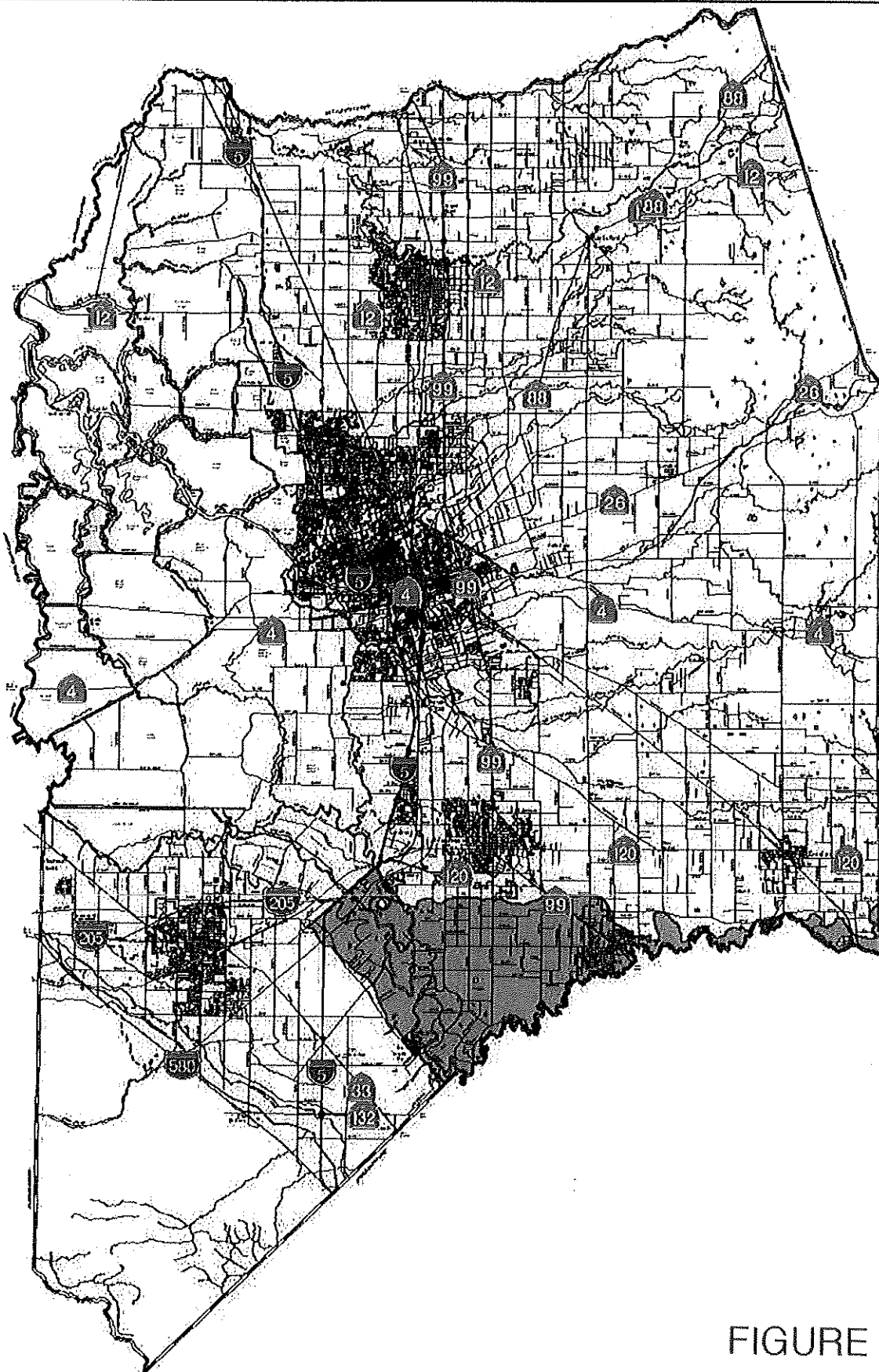
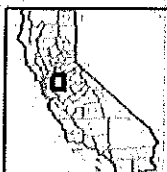


FIGURE 18



Dam Inundation Tulloch

San Joaquin County Geographic Information System
1819 East Hazelton Avenue, Stockton, CA 95205

This map is a computer-generated map and should not be used for legal purposes. It is intended for informational purposes only. The map is not a substitute for a professional survey. The map is not a substitute for a professional survey. The map is not a substitute for a professional survey.

Legend:
 \ County Line
 \ City Line
 \ Highways
 \ State
 \ Water
 \ Inundation



0 1 2 3 4 Miles
 August 11, 1993 08

Local agencies must adopt emergency procedures for the evacuation and control of populated areas below such dams. The San Joaquin County OES has prepared a Dam Failure Plan (SJOES, 2003) that includes descriptions of the dams, anticipated direction, timing and depths of flood waters, along with responsibilities and actions of various jurisdictions affected. The County OES continues to coordinate with the State OES, dam owners and operators, and work with the County planning department, cities and local jurisdictions to maintain and improve the plan.

2.6 Exposure to Flooding: Population, Essential Facilities, Real Property, Planned Growth

Potential flooding involves significant risks to lives and property in the City. Flooding effects can include loss of life and injury, damage to and destruction of buildings and site improvements, permanent damage to or temporary loss of utility services, damage to roads and bridges, unavailability of goods and services, entrainment of hazardous materials and the threat of waterborne diseases as well as social and economic effects on the community. The current State Plan of Flood Control (SPFC) system protects a population of over one-million people and many billions of dollars in public and private assets currently located within floodplains. These at-risk assets include major freeways, railroads, airports, water supply systems, utilities, and other public and private infrastructure of national, regional and statewide importance. Planned levee improvements will provide additional flood protection for population and assets within the City of Lathrop.

2.6.1 Population, Improvement Values

Existing population and assets located within the City of Lathrop that are potentially threatened by flooding were identified on a general level in the *Lower San Joaquin River/Delta Regional Flood Atlas* (DWR, 2013) as Urban and Built-Up Land and Farmland in various classifications. The potentially-threatened population was estimated at approximately 10,000, and the overall value of assets protected from flooding was estimated to range from \$100,000/acre to \$200,000/acre in the developed portions of the 23-square mile City, and from \$0/acre to \$100,000/acre in the undeveloped portions of the area.

The current (1/1/2014) population of the City of Lathrop, however, is approximately 19,800, and most of this population is exposed to potential 200-year flooding. Similarly, the City contains more than 5,600 residential units, about 90% of which are single-family residences, and the majority are exposed to flooding. Likewise, most of the more than 12 million square feet in existing industrial and commercial development are exposed to 200-year flooding. Improvements at risk of flooding, excluding land values, are estimated at more than \$1.3 billion.

2.6.2 Essential Facilities

The City of Lathrop contains numerous essential and key facilities that are potentially subject to 200-year flooding. These facilities include:

Interstate 5 and 205 interchanges

Altamont Commuter Express

SR 120 interchanges

Lathrop City Hall

Union Pacific Railroad

Lathrop Police Facility

Lathrop Manteca Fire Protection District stations	SSJID South County Surface Water Supply Project
Lathrop High School	City Potable Water Wells
Lathrop Elementary School	City Storm Drainage Pump Stations
Mossdale Elementary School	Electrical Utility Substations and Distribution Systems
Lathrop Generations Center and Library	
Sharpe Army Depot	RD 17, 2062 and 2107 Levees and Pumping Systems
Lathrop Combined Wastewater Facility	

2.6.3 Planned Development in Lathrop

Planned development in the City of Lathrop is defined in the Lathrop Comprehensive General Plan (LGP), which is, as defined in the California Government Code, the “constitution” for land development in the City. The LGP was first adopted in 1991 shortly after the City was incorporated. At that time, City’s planning area included lands east of the San Joaquin River (Sub-Plan Areas #1 and #2) and the 4,800-acre Stewart Tract west of the San Joaquin River. With the exception of planned parks and open spaces, the entire planning area was designated for urban development in various classifications.

The City further committed to urban development of these lands by adopting a series of Specific Plans pursuant to California Government Code 65450 *et. seq.*, entered into Development Agreements with the developers, and approved Vesting Tentative Maps. These projects include:

Crossroads Specific Plan (528 ac.)

West Lathrop Specific Plan (River Islands and Mossdale Village) (7,400 ac.)

Central Lathrop Specific Plan (1,540 ac.)

Lathrop Gateway Business Park (384 ac.)

South Lathrop Specific Plan (pending) (315 ac.)

Specific Plans and other entitlements for urban development have been approved for more than 10,000 acres, more than half of the land area of the City. Nearly all of this area is potentially exposed to 200-year flooding, and a portion of that area was subject to 100-year flooding. At the time these entitlements were granted, accredited 100-year flood protection was in place or required to be constructed as a condition of approval. Urban development entitled by these approvals amounts to more than 20,000 residential units, 3 million square feet of retail commercial development, 3 million square feet of service commercial development and more than 25 million square feet of employment-generating office and business park uses. In all, entitlements have been granted for what will likely exceed \$10 billion in new development.

Urban development of Lathrop has proceeded consistent with the LGP and approved Specific Plans. The Crossroads business park is largely built out. The Mossdale Village area has been improved with urban streets and infrastructure, and in this area most of the planned residential areas and parks, and many of the planned commercial areas have been constructed. The Mossdale Village area is nearing buildout.

River Islands has improved levees surrounding its 900-acre Phase 1 to obtain FEMA 100-year accreditation and to meet the 200-year ULOP requirements in place at the time of construction. DWR provided 200-year flood protection maps that confirmed, until the ULOP criteria was established, that Phase 1 had been removed from the 200-year floodplain. The City has approved a Vesting Tentative Map that would create more than 4,000 residential units and associated commercial and recreational development within this area. River Islands has constructed major utilities and access improvements, and residential construction on the initial 500 residential lots in the Community at South River Bend is underway. A charter school and parks have been developed. Additional residential and commercial development in the adjacent Town Center and East Village portions of the development is underway in 2015.

In the Central Lathrop area, mass grading of the entire site has been completed, and the major street and utility improvements have been installed. These include construction of a major wastewater lift station, Golden Valley Parkway north to Spartan Way (Lathrop Road), and Spartan Way from I-5 to the San Joaquin River, among others. Vesting tentative subdivision maps for nearly 1,500 residential units have already been approved by the City. The Manteca Unified School District is operating the new Lathrop High School at the west end of Spartan Way, and the City recently completed its Generations community center and library facility in the vicinity of the high school.

2.7 Emergency Response

Emergency response to flooding and flooding threats is primarily the responsibility of local agencies including the City of Lathrop, the reclamation districts, the Lathrop-Manteca Fire District and Lathrop Police Services as well as the San Joaquin County Office of Emergency Services. The State of California and the federal government serve a larger coordinating role in emergency response planning, financing and logistical support; these agencies have established uniform Incident Command Systems, which are the basis for County, City and other agency emergency action plans.

In the event of a flooding incident or threatened incident, the City of Lathrop plays a key role in response together with the Lathrop Manteca Fire District and Lathrop Police Services. Emergency response efforts are organized in accordance with California Incident Command System (ICS), which is in turn based on the National Incident Management System (NIMS). The purpose of both is to provide uniform incident management organization and procedures that can be used effectively and simultaneously by public safety agencies at all levels of government, including local agencies in San Joaquin County.

In the event of a flood or impending flood, an Incident Command is established, typically by the City, although this role can be assumed by other agencies. The Incident Command is responsible for integrating planning, logistics, finance and coordination of all local activities including flood fight, public communication and evacuation operations. The Incident Command is typically directed by the City Manager or Mayor but may also be headed by the Fire or Police Chief.

Additional emergency response support is developed during pre-event planning at all levels of government. At the local level, this may include further definition of organization and procedure, training exercises and identification of supply facilities, evacuation routes and rally points.

In emergency situations that involve larger geographic areas, an Incident Command, together with Incident Commands established by other jurisdictions, may also be supported by Area Commands and/or Emergency Operations Centers. These organizations, often established by the San Joaquin County Office of Emergency Services, exist for the purpose to supporting the local Incident Commands with liaison to

government officials, finance, purchasing. These temporary teams are also organized in accordance with the California ICS and NIMS procedures and may draw resources and other support from allied State and federal agencies.

The San Joaquin County OES has responsibility for coordinating multi-agency emergency response events within the San Joaquin Operational Area, including Lathrop; flooding along the San Joaquin River would likely be a multi-agency event involving the cities, city and County police services, fire protection agencies, medical and other emergency responders and the affected reclamation districts. Within the San Joaquin Operational Area, flood fight responsibilities are divided into four “Flood Fight Command” areas. The RD 17 portion of the City is located in the Metro Flood Fight Command based at the County OES offices on Amelia Earhart Way in Stockton. RDs 2062 and 2107 are located in the South Delta Flood Fight Command area, based at South Airport Way and Perrin Road.

The County’s Multi-Agency Coordination System (MACS) provides overall guidance to the various emergency response agencies identifying agency-specific responsibilities for community warning, action, communication, mutual aid and other coordination with the responsible agencies. MACS is based on the federal NIMS command system and State SEMS system, which is tiered from NIMS. The County’s efforts are centered at the San Joaquin Operational Area Emergency Operations Center. A uniform command structure is defined in the SEMS Incident Command System (ICS).

The cities, police services agencies, emergency response providers and reclamation districts have each prepared and adopted Emergency Operations Plans, which define agency responsibilities based on the NIMS, SEMS and MACS.

The reclamation districts have direct responsibility for the levees, pumps and other systems that protect district lands in the event of flooding. Emergency-related responsibilities include water level observation, levee and equipment inspection and physical work needed to prevent levee damage, overtopping or failure. RD board members, executives and employees must be properly trained in the physical aspects of flood protection systems as well as in coordination with other agencies through the County OES. The Districts’ Flood Safety Plans must be approved by the City Engineer, County OES and DWR.

The State DWR is the lead State agency for responding to flood emergencies, coordinating response. The DWR is also responsible for development and funding of enhanced levee operation and maintenance programs, including after-event identification of erosion or other levee damage, information collection and sharing, local emergency response planning, additional forecasting and notification, improvements to County Alert System and levee improvements, including the provision of all-weather roads on levee crowns to facilitate monitoring.

2.8 Other Non-Structural Flood Management Strategies

In addition to the provision of flood protection structures and emergency response planning, “flood management” includes other means for prevention of and preparation for flood events, such as development of flood-related information, mapping and plans, establishment of standards and criteria, inspection, maintenance and improvement of existing facilities and planning to minimize flood exposure. These responsibilities are shared among agencies at all levels of government. These responsibilities are discussed by type; then the individual flood management responsibilities of federal, state and local agencies are described.

Despite improvements to levees and installation of other flood protection structures, the risk of flooding and the need for flood management cannot be eliminated. Inadequate maintenance of flood protection structures like levees can lead to facility failures, or the capacity of these structures may be exceeded by extreme flood events. Land use planning that is not mindful of flooding risk can place more people and improvements in harm's way, and absent or ineffective flood emergency planning and response can result in unnecessary loss of life, injury and property damage. This remaining flood threat is termed "residual risk," which can be addressed by "non-structural" flood management efforts. Non-structural elements of flood management involve efforts to 1) adequately inspect and maintain flood control structures, 2) reduce the risk of exposure of people and improvements to potential flooding, and 3) plan for effective emergency response in the event of flooding. A more detailed discussion is found in the *Lower San Joaquin River and Delta Regional Flood Management Plan* (SJAFCA, 2014)

2.8.1 Levee Maintenance

The reclamation districts as well as supporting State and federal agencies have opportunities to provide an additional margin of flood protection by providing for the proper maintenance and operation of flood protection facilities. The reclamation districts have primary responsibility for operating, inspecting and correcting problems with levees and other structures, and for providing adequate training for officials and employees in these activities (as well as in emergency response). This can include maintenance and surface improvements to levee roads, burrowing rodent control and vegetation management. The districts have responsibility for day-to-day inspection and correction of problems with their facilities and for coordinating with State and federal officials in their required periodic levee inspections. The City has an indirect role in these activities; the City Engineer has general oversight and is responsible for the review and approval of the reclamation districts' Flood Safety Plans, discussed in the next section.

Under AB 156, local reclamation and levee districts are now required to submit levee condition, operation, and maintenance information to DWR by September 30 of each year. DWR is required to summarize the information from all reporting agencies in an annual report to the CVFPB by December 31 of each year. Under this new mandate, all agencies that maintain Project levees or Non-Project levees that benefit land within the boundaries of an area benefited by a Project levee are required to submit information.

The State DWR and the USACE both have responsibility for periodic inspection of flood protection facilities and for administration of funding programs that support levee maintenance and repair activities by the reclamation districts.

2.8.2 Exposure Reduction

Reducing the risk of exposure to flooding is largely through the City's land use planning and zoning authority. Lathrop General Plan goals and policies discourage urban development in 100-year floodplain areas; these objectives are instituted in the Lathrop Municipal Code (LMC), including zoning provisions that govern what if any development can occur in floodplains, and if so under what conditions. Goals, policies and regulations are not yet in place for 200-year flooding; adoption of this GPA will be the City's initial step toward that end.

The City's floodplain regulations (LMC Chapter 15.56) require a special permit and findings to be made before any building and construction can be allowed within Special Flood Hazard Areas as designated on the FEMA 100-year Flood Insurance Rate Maps (FIRMs). Among other things, the regulations establish procedures for permitting and standards for floor elevation, foundation anchoring and other building

requirements meant to reduce flood exposure and flood damage. Development is prohibited within floodways except under certain conditions. The LMC requires notification of buyers, owners and residents of floodplain areas, prevents floodway encroachment and modification and prohibits dumping in waterways. The City has also adopted and requires compliance with its Stormwater Management Program, which requires new development to limit local contributions to flood flows in the San Joaquin River.

The City makes additional effort toward reducing exposure through its participation in the FEMA National Flood Insurance Program (NFIP). The NFIP promotes more effective floodplain management by offering reduced flood insurance premiums for development that is not located within the 100-year floodplain. The City of Lathrop has historically participated in the NFIP, and its general plan and LMC floodplain requirements are a part of participation. The City is also active in the FEMA Community Rating System (CRS); owners of floodplain property located within cities that participate in the CRS receive a further-discounted rate on flood insurance. The rate reduction is proportional to the City's extra effort in floodplain management. The City currently has a CRS rating of "8," which translates to an additional 10% reduction in flood insurance costs. Lathrop's participation in the CRS is reviewed and reaffirmed annually with a more comprehensive review every 5 years. The 5-year renewal was completed in 2013.

Potential exposure to flooding may also be reduced by ensuring that land use agencies have accurate information as to flooding potential. Among its SB 5 flood management responsibilities, the State DWR has responsibility for coordinating the availability of "best available" floodplain mapping and other flood-related information to potentially-affected communities. These are in addition to DWR's other flood management through its FloodSAFE program.

The reclamation districts have direct responsibility for the levees, pumps and other systems that protect district lands in the event of flooding. Emergency-related responsibilities include water level observation, levee and equipment inspection and physical work needed to prevent levee damage, overtopping or failure. RD board members, executives and employees must be properly trained in the physical aspects of flood protection systems as well as in coordination with other agencies through the County OES. The Districts' Flood Safety Plans must be approved by the City Engineer, County OES and DWR.

The State DWR is the lead State agency for responding to flood emergencies, coordinating response. San Joaquin County and the other local agencies are responsible for maintaining up-to-date emergency action plans and for implementing emergency response system protocols. The DWR is also responsible for development and funding of enhanced levee operation and maintenance programs, including after-event identification of erosion or other levee damage, information collection and sharing, local emergency response planning, additional forecasting and notification, improvements to County Alert System and levee improvements, including the provision of all-weather roads on levee crowns to facilitate monitoring.

2.8.3 Standards and Criteria

With the passage of SB 5 Bills, however, the State has assumed a more active role in flood management. The facets of the State's involvement now include: collecting and disseminating floodplain mapping and other information; inventory of State Plan of Flood Control facilities; establishment of the 200-year flood protection standard for urban areas (ULOP); establishment of the Urban Levee Design Criteria (ULDC); and requiring local government to provide ULOP, or cease urban development in flood-prone areas, at least until it has made "adequate progress" toward ULOP.

An important element of the new State role was preparation of the Central Valley Flood Protection Plan (CVFPP). The CVFPP includes general information on the State role in flood protection, on SPFC facilities and facility improvement needs. The principal element of the CVFPP is a strategy for prioritization and effective application of government funding to necessary flood protection improvements. The CVFPP's State Systemwide Investment Approach (SSIA) is a coordinated investment strategy for meeting the CVFPP objectives to improve public safety, ecosystem stewardship and economic sustainability, with due consideration to government financial limitations.

2.8.4 Federal Emergency Management Agency (FEMA)

FEMA has a wide range of emergency and disaster assistance responsibilities, including response to flood event emergencies; however, FEMA is the primary federal agency with respect to floodplain mapping and management. FEMA administers the National Flood Insurance Program (NFIP), which makes federally-subsidized flood insurance available to property owners within communities that participate in the NFIP, provided that the community regulates land use and development in accordance with FEMA standards. Standards are defined, in part, in the designation of floodplain areas in FEMA-prepared Flood Insurance Rate Maps (FIRMs). FIRMs are updated periodically to reflect the level of flood protection provided in flood-prone areas as well as changing conditions such as land use, water flow, levee condition, and drainage patterns. The FIRMs are considered the "regulatory floodplain" from a federal and local perspective, and considered the "base flood plain" by the USACE. FEMA is also involved in emergency response and disaster assistance.

The design and condition of levees are key elements of FIRM mapping. Areas protected by FEMA-accredited levees are mapped as being outside the 100-year floodplain; areas protected by sub-standard levees are considered to remain exposed to potential 100-year flooding (Zone A). Levees for much of the City of Lathrop have been accredited by FEMA. The RD 17 levees were accredited for 100-year flooding in 1990. The River Islands Phase 1 area was accredited for 100-year flooding in 2006. Levees for the remaining areas of Stewart Tract are not FEMA-accredited.

2.8.5 United States Army Corps of Engineers (USACE)

The USACE is responsible for analysis of flood risk, for flood protection improvement feasibility analysis, for construction and operation of flood control reservoirs and other facilities, and for analysis, engineering, construction and inspection of levees. The USACE develops and adopts levee and other flood protection standards in cooperation with the State. The USACE is responsible for implementing most federally-authorized flood control projects, in partnership with State and local agencies. These projects are constructed under agreements where the State of California, through DWR and the CVFPB, and with the reclamation districts, assumes liability and principal maintenance responsibility for facilities constructed by the USACE. Nearly all of the levees providing flood protection to the City of Lathrop are federal "project" levees (Figure 6). Any modification of an existing federal flood management project requires approval from the USACE under 33 USC 408. Major modifications may require a federal feasibility study, such as the Lower San Joaquin River Feasibility Study, currently in progress and discussed below. USACE conducts routine annual levee inspections and more-detailed periodic 5-year inspections to determine whether federal maintenance standards are met.

In the Lathrop area, USACE is the federal agency responsible for the Lower San Joaquin River and Tributaries Project levees, which were initially constructed by 1966; these are the "project" and State Plan

of Flood Control levees that protect the City of Lathrop (Figure 6). The USACE has also participated in levee improvement and repair projects on Lathrop-area levees. The USACE also regulates discharges of dredge and fill material to Waters of the U.S. under Clean Water Act Section 404. In addition to these responsibilities, the USACE is responsible for the maintenance of navigation ways in inland waters and construction and ongoing operation of some of the upstream reservoirs that provide flood protection for the Central Valley.

The USACE is involved in a feasibility study of further improvements to levees in the Lathrop area, including improvements needed to provide ULOP to existing and planned urban areas in RD 17. This effort is known as the *Lower San Joaquin River and South Delta Feasibility Study* (LSJRFS). The USACE released the *Draft* LSJRFS on January 27, 2015. The Study is due to be finalized in 2017. The LSJRFS is a multi-agency effort to define improvements needed to provide 200-year flood protection along the San Joaquin River that involves the USACE, the CVFPB and San Joaquin Area Flood Control Agency (SJAFC). Locally, SJAFC is partnered with the several reclamation districts in the study area, including RD 17, the City of Lodi and the San Joaquin County Flood Control and Water Conservation District. The LSJRFS is an outgrowth of the USACE Sacramento River and San Joaquin River Basins Comprehensive Study discussed above.

To date, the LSJRFS process has identified constraints and opportunities, and developed and compared of flood protection alternatives, to the point of identifying a “Tentatively Selected Plan” (TSP). The TSP will be subject to review in an EIS/EIR then presented to the Chief Engineer and ultimately to Congress for authorization. At this point in time (March 2015) the TSP excludes improvements to RD 17 levees. This issue is currently in discussion with the USACE.

On a more detailed level, and in connection with its levee maintenance responsibilities, the USACE in cooperation with DWR, the reclamation districts and several federal and State resource agencies developed the *California’s Central Valley Flood System Improvement Framework* (USACE, 2009) which has established an initial interagency agreement for the management of vegetation on project levees so that both levee maintenance needs and natural resource concerns can be accommodated simultaneously. This initial policy framework continues to evolve in ongoing interagency discussion.

2.8.6 California Department of Water Resources (DWR)

DWR has broad water-related responsibilities including administration of water rights, protection of water quality and dam safety, among others. Historically, DWR has been responsible for State-federal cooperation with respect to the “project” levees and oversight of the State Plan of Flood Control (SPFC) facilities including the Lathrop-area levees. DWR oversees and inspects reclamation district activities (Local Maintaining Agencies). DWR also serves as the California NFIP Coordinating Office for FEMA. DWR administers State-funding programs to assist local reclamation districts with levee maintenance and improvements; Delta levees are assisted under other specific programs.

Initial efforts at implementing the State’s 200-year strategy were assigned to DWR, the State’s principal flood management agency, and the Central Valley Flood Protection Board (CVFPB), which is staffed by DWR. These initial efforts included program development and organization, assembly and publication of floodplain mapping, preparation of the Central Valley Flood Protection Plan and definition of urban flood protection and levee standards.

DWR activities related to flood protection are coordinated through FloodSAFE California, a program launched by DWR in 2006. The FloodSAFE Program is intended to help improve integrated flood

management statewide, with an emphasis on the Central Valley and Delta areas where communities and resources face high risk of catastrophic damage. DWR provides technical, financial, and emergency response assistance to local agencies related to flooding. This role was greatly expanded after approval of the SB 5 Bills, which increased the flood protection requirements for urban areas to the new 200-year standard (ULOP). The new requirements triggered the need for substantial additional technical evaluation, public information and planning, engineering and financing for necessary improvements. The DWR efforts under FloodSAFE include:

State Plan of Flood Control Administration. Following the passage of SB 5, DWR prepared the first-ever inventory of SPFC facilities in its *State Plan of Flood Control Descriptive Document* (CVFMPP, 2010). DWR technical studies and planning are largely oriented to the SPFC facilities, and DWR is responsible for periodic inspection of these facilities. All of the Lathrop-area levees adjacent to the San Joaquin River, Old River and Paradise Cut are SPFC facilities; interior dry land levees are not SPFC facilities.

Urban and Non-Urban Levee Evaluations. DWR evaluated 470 miles of urban levees and 1,620 miles of non-urban levees for hidden defects. The ULE and NULE projects considered State-Federal “project” levees, and associated non-project levees, to determine whether they meet levee design and, where needed, identify remedial measures, including cost estimates, to improve levees to meet the desired criteria. ULE and NULE included aerial surveying, mapping, hydrology, hydraulics and geotechnical studies; information developed through the ULE and NULE projects informed the Flood Control System Status Report and the CVFPP; they also serve as a resource for more detailed evaluation of local flood protection systems.

Urban Levee Design Criteria (ULDC). Adopted in 2012 by DWR, the ULDC provides criteria and guidance for design, evaluation, operation, and maintenance of levees and floodwalls that provide protection to urban and urbanizing areas.

Urban Level of Protection (ULOP) Criteria. DWR prepared the ULOP Criteria to help local agencies interpret the requirements of the SB 5 Bills. The ULOP define the applicability of the SB 5 Bills to pending land-use decisions, where the requirements apply, what findings are required to permit development in floodplain areas, and what constitutes sufficient supporting evidence for findings. Local agencies may define their own criteria, as long as they are consistent with the DWR ULOP.

Best Available Mapping. DWR compiled and made available the “Best Available Mapping” of flood risk and exposure, based on existing information. Mapping products generated included FEMA Digital Flood Insurance Rate Maps (DFIRMs), Levee Flood Protection Zone maps, maps of federal and non-federal project levees, USACE floodplain mapping and Awareness Floodplain Maps. These maps were provided to assist initial flood protection planning and are to be replaced by later more-detailed local mapping and information, such as the information being developed for RD 17 levees protecting eastern Lathrop.

California Levee Database. DWR continues work on the California Levee Database, storing and retrieving statewide levee attribute information and technical resource data for levee evaluation, in coordination with FEMA and the USACE. The purpose of this effort is to provide for information availability, promote compatibility and avoid duplication of the various multi-agency efforts.

Regional Flood Management Plans (RFMPs). DWR funded development of six local RFMPs to provide DWR information on the local visions for flood management for use in future DWR studies, such as its San Joaquin River Basin-Wide Feasibility Study (BWFS), and the 2017 CVFPP.

RFMPs include flood hazard identification, risk analysis, review of existing protection measures, identification of potential projects and funding, evaluation of system resiliency, and compatibility with State goals and Integrated Regional Water Management Plans (IRWMP). The San Joaquin Area Flood Control Agency (SJAFC) completed a draft RFMP for the Lower San Joaquin/Delta Region, including Lathrop; the RFMP is an important resource for this GPA.

2.8.7 Central Valley Flood Protection Board (CVFPB)

The mission of the CVFPB is to control flooding along the Sacramento and San Joaquin Rivers and certain tributaries in cooperation with the USACE; to cooperate with various agencies in establishing, operating, and maintaining flood control infrastructure; and to maintain the integrity of the existing flood control system and designated floodways; this latter objective is accomplished with its encroachment permit authority. The CVFPB delegates most levee maintenance to local levee and reclamation districts, aka Local Maintaining Agencies (LMAs)

The CVFPB oversees the potential flooding effects of development activities by requiring an encroachment permit for activities that have the potential to affect designated waterways, flooding and flood flow within those waterways. The San Joaquin River, Old River and Paradise Cut are among the CVFPB-regulated waterways. The CVFPB is also responsible for designation of “floodways,” which receive additional protection from encroachment. There are no designated “floodways” in the Lathrop vicinity.

With respect to SB 5, CVFPB was tasked with assessing flooding risk and exposure of people and improvements to flooding, and then to identify a coordinated program of investment that would meet the need on a priority and cost-effectiveness basis. The program was developed and adopted by the CVFPB in 2012 as the *Central Valley Flood Protection Plan* (CVFPP). The CVFPP is identified by the SB 5 Bills as a primary source for related Safety Element amendments such as this and is the State’s comprehensive long-term flood protection planning document. The CVFPP describes a strategy for meeting flood protection challenges while also considering ecosystem, operations and maintenance and institutional support concerns. The CVFPP is to be updated every 5 years.

The CVFPP is primarily concerned with State Plan of Flood Control (SPFC) facilities, which are shared federal/state facilities the State is obligated to cooperate in maintaining and improving. The identifies a State Systemwide Investment Approach (SSIA) that is intended to guide federal, State and local agencies in making cost-effective integrated investments in improving the flood protection system.

In taking a general approach to statewide planning, the CVFPP recognized that more-detailed analysis and planning would need to happen at a local level. Six regional flood management plans (RFMPs) were to be prepared based on available information; the plans would provide a more-detailed look at existing facilities and improvement needs, as well as “non-structural” flood management, and prioritize action consistent with the SSIA, thereby facilitating the delivery of available State funding for needed improvements. The RFMPs are also intended to provide local feedback to the CVFPB as it prepares the 2017 CVFPP.

The RFMPs recognize that levels of flood protection will vary between urban and non-urban areas. Not all areas of the regions need, or desire, the same level of protection from the threats of flooding. ULOP would need to be achieved in areas containing existing and planned urban areas; most of the agricultural reclamation districts in the Delta and Lower San Joaquin River area would instead seek PL 84-99 Delta Standard or better as their minimum levee configuration.

2.8.8 Governor's Office of Emergency Services

The purpose of the Governor's Office of Emergency Services (State OES) is enhancement of safety and emergency preparedness through leadership and collaboration with other agencies. The agency's goal is to protect lives and property by effectively preparing for, preventing, responding to, and recovering from all threats, crimes, hazards, and emergencies, including flooding. State OES is responsible for development of emergency response plans such as the State Emergency Management System (SEMS) and for coordination with county OESs to be sure that emergency services are delivered in a consistent and coordinated manner. The California Dam Safety Act requires dam owners to submit maps of potential inundation from dam failure to the State OES, which in turn makes these maps available to the county OESs and other local emergency preparedness agencies.

2.8.9 Delta Protection Commission.

The Delta Protection Commission (DPC) is a regional land use planning agency with regulatory authority over the 450,000-acre Primary Zone of the Sacramento-San Joaquin Delta; its authorizing legislation is the 1992 Delta Protection Act. The mission of the DPC is to protect, maintain, enhance, and where feasible restore the overall quality of the Delta environment including agriculture, wildlife habitat, and recreation, within the Delta Primary Zone. Land use guidance is provided by the DPC's *Land Use and Resource Management Plan* (LRMP). General plans and projects in the Primary Zone must be consistent with the LRMP, and are subject to review by the Commission. The Commission is also authorized to comment on projects in the Secondary Zone that have the potential to impact the Primary Zone, although the Commission's comments are non-binding. The City of Lathrop is located in the Secondary Zone. This GPA will be circulated to the DPC for comment.

2.8.10 Delta Stewardship Council.

The Delta Stewardship Council (DSC) was created in 2009 by the Delta Reform Act (DRA) and associated bills. The DRA codified the State's Delta policy, which consists of two "co-equal goals:" 1) Providing a more reliable water supply for California, and 2) Protecting, restoring, and enhancing the Delta ecosystem. Both goals are to be accomplished in such a way that the "unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place" are protected and enhanced. The DSC was tasked with overseeing and implementing these goals in part by preparing and adopting the *Delta Plan* in 2013.

The *Delta Plan* is "regulatory" in that "Covered Actions," which include plans and projects within the Legal Delta (Primary Zone + Secondary Zone) must be consistent with the *Delta Plan*. Prior to establishment of the DSC, the City of Lathrop approved several large specific plans that are considered "Covered Actions" by the DSC; these include the West Lathrop Specific Plan, the River Islands Vesting Tentative Map and Development Agreement, and the Central Lathrop Specific Plan and Development Agreement. This Safety Element amendment is oriented to maintenance and improvement of the SPFC levees, which are specifically identified in the *Delta Plan*.

The DSC is also leading a multi-agency effort to set new priorities for state investments in Delta levees to reduce the potential for levee failures, while advancing the co-equal goals. This effort is known as the Delta Levees Investment Strategy (DLIS), which is to involve State agencies, reclamation districts, Delta landowners and businesses, and other interested stakeholders. Levees within the Delta that would be

considered under the DLIS are also State Plan of Flood Control (SPFC) levees that are addressed in the CVFPP. The CVFPP includes a related investment strategy for SPFC facilities known as the SSIA.

2.8.11 San Joaquin County

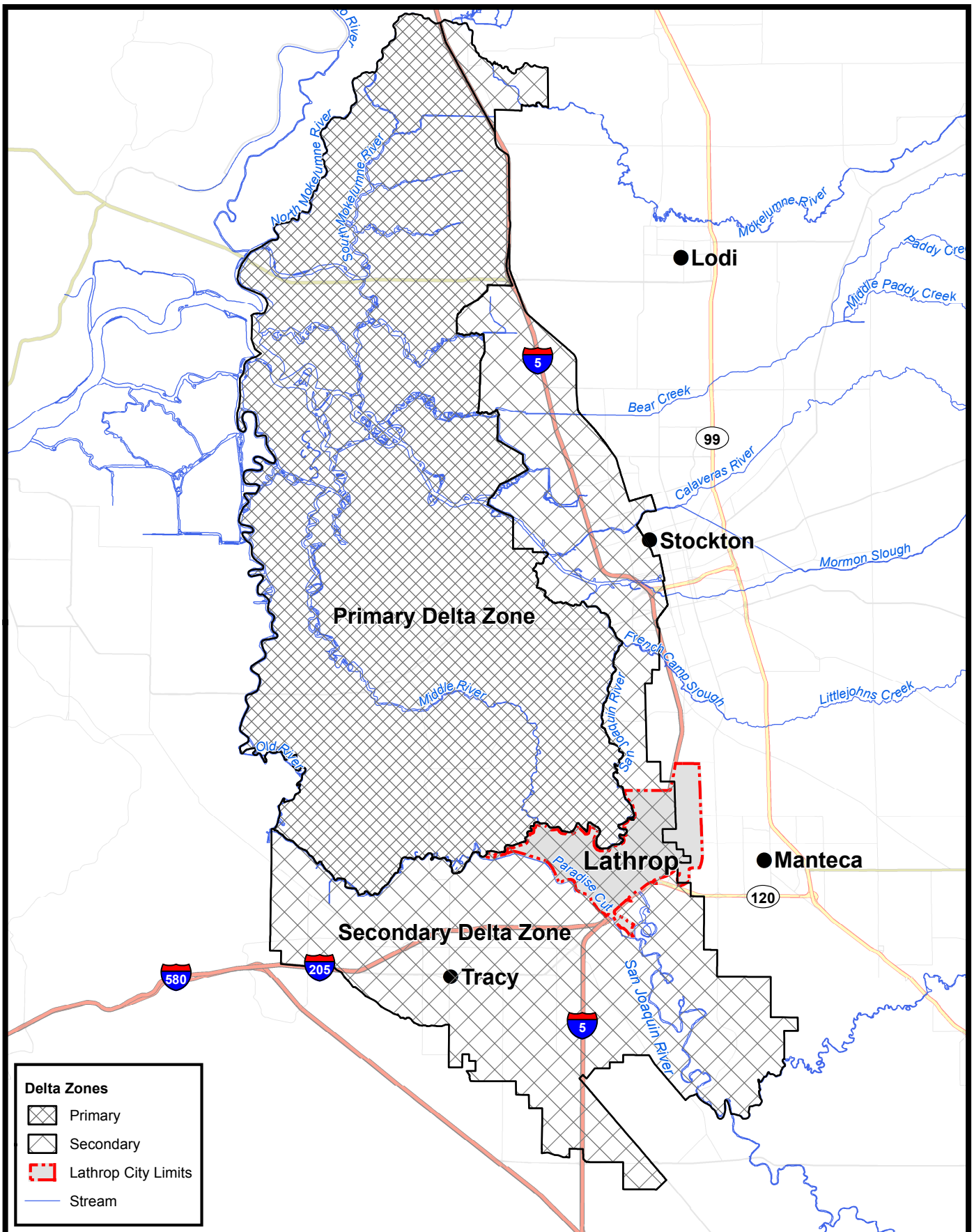
As a jurisdiction participating in the NFIP, San Joaquin County is responsible for implementing FEMA floodplain management regulations in the unincorporated area; the Public Works Department is the Floodplain Administrator for the NFIP. The Community Development Department has land use authority over the unincorporated area. Other than as a cooperating agency, however, San Joaquin County is not involved in Lathrop flood protection improvements.

The San Joaquin County Office of Emergency Services (County OES) serves many of the same functions as the California OES but is also responsible for overall coordination of local emergency planning and response, including planning and response for flooding events. The County OES coordinates and administers funding for flood preparedness planning at the Reclamation District Level. The County OES has prepared and makes available to the public a range of flood protection materials. With respect to a potential dam failure, the County OES has prepared a *Dam Failure Plan* that includes descriptions of the dams, anticipated direction, timing and depths of flood waters, along with responsibilities and actions of various jurisdictions affected. The County OES continues to coordinate with the State OES, dam owners and operators, and work with the planning department, cities and local jurisdictions to maintain and improve the plan.

Coordination between SJC OES, the local agencies, and involved state and federal agencies within the County is guided by the Multi-Agency Coordination System (MACS). The procedures contained in the MACS guide jurisdictions on multi-agency coordination, community warning, and mutual aid within San Joaquin County during emergencies through the San Joaquin Operational Area Emergency Operations Center (EOC). The MACS is a component of the California Standardized Emergency Management System (SEMS) and the federal National Incident Management System (NIMS). Within these systems, the Incident Command System (ICS) provides an organized structure for staff to provide a quick, managed and documented response to emergencies and disasters.

San Joaquin County has also developed a common set of emergency management maps that describe existing dry land levees, low points, and estimated water depths in the event of a flood; and structures, schools, pumping stations, significant levee structures (e.g. drains, flood gates, pipes), access roads, and water access sites (e.g. ferry landings and boat ramps). The mapping includes detailed flood contingency planning for each area, and response plans including evacuation plans are printed directly on the maps. The Flood Contingency Maps are made available on the County website.

The San Joaquin County Sheriff's Department staff's Lathrop Police Services and is an emergency for incidents potentially affecting the unincorporated area. The Sheriff provides flood emergency services in league with the other responsible agencies through the adopted Incident Command System.



1 inch = 5 miles

0 1 2 3 4 5 Miles

CITY OF LATHROP GENERAL PLAN AMENDMENT

Delta Primary and Secondary Zones

FIGURE

19

2.8.12 San Joaquin Area Flood Control Agency (SJAFCA)

The San Joaquin Area Flood Control Agency (SJAFCA) is a Joint Powers Authority formed in 1995 to finance and manage flood control projects in the vicinity of the City of Stockton, San Joaquin County, and the San Joaquin County Flood Control and Water Conservation District. The City of Lathrop is outside of the SJAFCA boundary and is not a party to the SJAFCA JPA. SJAFCA is, however, responsible for preparation of the DWR-funded and Local Management Agency-authorized *Regional Flood Management Plan for the Lower San Joaquin River/Delta Region* (RFMP), which includes the City of Lathrop. The RFMP is a reconnaissance-level assessment of flood risks, and a prioritized list of near-term and long-term flood risk reduction projects, largely improvements to existing levees in the region. SJAFCA is also a non-federal sponsor of the USACE *Lower San Joaquin River Feasibility Study*.

The Lower San Joaquin River and Delta RFMP (SJAFCA, 2014) documents evaluation of a wide range of flood protection measures including improvement of existing levees, new levees, setback levees, and increasing channel capacity; improving expanding and re-operating upstream reservoirs; flood flow diversion; limiting development; and improvements in emergency response, operation and maintenance, among others. The RFMP top priority is levee improvements, new levees and setback levees in selected areas, such as Paradise Cut. A series of project cost allocations are described including \$186 million and \$172 million for 200-Year ULOP protection in RD 17 and RD 2062, respectively. Approximately \$2.8 million is identified for RD 2107 levee improvements to meet PL 84-99 standards.

In considering long-range projects, the RFMP considers construction of setback levees along the San Joaquin River to be infeasible. However, construction of setback levees along Paradise Cut is identified as a feasible longer-term project and the best opportunity for providing additional flood flow capacity through the Lathrop area.

The RFMP also includes a number of recommendations for investment in “non-structural” flood protection for urban and urbanizing areas including organizational improvements, enhanced post-event maintenance, improved emergency response support systems, and better management of flood plain land use, among others. Detailed recommendations are also provided for rural areas.

2.8.13 San Joaquin County Flood Control and Water Conservation District

The San Joaquin County Flood Control and Water Conservation District (District) was formed in 1956 to construct, operate, maintain, and plan flood control, water supply, drainage and groundwater recharge projects for the protection of life, property, and health of San Joaquin County residents and to ensure economic, environmental, and social viability of the County. The San Joaquin County Board of Supervisors serves as the governing board for the District, and the District is staffed by the San Joaquin County Department of Public Works. The District is responsible for flood control and water conservation districts in the unincorporated area surrounding Lathrop but does not have any substantial involvement in Lathrop flood protection concerns.

2.8.14 Paradise Cut Bypass

Paradise Cut is an existing bypass that diverts flow from the lower San Joaquin River, just upstream of Lathrop and returns it to Old River at the west end of the Stewart Tract. This diversion reduces hydraulic load on the downstream San Joaquin River levees. The expansion of Paradise Cut to increase bypass

capacity and further reduce load on downstream River levees has been subject to numerous studies and is recognized as a long-term flood protection priority in the Lower San Joaquin River/South Delta RFMP.

Phase 1 Paradise Cut expansion is known as “Base Case Improvements;” these improvements are to be constructed by the River Islands Development as required by the project environmental studies and the settlement agreement with the Natural Resources Defense Council. The Base Case Improvements would involve construction of a setback levee along Paradise Cut in both the RD 2107 and RD 2062 frontage on this waterway, removal of an existing bench downstream of the Paradise Cut weir and breaching the existing Paradise Cut levee.

It is recognized that further expansion of Paradise Cut will be required in the long-term. This would involve land acquisition and construction of a new setback levee south of Paradise Cut. The Lower San Joaquin River/South Delta RFMP includes \$5 million in funding for preparation of a Paradise Cut management plan and \$330 million in Tiers 2 and 3 funding for land acquisition and construction.

Expansion of Paradise Cut has the potential to lower the San Joaquin River water level by about 20 inches downstream of the bypass, improving overall flood system resiliency and mitigating increased flood risk in RD 17 due to future development. The expanded bypass would also significantly increase terrestrial ecosystem restoration opportunities and improve water supply reliability by providing improved access to irrigation water (SJAFCA, 2014).

Additional planning and communication is needed to develop a broadly-supported Paradise Cut project beyond the Base Case Improvements. This plan could be coordinated with a Paradise Cut Corridor Management Plan.

2.9 Flood Protection Goals, Policies and Objectives

2.9.1 Legislative Requirements

As described in the SB 5 Bills, the Safety Element shall establish goals, policies and objectives “for the protection of lives and property that will reduce the risk of flood damage.” As described in more detail in AB 162, the Safety Element shall:

“establish a set of comprehensive goals, policies, and objectives based on the information identified pursuant to subparagraph (A), for the protection of the community from the unreasonable risks of flooding, including, but not limited to:

- (i) Avoiding or minimizing the risks of flooding to new development.
- (ii) Evaluating whether new development should be located in flood hazard zones, and identifying construction methods or other methods to minimize damage if new development is located in flood hazard zones.
- (iii) Maintaining the structural and operational integrity of essential public facilities during flooding.
- (iv) Locating, when feasible, new essential public facilities outside of flood hazard zones, including hospitals and health care facilities, emergency shelters, fire stations, emergency command centers, and emergency communications facilities.

- (v) Establishing cooperative working relationships among public agencies with responsibility for flood protection.”

2.9.2 Policy Definitions:

“200-year flood exposure and depth” are those geographic areas and depths as defined on Figure 9, the original maps produced by Peterson Brustad Inc. or subsequent maps approved by the City Engineer.

“New development” is defined as a development agreement, a tentative map, or a parcel map for which a tentative map was not required, a discretionary approval or a ministerial permit that would result in the construction of a new residence, as described in Government Code §65865.5(a), 65962(a), or 66474.5(a), as amended.

“Adequate progress” is as defined in California Government Code Sections 65007, 65865.5(a)(3), 65962(a)(3) or 66474.5(a)(3).

“Essential facilities” are defined as hospitals, health care facilities, emergency shelters, fire stations, emergency response centers and emergency communications facilities.

“Flood Hazard Zones” are Special Flood Hazard Areas (SFHAs) as defined and mapped by FEMA

“Non-urban” or “not urbanizing” areas are all lands within RD 2107 that are within the City of Lathrop.

“Urban level of flood protection (ULOP)” means the level of protection that is necessary to withstand flooding that has a 1-in-200 chance of occurring in any given year using criteria consistent with, or developed by, the Department of Water Resources. “Urban level of flood protection” shall not mean shallow flooding or flooding from local drainage that meets the criteria of the national Federal Emergency Management Agency standard of flood protection (GC 65007). The DWR-approved criteria are described in *Urban Level of Flood Protection Criteria, November 2013*.

“Urban Levee Design Criteria (ULDC)” are engineering criteria and guidance for civil engineers to follow in meeting the requirements of California’s Government Code Sections 65865.5, 65962, and 66474.5 with respect to Findings that levees and floodwalls in the Sacramento-San Joaquin Valley provide protection against a flood that has a 1-in-200 chance of occurring in any given year. The criteria are described in *Urban Level Design Criteria, May 2012*.

“Urban” and “urbanizing” areas are lands within RD 17 and 2062 that are within the City of Lathrop.

2.9.3 Flood Protection Goals and Policies

Goal S1. Provide a suitable planning framework for flood protection and residual risk management consistent with federal and State law

Policy S1-1. Adopt, implement and periodically update the Lathrop General Plan Safety Element containing goals, policies, objectives and standards in order to maintain compliance with applicable federal and State requirements. (Implementation CDD-3)

Policy S1-2. Maintain and periodically update City flood safety plans, flood protection ordinances, zoning ordinance, building codes and other related sections of the Lathrop Municipal Code to reflect Safety Element goals, policies and standards, applicable federal and State law, and National Flood Insurance Program requirement. (Implementation ENG-1)

Goal S2. Require adequate flood protection for urban development

Policy S2-1. After July 2, 2016, unless that date is amended by the State Legislature, the City will not approve new development in urban or urbanizing areas where 200-year flooding may exceed 3 feet in depth unless the City determines that an Urban Level of (Flood) Protection (ULOP) is available for the project site, or that, based on substantial evidence, adequate progress has been made toward provision of ULOP to the project site by 2025, as described in Government Code §65865.5(a), 65962(a), or 66474.5(a), as amended. (Implementation CDD-1)

Policy S2-2. Until ULOP has been provided, the City may permit new development in portions of urban and urbanizing areas where potential 200-year flooding depth is less than 3 feet, provided that any applicable requirements of LMC Chapter 15.56 have been met. (Implementation CDD-1)

Policy S2-3. The City may permit new development in areas not identified as “urban” or “urbanizing” provided that they are protected from 100-year flooding by FEMA-accredited levees or equivalent flood protection as shown on an adopted FEMA FIRM, a FEMA-approved Letter of Map Revision (LOMR) or a Conditional Letter of Map Revision (CLOMR), subject to conditions specified in the CLOMR. (Implementation CDD-2)

Policy S2-4. The City may permit new development in areas not protected by FEMA-accredited 100-year levees subject to all applicable requirements of LMC §15.56 requirements, the California Building Standards Code as adopted by the City, and the latest promulgated FEMA standards for development in the 100-year floodplain, provided that new development approval will not cause the project site or area to be defined as “urban” or “urbanizing.” (Implementation CDD-1)

Goal S3. Promote high-quality maintenance and continuing improvement of flood protection facilities

Policy S3-1. Work closely with RD 17 and 2062 to improve levee systems as required to provide ULOP for urban and urbanizing areas in Lathrop by 2025, and to provide the basis for findings of “adequate progress” toward that objective based on substantial evidence. (Implementation IAC-1)

Policy S3-2. Work closely with RD 2062 to obtain permits and improve levee systems protecting River Islands Phase 2 in order to provide ULOP for planned urban development. (Implementation IAC-1)

Policy S3-3. Work closely with RD 2107 in efforts to improve levee systems or benefit flood protection systems, including projects such as Paradise Cut improvements or FEMA 100-year levee improvements. (Implementation IAC-2)

Policy S3-4. Assist reclamation districts and related agencies in securing funding and permitting for maintenance and improvement of levees protecting the City of Lathrop. (Implementation IAC-2)

Goal S4. Minimize and/or manage residual flooding risks, including loss of life, personal injury and property damage from flooding, and facilitate recovery from flooding events

Policy S4-1. Cultivate effective working relationships with agencies and organizations with responsibility for flood protection, emergency preparedness and emergency response. (Implementation IAC-2)

Policy S4-2. Maintain active participation in the National Flood Insurance Program (NFIP) where feasible. (Implementation CDD-4)

Policy S4-3. Continue active participation in the FEMA Community Rating System (CRS) to maintain, and if feasible increase reductions in flood insurance costs. (Implementation CDD-4)

Policy S4-4. Provide technical assistance and encourage landowners within the FEMA Special Flood Hazard Area (100-year floodplain) to purchase and maintain flood insurance. (Implementation CDD-4)

Policy S4-5. Maintain and implement the City Emergency Operations Plan as required; activate City officials, staff and allied emergency management agencies during flood events in accordance with the City Emergency Operations Plan. (Implementation ENG-1)

Policy S4-6. Cooperate with San Joaquin County OES, Lathrop Manteca Fire District, Lathrop Police Services, the reclamation districts and other agencies with responsibility for emergency management in emergency response planning, training and provision of logistical support. (Implementation IAC-2)

Policy S4-7. Support participation by City staff, LPS and LMFD in emergency response demonstrations and training where feasible. (Implementation IAC-2)

Policy S4-8. Require new development setbacks from levees and other provisions for flood emergency response consistent with local, State and federal recommendations, standards and requirements. (Implementation CDD-5)

Policy S4-9. Consider risks of catastrophic dam failure in the planning and environmental review of new urban development projects. (Implementation CDD-5)

Policy S4-10. Provide opportunities for review of and comment by the reclamation districts, Lathrop Police Services, the Lathrop Manteca Fire District for comment during new development project review. (Implementation CDD-5)

Goal S5. Provide for availability and functionality of essential public facilities during potential flooding events

Policy S5-1. Locate new essential City facilities, and promote the location of non-City essential facilities, including hospitals, health care facilities, emergency shelters, fire stations, emergency response centers and emergency communications facilities outside of flood hazard zones where feasible. (Implementation CDD-7)

Policy S5-2. Essential facilities that are or must be located within flood hazard zones should incorporate feasible site design or building construction features that will minimize flood damage and increase functionality during flooding events. (Implementation CDD-7)

Goal S6. Assist federal and state efforts at integrated water management where not in conflict with City interests

Policy S6-1. Support development of the Lower San Joaquin River (Paradise Cut) bypass

Policy S6-2. Incorporate riparian habitat protection, mitigation or enhancement into flood protection improvements where feasible. (Implementation IAC-3)

2.10 Flood Protection Implementation Measures

Community Development

CDD-1 The City will amend Title 17 Zoning of the LMC so as to require that ULOP or “adequate progress” findings specified in the Safety Element, and in Government Code Sections 65007, 65865.5, 65962 and 66474.5, be made prior to approving a development project located within portions of RD 17 and RD 2062 with predicted 200-year flood depths of more than 3 feet according to the official map approved by the City Engineer. The Title 17 amendments shall also implement other Safety Element policies related to development permitting in potentially flooded areas.

CDD-2 The City will amend Title 17 Zoning of the LMC so as to require that development in RD 2107 shall be protected by FEMA-accredited 100-year levees, or shall meet the applicable requirements of LMC 15.56 and the Lathrop Building Code.

CDD-3 The City will evaluate the consistency of the Safety Element with applicable laws, regulations and plans in conjunction with its annual review of the General Plan. The City shall determine whether and when an amendment of the Safety Element is required.

CDD-4 The City will continue to participate in the FEMA CRS program, including dissemination of information to the public and annual reviews of its participation in the FEMA CRS program and improve the program as feasible to maintain or improve effects on flood insurance costs.

CDD-5 The Community Development Department will consider, in the review of plans for new development, the need for levee setbacks, dam failure risks and the views of the local flood protection and emergency response agencies.

CDD-6 Applications for development in areas subject to 200-year flooding shall indicate the depth of predicted 200-year flooding on the basis of official maps approved by the City Engineer.

CDD-7 The City will consider options for location of essential facilities outside flood-prone areas where feasible, and if essential facilities they must be located in areas of potential flooding how to mitigate the effects of flooding on the availability and use of those facilities.

Engineering

ENG-1 The City Engineer will monitor changes in federal and state laws and regulations related to local flood protection, including the National Flood Insurance Program (NFIP) and incorporate necessary changes into Section 15.56, Title 17 of the Lathrop Municipal Code, the City's Emergency Operations Plan and building codes as required.

ENG-2 The City Engineer will prepare an official 200-year Floodplain Map for the City of Lathrop identifying predicted flood depths for reference by Community Development in making land use determinations.

ENG-3 The City Engineer will amend Chapter 15.56 of the LMC to reflect flood protection requirements specified in the Safety Element as well as any relevant updates to federal or State requirements.

ENG-4. The City will consider potential effects of climate change in planning, design and maintenance of levee improvements and other flood control facilities.

Inter-Agency Coordination

IAC-1 City will coordinate with RD 17 and RD 2062 as required for the purpose of ensuring that ULOP is available as soon as possible and that "adequate progress" findings can be made.

IAC-2 The City will periodically coordinate local flood protection agencies, including the reclamation districts, to discuss the status of flood protection facilities and improvements, strategize future improvements, consider potential climate change effects, financing for improvements, emergency response plans, and worker training for emergency response situations.

IAC-3 The City will encourage the reclamation districts to incorporate riparian habitat protection and/or enhancement in levee improvement plans where feasible.

CHAPTER 3.0 CONSISTENCY WITH THE LATHROP GENERAL PLAN

The Lathrop General Plan, including the required elements of the Plan, was reviewed in detail during the preparation of this Safety Element amendment. The General Plan was reviewed for any information or policy statements that might render the general plan internally inconsistent. In addition, modifications to the other general plan elements required by the SB 5 Bills were identified. General Plan revisions addressing both purposes are described in Section 2.2.2.

The Lathrop General Plan meets planning law requirements for the content of general plans but is structured to the needs of the community. The major sections of the LGP, described as “Consolidated Elements” are listed below and any LGP content that might involve conflict with the GPA is identified and discussed.

3.1 Consistency with the Community Development Element

The Community Development Element of the Lathrop General Plan includes pages 4-A-1 to 4-A-33 (Land Use), 4-B-1 to 4-B-14 (Circulation) and Section 4-C (Housing Element). Within the Community Development Element there are few references to flooding, which are confined to the Land Use section, specifically at page 4-A-15. Potential conflicts in this section are addressed and resolved in Section 2.2.2.

The circulation portion of the Community Development Element of the Lathrop General Plan contains no references to flooding and no policies or other statements that would conflict with the GPA.

The housing portion of the Community Development Element is a 200-page standalone document, which is included in the LGP as Section 4-C. Section 4-C contains very few references to floods or flooding, as listed below:

Page 57, passing reference to a “flood overlay”

Page 82, reviews the levee improvement history of River Islands

Page 84, identifies flooding as a major issue for Lathrop, no specific data or policy statements

Page 106 notes the requirements of the City’s Flood Management Ordinance.

The above references do not conflict with the GPA. There are no other references to flooding within Section 4-C and no housing policies or other statements that would conflict with the GPA.

The Surface Water Drainage and Flood Control portion of Section D, Water, Sewerage and Drainage component of the Community Development Element contains discussion of flood control matters. Portions of this section that involved potential conflicts with this GPA were amended in Section 2.2.2. The remainder of this section does not involve conflicts with this GPA.

No other flooding-related information or potential conflicts between the Community Development Element and the GPA were identified.

3.2 Consistency with the Resource Management Element

The Conservation Element and the Open Space Element of the Lathrop General Plan are combined in a single chapter titled Resource Management Element, which extends from page 5-1 to 5-22. There are no references to flooding within the Resource Management Element and no existing policies or other statements that would conflict with the Safety Element Amendment.

The California Government Code Section 65302(d)(3) as amended by AB 162 requires:

. . . the conservation element shall identify rivers, creeks, streams, flood corridors, riparian habitats, and land that may accommodate floodwater for purposes of groundwater recharge and stormwater management

Section 2.2.2 of this GPA proposes modifications to page 4-D-8 of the Resource Management Element that references the content of this GPA as added to the Safety Element of the LGP. The GPA identifies any “rivers, creeks, streams, flood corridors, riparian habitats, and land that may accommodate floodwater for purposes of groundwater recharge and stormwater management” in the City of Lathrop. No further revision of the conservation is required.

3.5 Consistency with the Hazard Management Element

The Noise of the Lathrop General Plan extends from page 6-6 to 6-13. There are no references to flooding within the Noise Element and no policies or other statements that would conflict with the Safety Element Amendment.

As discussed in Section 2.2, any and all existing flooding-related provisions of the Lathrop General Plan are deleted upon the adoption of this document. On adoption, therefore, there will be no potential conflict between existing and post-adoption versions of the Safety Element.

SOURCES

- CDOF, 2014. California Department of Finance, Demographics Unit. Report E-5 Population and Housing Estimates for Cities, Counties, and the State, January 2011- 2014, with 2010 Benchmark.
- CVFMPP, 2010. Central Valley Flood Management Planning Program – FloodSAFE California. State Plan of Flood Control Descriptive Document. November 2010.
- CVFPB, 2012. Central Valley Flood Protection Board. Central Valley Flood Protection Plan. June 29, 2012.
- CVFPB, 2014. Central Valley Flood Protection Board. Index of Maps and Designated Floodways of San Joaquin County. October 16, 2014.
- DPC, 2010. Delta Protection Commission. Land Use and Resource Management Plan for the Primary Zone of the Delta. 2010.
- DSC, 2013. Delta Stewardship Council. The Delta Plan. September 1, 2013.
- DWR, 2010. California Department of Water Resources. Implementing California Flood Legislation into Local Land Use Planning. October 4, 2010.
- DWR, 2012. California Department of Water Resources. Urban Levee Design Criteria. May 2012.
- DWR, 2013. California Department of Water Resources. Lower San Joaquin River/Delta South Region, Regional Flood Atlas – Draft. May 2013.
- DWR, 2013. California Department of Water Resources. Urban Level of Flood Protection Criteria. November 2013.
- DWR, 2014. California Department of Water Resources. Guidance on General Plan Amendments for Addressing Flood Risk. September 2014.
- DWR, 2014. California Department of Water Resources. Addendum to Implementing California Flood Legislation into Local Land Use Planning. December 3, 2014.
- DWR BAM, 2015. Best Available Mapping website. <http://gis.bam.water.ca.gov/bam/>
- DWR, 2015. California Department of Water Resources. Awareness Floodplain Maps. 2015
- DWR, 2015. California Department of Water Resources. Levee Flood Protection Zone Maps. <http://gix.lfpz.water.ca.gov/lfpz/>
- EDAW, 2009. EDAW. Initial Study/Proposed Mitigated Negative Declaration Phase II-RD 17 100-Year Levee Seepage Project. June 4, 2009.
- FEMA, 2015. Federal Emergency Management Agency. Flood Map Service Center website. <https://msc.fema.gov/>
- Freeman, Mac. Former Mayor and Lathrop resident. Personal Communication.

Gatto, Bennie. Former Mayor and Lathrop resident. Personal Communication.

KSN, 2014. Almaas, Erik, P.E., Kjeldsen, Sinnock, Neudeck. Technical Memorandum, Reconnaissance Levee Rehabilitation Cost Estimate. September 30, 2014.

LGP, 1991. City of Lathrop. Comprehensive General Plan. December 17, 1991.

Pyron, Jennifer. Images of America: Lathrop. Arcadia Publishing. 2010.

PBI, 2014. Peterson Brustad Inc.. 200-Year Freeboard Analysis and Floodplain Mapping Within RD 17. 2014.

RD 17, 2013. Reclamation District 17. Emergency Operations Plan, Basic Plan, for all 3 districts (California Water Code Section 9650 Safety Plan), San Joaquin Operational Area. January 2013

SJC, 2009. San Joaquin County. 2035 General Plan Background Report. Chapter 14, Safety. July 2, 2009.

SDWA, 2004. South Delta Water Agency, LP+E Inc. Planners and CBG Engineers. South Delta Flood Conveyance Plan. June 20, 2004.

SJAFCA, 2014. San Joaquin Area Flood Control Agency. Lower San Joaquin River and Delta South, Regional Flood Management Plan, Draft. September 15, 2014.

SJGP, 2009. San Joaquin County General Plan, Background Report, Public Review Draft. July 2, 2009.

SJOES, 2003. San Joaquin Office of Emergency Services. Dam Failure Plan. December 2003.

Thatch, Hien. California Department of Water Resources, CVFPB. Telephone contact. October 10, 2014.

USACE, 2002. U.S. Army Corps of Engineers. Sacramento and San Joaquin River Basins Comprehensive Study. December 1, 2002.

USACE, 2002. U.S. Army Corps of Engineers. Sacramento and San Joaquin River Basins Comprehensive Study, Lower San Joaquin River Assessment. March 2002.

USACE, 2009. U.S. Army Corps of Engineers. California's Central Valley Flood System Improvement Framework (Framework Agreement, 2009). February 27, 2009.

USACE, 2015. U.S. Army Corps of Engineers. Lower San Joaquin River Project Interim Report, Draft Integrated Interim Feasibility Report/Environmental Impact Statement/Environmental Impact Report. February 2015.

APPENDIX A

CONSULTATION



Additional Information



California Native
Americans

Cultural Resources

Strategic Plan

Commissioners

Federal Laws and
Codes

State Laws and
Codes

Local Ordinances
and Codes

Additional
Information

Return to CNAHC
Home Page

Sacred Lands File & Native American Contacts List Request

NATIVE AMERICAN HERITAGE COMMISSION

1550 Harbor Blvd, Suite 100

West Sacramento, CA 95691

(916) 373-3710

(916) 373-5471 – Fax

nahc@nahc.ca.gov

Information Below is Required for a Sacred Lands File Search

Project: SB5 Amendment of Lathrop General
County San Joaquin Plan

USGS Quadrangle

Name Lathrop, CA

Township 1,2S Range 6E Section(s) Several, City Limits

Company/Firm/Agency:

City of Lathrop

Contact Person: Charlie Simpson, Planning Consultant

Street Address: 390 Towne Center Dr.

City: Lathrop Zip: 95330

Phone: 209-941-7297

Fax: 209-941-7268

Email: c.simpson@ci.lathrop.ca.us

Project Description: Amendment of general plan
to reflect 200-year flooding requirements
of SB5 and AB 162.

e-mailed 10-6-14



Community Development Department

390 Towne Centre Dr. – Lathrop, CA 95330
Phone (209) 941-7290 – Fax (209) 941-7268
www.ci.lathrop.ca.us

October 6, 2014

Jay Punia, Executive Officer
Central Valley Flood Protection Board
3310 El Camino Avenue, Room 151
Sacramento, CA 95821
Attn: Jay Punia, Executive Officer

**Subject: Amendment of the Lathrop General Plan, Land Use, Conservation and Safety Elements
200-Year Floodplain Requirements, Senate Bill 5 and Assembly Bill 162**

To Mr. Punia:

The City of Lathrop has begun the process of amending the Land Use, Conservation and Safety Elements of its general plan in order to comply with the requirements of Senate Bill 5 and Assembly Bill 162 (2007). As required by GC Section 65302(g)(6), the City is writing to consult with your agency regarding the general plan amendment effort and to obtain any information known by and available to your agency that the City should consider incorporating in that document. The City has already assembled a number of resources to assist it in this effort, including Department of Water Resources publications *Implementing California Flood Legislation into Local Land Use Planning: A Handbook for Local Communities* (October 2010) and *Guidance on General Plan Amendments for Addressing Flood Risk* (September 2014).

Please advise us at your earliest convenience of any comment your agency may wish to offer, or any other information your agency believes would be relevant to the City's general plan amendment process. Since the general plan amendment must be adopted by July 2, 2015 while meeting several time-consuming processing requirements, the City would appreciate having your input no later than November 7, 2014. If you have any questions or need additional information about the City's efforts, please contact Planning Consultant Charlie Simpson at (209) 941-7297 or csimpson@ci.lathrop.ca.us.

Yours truly,

Rebecca Willis
Community Development Director



Community Development Department

390 Towne Centre Dr. – Lathrop, CA 95330
Phone (209) 941-7290 – Fax (209) 941-7268
www.ci.lathrop.ca.us

October 6, 2014

Central Valley Flood Protection Board
3310 El Camino Avenue, Room 151
Sacramento, CA 95821

Subject: Amendment of the Lathrop General Plan, Land Use, Conservation and Safety Elements
200-Year Floodplain Requirements, Senate Bill 5 and Assembly Bill 162

To Whom It May Concern:

The City of Lathrop has begun the process of amending the Land Use, Conservation and Safety Elements of its general plan in order to comply with the requirements of Senate Bill 5 and Assembly Bill 162 (2007). As required by GC Section 65302(g)(6), the City is writing to consult with your agency regarding the general plan amendment effort and to obtain any information known by and available to your agency that the City should consider incorporating in that document. The City has already assembled a number of resources to assist it in this effort, including Department of Water Resources publications *Implementing California Flood Legislation into Local Land Use Planning: A Handbook for Local Communities* (October 2010) and *Guidance on General Plan Amendments for Addressing Flood Risk* (September 2014).

Please advise us at your earliest convenience of any comment your agency may wish to offer, or any other information your agency believes would be relevant to the City's general plan amendment process. Since the general plan amendment must be adopted by July 2, 2015 while meeting several time-consuming processing requirements, the City would appreciate having your input no later than November 7, 2014. If you have any questions or need additional information about the City's efforts, please contact Planning Consultant Charlie Simpson at (209) 941-7297 or csimpson@ci.lathrop.ca.us.

Yours truly,

Rebecca Willis
Community Development Director



Community Development Department

390 Towne Centre Dr. – Lathrop, CA 95330
Phone (209) 941-7290 – Fax (209) 941-7268
www.ci.lathrop.ca.us

October 6, 2014

Mark S. Ghilarducci, Director
California Office of Emergency Services
3650 Schriever Ave
Mather, CA 95655

**Subject: Amendment of the Lathrop General Plan, Land Use, Conservation and Safety Elements
200-Year Floodplain Requirements, Senate Bill 5 and Assembly Bill 162**

To Mr. Ghilarducci:

The City of Lathrop has begun the process of amending the Land Use, Conservation and Safety Elements of its general plan in order to comply with the requirements of Senate Bill 5 and Assembly Bill 162 (2007). As required by GC Section 65302(g)(6), the City is writing to consult with your agency regarding the general plan amendment effort and to obtain any information known by and available to your agency that the City should consider incorporating in that document. The City has already assembled a number of resources to assist it in this effort, including Department of Water Resources publications *Implementing California Flood Legislation into Local Land Use Planning: A Handbook for Local Communities* (October 2010) and *Guidance on General Plan Amendments for Addressing Flood Risk* (September 2014).

Please advise us at your earliest convenience of any comment your agency may wish to offer, or any other information your agency believes would be relevant to the City's general plan amendment process. Since the general plan amendment must be adopted by July 2, 2015 while meeting several time-consuming processing requirements, the City would appreciate having your input no later than November 7, 2014. If you have any questions or need additional information about the City's efforts, please contact Planning Consultant Charlie Simpson at (209) 941-7297 or csimpson@ci.lathrop.ca.us.

Yours truly,

Rebecca Willis
Community Development Director

Charlie Simpson

From: LaMar-Haas, Victoria@CalOES <Victoria.LaMar-Haas@CalOES.ca.gov>
Sent: Monday, October 13, 2014 1:12 PM
To: Charlie Simpson
Cc: Lara, Jose@CalOES; Boemecke, Wendy@CalOES
Subject: General Plan Update Information Request
Attachments: City of Lathrop. 2 sec EQ shaking intensity 10.13.14.png; City of Lathrop. CA specific Flood Map.10.13.14.png; City of Lathrop.1 sec EQ shaking intensity.10.13.14.png; City of Lathrop.Fault Lines.10.13.14.png; City of Lathrop.FEMA Flood Map.10.13.14.png; City of Lathrop.Fire Severity Map.10.13.14.png; My Hazards My Plan flyer.pdf

Dear Mr. Simpson:

Cal OES is in receipt of your letter dated October 6, 2014, requesting information for the City of Lathrop's General Plan Update. Per your request, utilizing the Cal OES My Plan interactive GIS mapping tool, we are attaching the risk maps for the City of Lathrop for the following:

- City of Lathrop Fault Map
- City of Lathrop 1 second Seismic Shaking Intensity Map
- City of Lathrop 2 second Seismic Shaking Intensity Map
- City of Lathrop FEMA Flood Map
- City of Lathrop CA Specific Map
- City of Lathrop Wildfire Intensity Map

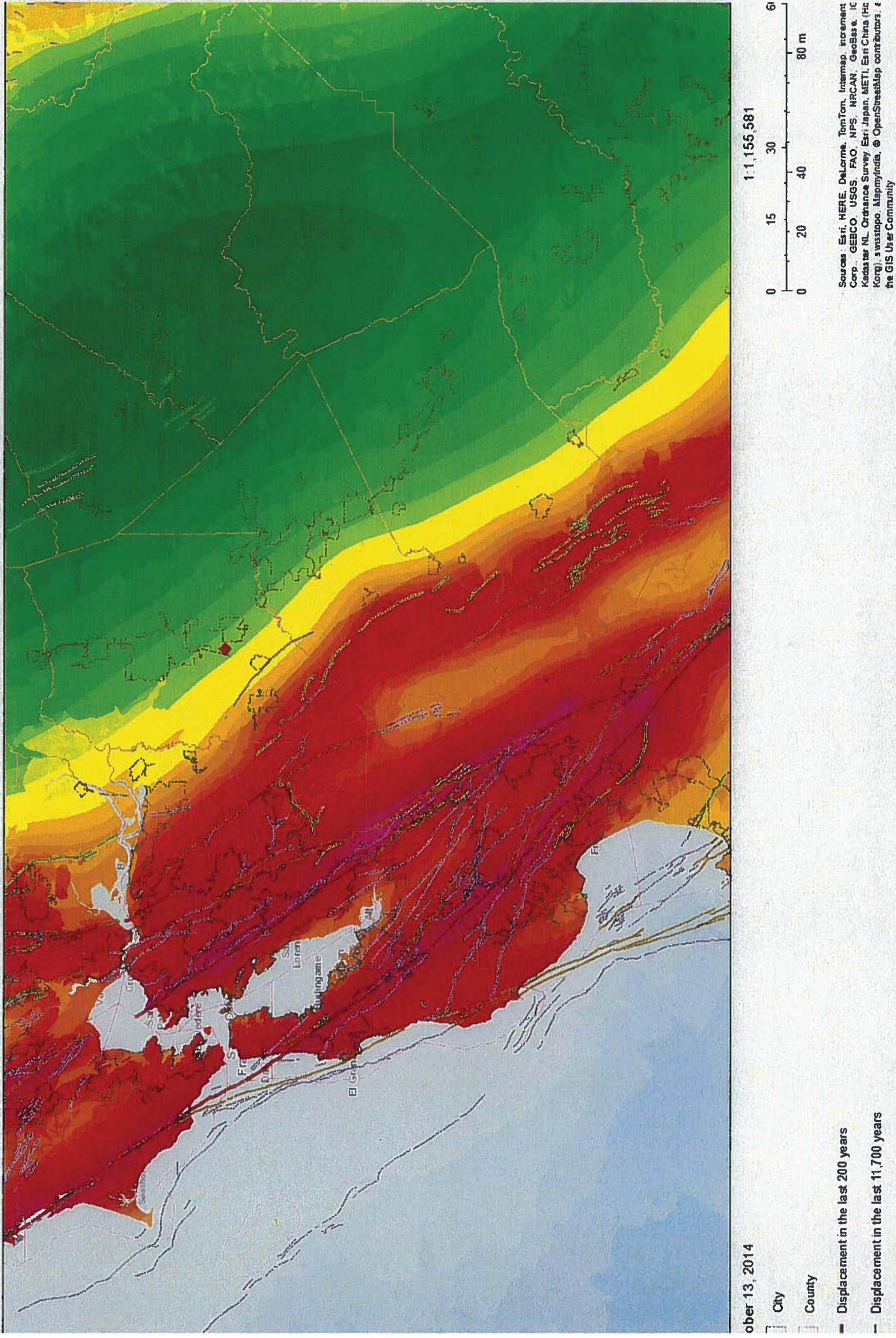
In addition, we have included information on how to access risk information specific to your jurisdiction on both the My Plan and My Hazards databases via the web.

Should you have any questions regarding the information provided, please do not hesitate to contact me.

Victoria LaMar-Haas

Victoria LaMar-Haas, Senior Emergency Services Coordinator
Hazard Mitigation Planning
California Governor's Office of Emergency Services
3650 Schriever Avenue
Mather, CA 95655
Desk: 916-845-8531
FAX: 916-845-8397
E-Mail: victoria.lamar-haas@calema.ca.gov

City of Lathrop 2 Second EQ shaking intensity

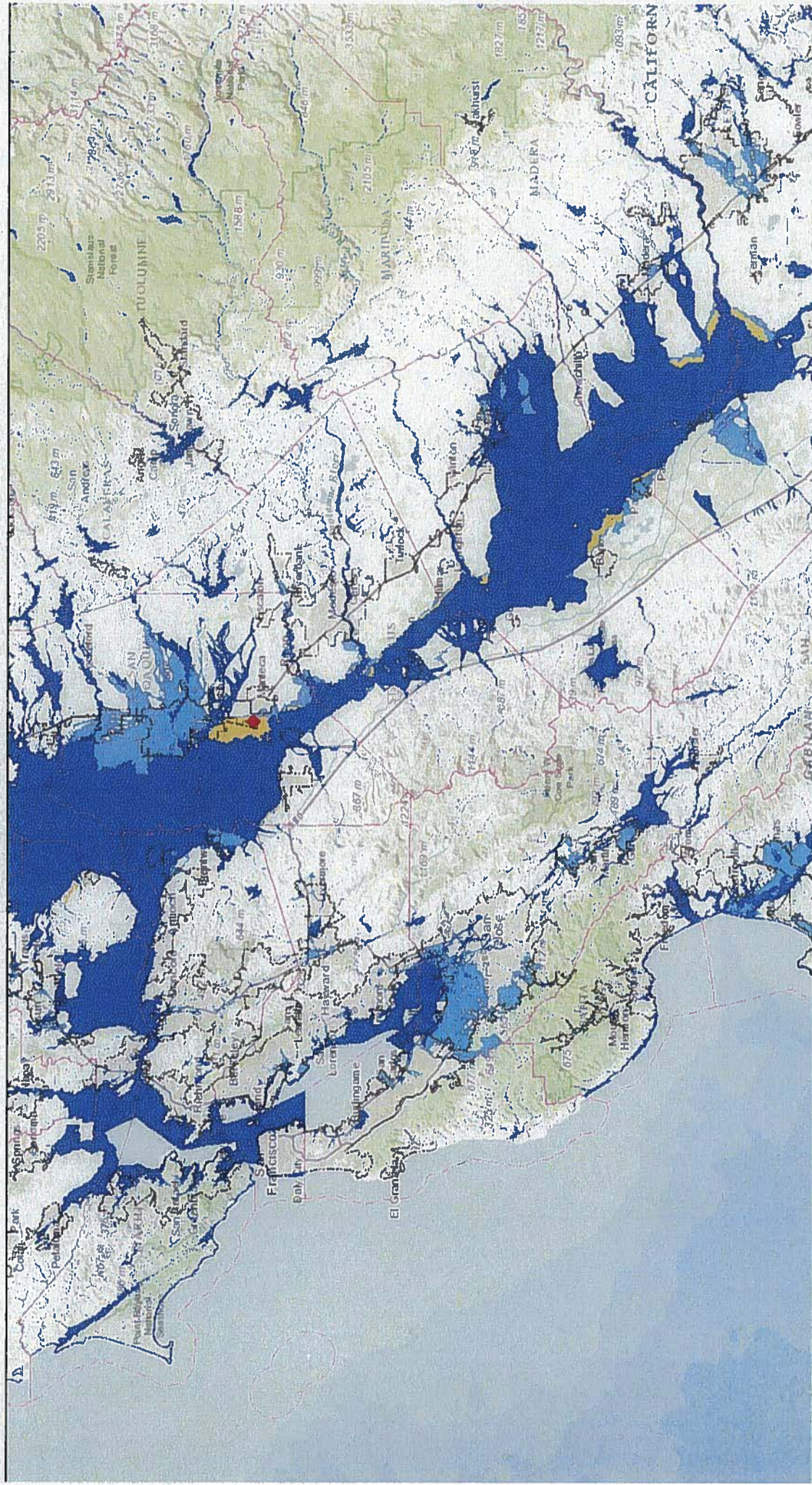


October 13, 2014

City

County

City of Lathrop CA specific flood map 10.13.14



October 13, 2014

City

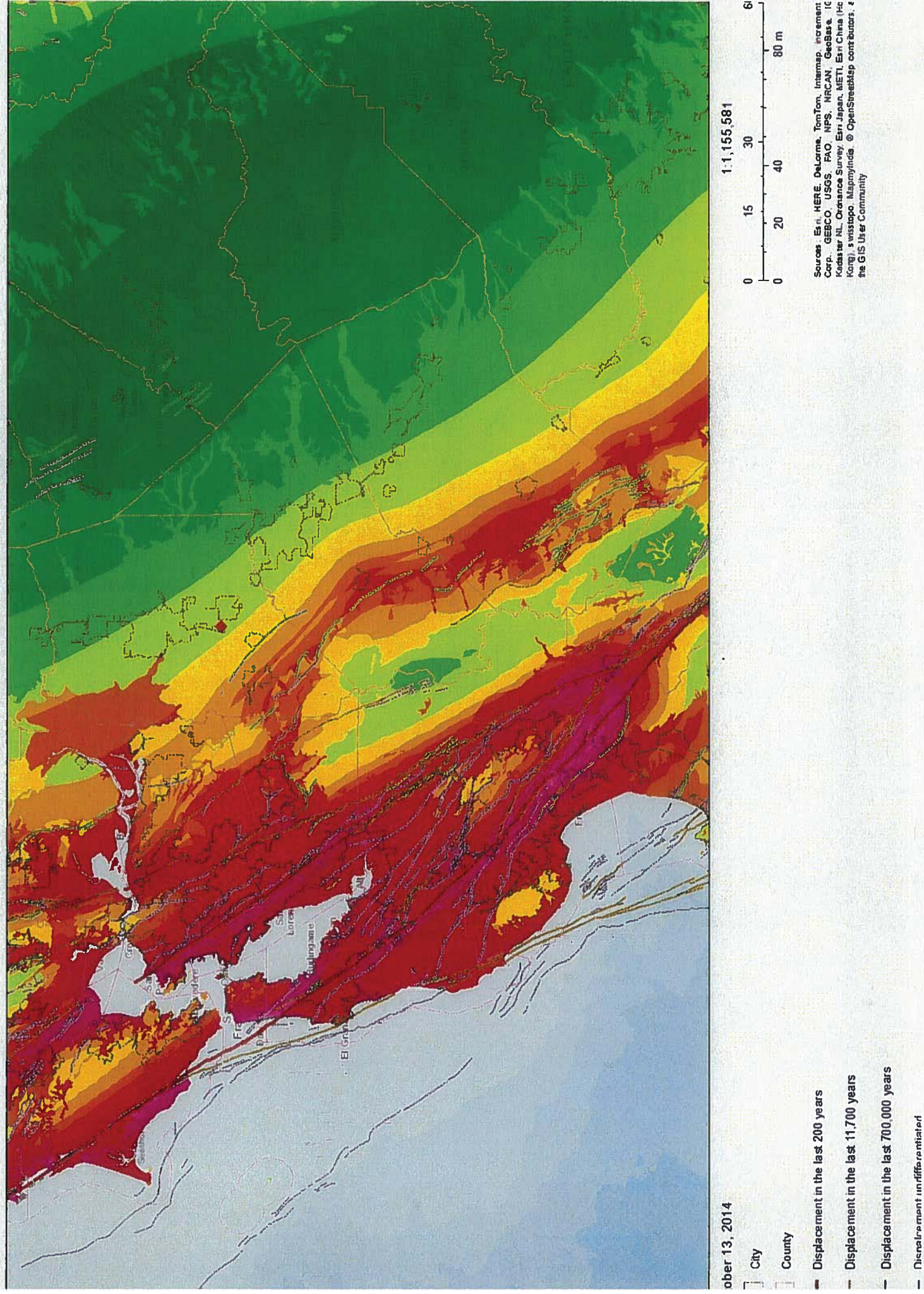
County

1:1,155,581



Sources: Esri, HERE, DeLorme, TomTom, Intermap, increment Corp., GEBCO, USGS, FAO, MISC, NRCAN, GeoBC, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), Swisstopo, Mapbox India, OpenStreetMap contributors, and the GIS User Community

City of Lathrop 1 Second EQ shaking intensity



City of Lathrop Fault Lines



October 13, 2014

City

County

Displacement in the last 200 years

Displacement in the last 11,700 years

Displacement in the last 700,000 years

Displacement undifferentiated

Within Zone

1:1,155,581

Sources: Esri, HERE, DeLorme, TomTom, Intermap, increment Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBC, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), Swisstopo, Mapbox, OpenStreetMap contributors, and the GIS User Community

City of Lathrop FEMA flood map 10.13.14



October 13, 2014

City

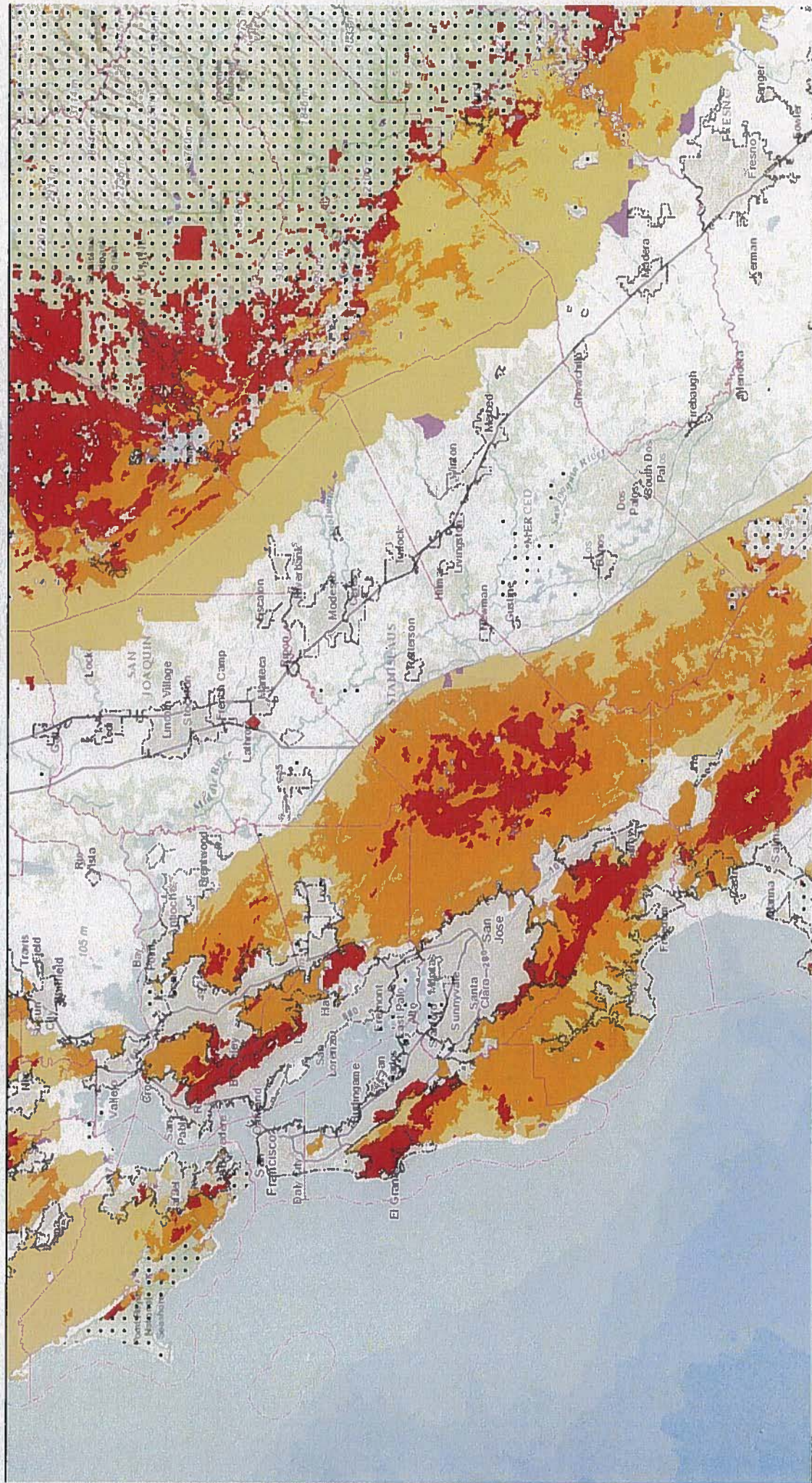
County

1:1,155,581

0 15 30 60
0 20 40 80 m

Sources: Esri, HERE, DeLorme, TomTom, Intermap, increment Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IC, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), Swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community

City of Lathrop.Fire Severity Map.10.13.14



October 13, 2014

- City
- County
- LRA Recommended Very High
- SRA/LRA Awaiting Zoning
- FRA

- SRA, Very High
- SRA, High
- SRA, Moderate

Sources: Esri, HERE, DeLorme, TomTom, Intermap, increment Corp., GEBCO, USGS, NPS, NRCAN, GeoBasis, IC Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), Swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community

MyPlan



Cal OES
GOVERNOR'S OFFICE
OF EMERGENCY SERVICES



What is MyPlan?

MyPlan, available on the Cal EMA hazard mitigation web portal, assists city, county, special district, state and tribal user access in assembling and assessing GIS information on natural hazards in California.

The MyPlan tool provides an **easy-to-use interface** where planners can specify views, opacity, and layering order to create a map for their Hazard Mitigation Plan area. These maps can be used in applying for federal grants or in development of mitigation plans. The tool is exportable for use by other websites, such as those of local government, and is being adopted by the states of Arizona and Nevada.

The project was undertaken through a federal grant under the Disaster Mitigation Act of 2000. MyPlan is a collaborative effort between Cal EMA, the California Natural Resources Agency and FEMA, with assistance from California Polytechnic State University-San Luis Obispo.

What is its purpose?

MyPlan facilitates city, county, special district, state and tribe user access to federal and state produced GIS data for use in creating maps suitable for preparing, upgrading and reviewing Local Hazard Mitigation Plans, General Plan Safety Elements, Local Coastal Plans and other hazard mitigation planning efforts.

Presently, GIS datasets created by federal and state agencies exist online at multiple websites developed by sponsoring agencies. MyPlan consolidates, on a single site, specialized user access to many separate GIS datasets describing natural hazards, risk, and vulnerability allowing site users to create quality GIS-based hazard maps for their local area without the need to own dedicated GIS software.

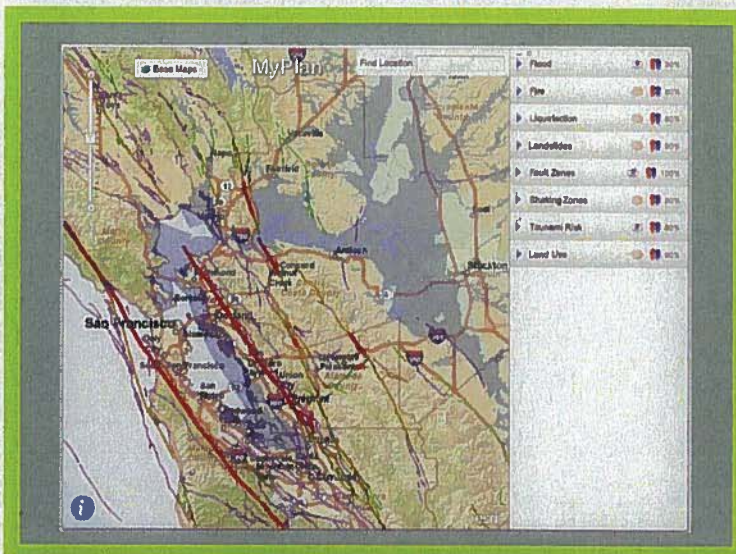
For more information please contact:

Victoria LaMar-Haas
(916) 845-8531

or

Wendy Boemecke
916-845-8275

Cal OES Hazard Mitigation Division



<http://myplan.calema.ca.gov>

Benefits of MyPlan:

- Provides a single point of access for GIS hazard, risk, and vulnerability information to create enhanced quality GIS-based hazard maps.
- Reduces the financial burden for local GIS resources and eliminates the need to own dedicated GIS software.
- Improves decision-making capability for writing more effective hazard mitigation grant project proposals, and support grant reviews.
- Supports efforts to save lives, preserve property, and protect the environment.
- Facilitates grant identification and implementation of plans.
- Developed to be utilized as a national GIS model.



MyHazards



Cal OES
GOVERNOR'S OFFICE
OF EMERGENCY SERVICES



What is MyHazards?

California Environmental Resources Evaluation System (CERES) staff members have created two tools for the California Office of Emergency Services (Cal OES): MyHazards and MyPlan. Both tools are available through the Cal OES Hazard Mitigation Web Portal.

MyHazards is a tool for the general public to discover hazards in their area (earthquake, flood, fire, tsunami) and learn steps to reduce personal risk.

What is its purpose?

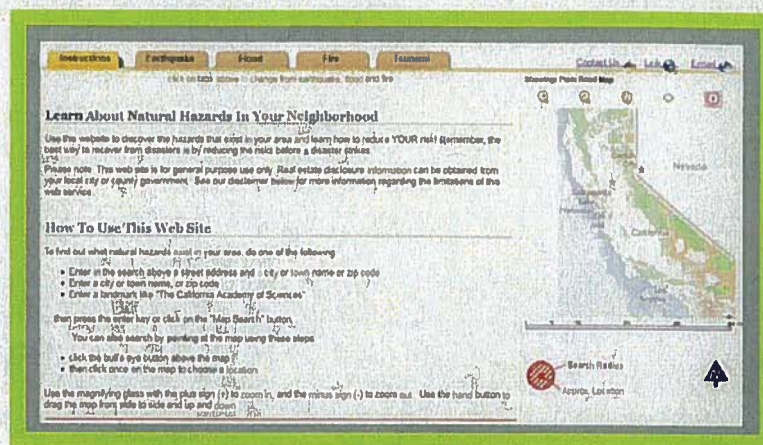
We all understand that disasters will continue to occur throughout California. Hazard mitigation saves lives, preserves property, and protects the environment during times of disaster. A variety of mitigation activities can be done by individuals, businesses, and government, but the types of hazards vary across the state.

Ensuring that all communities are covered by a local hazard mitigation plan is a high priority. Such plans are necessary to receive federal financial assistance for hazard mitigation.

The Cal OES Hazard Mitigation Web Portal helps users identify risks in their neighborhood, develop hazard mitigation plans, apply for grants, and implement and monitor plans. It serves as a one-stop location for information on hazard mitigation in California.

How does MyHazards work?

Using the MyHazards tool, users may enter an address, city, zip code, or may select a location from a map. The map targets the location, and allows users to zoom and scroll to their desired view. The bull's eye button can be used to select a particular location. The screen then presents information on the risks identified within the search radius, and recommended actions.



MyHazards tool

Benefits of MyHazards:

- Supports efforts to save lives, preserve property, and protect the environment
- Contributes toward saving money at every level through effective hazard mitigation
- Facilitates identification of hazards by individuals, businesses, and local government
- Facilitates develop of Hazard Mitigation Plans
- Facilitates grant identification and implementation of plans

The California Hazard Mitigation Portal is operated by the California Office of Emergency Services (Cal OES). The MyHazards and MyPlan tools are produced by California Environmental Resources Evaluation System (CERES) staff. For more information, contact:

CERES

801 K Street
16th Floor
Sacramento, CA 95814
P: 916-322-3488



<http://myhazards.calema.ca.gov>

Charlie Simpson

From: LaMar-Haas, Victoria@CalOES <Victoria.LaMar-Haas@CalOES.ca.gov>
Sent: Monday, October 13, 2014 1:12 PM
To: Charlie Simpson
Cc: Lara, Jose@CalOES; Boemecke, Wendy@CalOES
Subject: General Plan Update Information Request
Attachments: City of Lathrop. 2 sec EQ shaking intensity 10.13.14.png; City of Lathrop. CA specific Flood Map.10.13.14.png; City of Lathrop.1 sec EQ shaking intensity.10.13.14.png; City of Lathrop.Fault Lines.10.13.14.png; City of Lathrop.FEMA Flood Map.10.13.14.png; City of Lathrop.Fire Severity Map.10.13.14.png; My Hazards My Plan flyer.pdf

Dear Mr. Simpson:

Cal OES is in receipt of your letter dated October 6, 2014, requesting information for the City of Lathrop's General Plan Update. Per your request, utilizing the Cal OES My Plan interactive GIS mapping tool, we are attaching the risk maps for the City of Lathrop for the following:

- City of Lathrop Fault Map
- City of Lathrop 1 second Seismic Shaking Intensity Map
- City of Lathrop 2 second Seismic Shaking Intensity Map
- City of Lathrop FEMA Flood Map
- City of Lathrop CA Specific Map
- City of Lathrop Wildfire Intensity Map

In addition, we have included information on how to access risk information specific to your jurisdiction on both the My Plan and My Hazards databases via the web.

Should you have any questions regarding the information provided, please do not hesitate to contact me.

Victoria LaMar-Haas

Victoria LaMar-Haas, Senior Emergency Services Coordinator
Hazard Mitigation Planning
California Governor's Office of Emergency Services
3650 Schriever Avenue
Mather, CA 95655
Desk: 916-845-8531
FAX: 916-845-8397
E-Mail: victoria.lamar-haas@calema.ca.gov

STATE OF CALIFORNIA

Edmund G. Brown, Jr. Governor

NATIVE AMERICAN HERITAGE COMMISSION

1550 Harbor Blvd, Suite 100
West Sacramento, CA 95691
(916) 373-3710
Fax (916) 373-5471



January 26, 2015

Charlie Simpson
CITY OF LATHROP
390 Towne Center Dr.
Lathrop, CA 95330

FAX: 209-941-7268

Number of Pages: 2

RE: SB 18: Amendment of Lathrop General Plan, San Joaquin County

To Mr. Simpson;

Government Code §65352.3 requires local governments to consult with California Native American tribes identified by the Native American Heritage Commission (NAHC) for the purpose of protecting, and/or mitigating impacts to cultural places. Attached is a consultation list of tribes with traditional lands or cultural places located within the requested General Plan boundaries.

As a part of consultation, the NAHC recommends that local governments conduct record searches through the NAHC and California Historic Resources Information System (CHRIS) to determine if any cultural places are located within the area(s) affected by the proposed action. A *Sacred Lands File* search was completed with negative results. Local governments should be aware that records maintained by the NAHC and CHRIS are not exhaustive, and a negative response to these searches does not preclude the existence of a cultural place. A tribe may be the only source of information regarding the existence of a cultural

If you receive notification of change of addresses and phone numbers from Tribes, please notify me. With your assistance we are able to assure that our consultation list contains current information.

If you have any questions, please contact me at (916) 373-3713.

Sincerely,

A handwritten signature in cursive script, appearing to read "Debbie Pilas-Treadway".

Debbie Pilas-Treadway
Environmental Specialist III

**Native American Contacts
San Joaquin County
January 26, 2015**

North Valley Yokuts Tribe
Catherine Erolinda Perez, Chairperson
P.O. Box 717
Inden, CA 95236
anutes@verizon.net
209) 887-3415

Ohlone/Costanoan
Northern Valley Yokuts
Bay Miwok

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resource Section 5097.98 of the Public Resources Code

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed

APPENDIX B

MAJOR SB 5 BILLS

(SB 5, SB 17, AB 5, AB 70, AB 162)



California LEGISLATIVE INFORMATION

SB-5 Flood management. (2007-2008)

Senate Bill No. 5

CHAPTER 364

An act to add Sections 65007, 65302.9, 65860.1, 65865.5, 65962, and 66474.5 to, the Government Code, to add Section 50465 to the Health and Safety Code, and to add Chapter 4 (commencing with Section 8200) to Part 1 of, and to add Part 6 (commencing with Section 9600) to, Division 5 of, the Water Code, relating to flood management.

[Approved by Governor October 10, 2007. Filed with Secretary of State
October 10, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

SB 5, Machado. Flood management.

(1) The Planning and Zoning Law requires a city, county, and city and county to adopt a comprehensive, long-term general plan for the physical development of the city, county, or city and county that addresses a number of elements. The law authorizes the legislative body of a city or county to adopt zoning ordinances regulating, among other things, the use of buildings, structures, and land. The law authorizes a city or county to enter into a development agreement with a person having a legal or equitable interest in real property for the development of the property.

This bill would require each city, including a charter city, and county within the Sacramento-San Joaquin Valley, within 24 months of the adoption of a specified flood protection plan by the Central Valley Flood Protection Board, to amend its general plan to include data and analysis contained in that flood protection plan, goals and policies for the protection of lives and property that will reduce the risk of flood damage, and related feasible implementation measures. The bill would require each city, including a charter city, and county within the Sacramento-San Joaquin Valley, within 36 months of the adoption of that flood protection plan but not more than 12 months after the amendment of the general plan under the bill's provisions, to amend its zoning ordinance so that it is consistent with the general plan, as amended. By establishing requirements on cities and counties, the bill would impose a state-mandated local program.

On the effective date of those amendments, a city, including a charter city, and county within the Sacramento-San Joaquin Valley would be prohibited from entering a development agreement for any property that is located within a flood hazard zone unless the city or county makes certain findings, based on substantial evidence. On the effective date of those amendments, a city, including a charter city, and county within the Sacramento-San Joaquin Valley would also be prohibited from approving any discretionary permit or entitlement, or any ministerial permit that would result in the construction of a new residence, for a project that is located within a flood hazard zone unless the city or county makes certain findings, based on substantial evidence.

(2) The Subdivision Map Act requires the legislative body of a city or county to deny approval of a tentative map, or a parcel map for which a tentative map was not required under certain circumstances.

The bill, after the amendments to the general plan and the zoning ordinance described in (1) have become effective, would require the legislative body of each city, including a charter city, and county within the Sacramento-San Joaquin Valley to deny approval of a tentative map, or a parcel map for which a tentative map

was not required, for any subdivision that is located within a flood hazard zone unless the city or county makes specified findings, based on substantial evidence.

(3) The Department of Water Resources performs various flood control activities throughout the state. Existing law authorizes the Reclamation Board to engage in various flood control activities along the Sacramento River and San Joaquin River, their tributaries, and related areas.

This bill would require the department, on or before December 31, 2010, to prepare a strategic flood protection plan for the Sacramento-San Joaquin Valley. The department would be required to prepare a plan identified as the Central Valley Flood Protection Plan not later than January 1, 2012, and the Central Valley Flood Protection Board would be required to adopt the plan not later than July 1, 2012. The bill would require the plan to include specified components, including a description of the Sacramento-San Joaquin River Flood Management System, a description of the facilities included in the State Plan of Flood Control, an evaluation of the structural improvements necessary to bring each of the facilities of the State Plan of Flood Control to within its design standard, and a list of facilities recommended to be removed from the State Plan of Flood Control. The plan would be required to be updated every 5 years.

The bill would authorize the department to implement certain flood protection improvements before the adoption of the plan if the Director of Water Resources makes a specified determination. Upon the adoption of the plan by the board, certain facilities would be deemed to be a part of the Sacramento-San Joaquin River Flood Management System, and the board would be required to take action necessary to remove facilities from the State Plan of Flood Control that are recommended for removal in the plan.

The bill would require the department, on or before January 1, 2009, to propose for adoption and approval by the California Building Standards Commission updated requirements to the California Building Standards Code for construction in areas protected by the facilities of the Central Valley Flood Protection Plan where levels are anticipated to exceed 3 feet for the 200-year flood event. The department would be required to develop a cost-sharing formula for specified bond funds for repairs or improvements of facilities included in the plan.

The bill would require each county, consistent with the adoption of the plan, to collaborate with cities within its jurisdiction to develop flood emergency plans. The bill would require each city, including a charter city, and county, consistent with the adoption of the plan, to collaborate with the state and local flood management agencies to provide cost-effective strategies for reducing flood risk to existing economically disadvantaged communities located in nonurbanized areas and to develop funding mechanisms to finance local flood protection responsibilities. By establishing new land use planning requirements on cities and counties, the bill would impose a state-mandated local program. The bill would authorize a local agency to prepare a local plan of flood protection in accordance with specified requirements.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(5) The bill would become operative only if AB 162 and SB 17 are enacted and become operative.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65007 is added to the Government Code, to read:

65007. As used in this title, the following terms have the following meanings, unless the context requires otherwise:

(a) "Adequate progress" means all of the following:

(1) The total project scope, schedule, and cost of the completed flood protection system have been developed to meet the appropriate standard of protection.

(2) Revenues sufficient to fund each year of the project schedule developed in paragraph (1) have been identified and, in any given year and consistent with that schedule, at least 90 percent of the revenues scheduled to have been received by that year have been appropriated and are currently being expended.

(3) Critical features of the flood protection system are under construction, and each critical feature is progressing as indicated by the actual expenditure of the construction budget funds.

(4) The city or county has not been responsible for any significant delay in the completion of the system.

(5) The local flood management agency shall provide the Department of Water Resources and the Central Valley Flood Protection Board with the information specified in this subdivision sufficiently to determine substantial completion of the required flood protection. The local flood management agency shall annually report to the Central Valley Flood Protection Board on the efforts in working toward completion of the flood protection system.

(b) "Central Valley Flood Protection Plan" has the same meaning as that set forth in Section 9610 of the Water Code.

(c) "Developed area" has the same meaning as that set forth in Section 59.1 of Title 44 of the Code of Federal Regulations.

(d) "Flood hazard zone" means an area subject to flooding that is delineated as either a special hazard area or an area of moderate hazard on an official flood insurance rate map issued by the Federal Emergency Management Agency. The identification of flood hazard zones does not imply that areas outside the flood hazard zones, or uses permitted within flood hazard zones, will be free from flooding or flood damage.

(e) "Nonurbanized area" means a developed area or an area outside a developed area in which there are less than 10,000 residents.

(f) "Project levee" means any levee that is part of the facilities of the State Plan of Flood Control, as defined in Section 5096.805 of the Public Resources Code.

(g) "Sacramento-San Joaquin Valley" means any lands in the bed or along or near the banks of the Sacramento River or San Joaquin River, or any of their tributaries or connected therewith, or upon any land adjacent thereto, or within any of the overflow basins thereof, or upon any land susceptible to overflow therefrom. The Sacramento-San Joaquin Valley does not include lands lying within the Tulare Lake basin, including the Kings River.

(h) "State Plan of Flood Control" has the same meaning as that set forth in subdivision (j) of Section 5096.805 of the Public Resources Code.

(i) "Urban area" means a developed area in which there are 10,000 residents or more.

(j) "Urbanizing area" means a developed area or an area outside a developed area that is planned or anticipated to have 10,000 residents or more within the next 10 years.

(k) "Urban level of flood protection" means the level of protection that is necessary to withstand flooding that has a 1-in-200 chance of occurring in any given year using criteria consistent with, or developed by, the Department of Water Resources.

SEC. 2. Section 65302.9 is added to the Government Code, to read:

65302.9. (a) Within 24 months of the adoption of the Central Valley Flood Protection Plan by the Central Valley Flood Protection Board pursuant to Section 9612 of the Water Code, each city and county within the Sacramento-San Joaquin Valley, shall amend its general plan to contain all of the following:

(1) The data and analysis contained in the Central Valley Flood Protection Plan, including, but not limited to, the locations of the facilities of the State Plan of Flood Control, the locations of other flood management facilities, the locations of the real property protected by those facilities, and the locations of flood hazard zones.

(2) Goals, policies, and objectives, based on the data and analysis identified pursuant to paragraph (1), for the protection of lives and property that will reduce the risk of flood damage.

(3) Feasible implementation measures designed to carry out the goals, policies, and objectives established pursuant to paragraph (2).

(b) To assist each city or county in complying with this section, the Central Valley Flood Protection Board, the Department of Water Resources, and local flood agencies shall collaborate with cities or counties by providing them with information and other technical assistance.

(c) In implementing this section, each city and county, both general law and charter, within the Sacramento-San Joaquin Valley, shall comply with this article, including, but not limited to, Sections 65300.5, 65300.7, 65300.9, and 65301.

(d) Notwithstanding any other provision of law, this section applies to all cities, including charter cities, and counties within the Sacramento-San Joaquin Valley. The Legislature finds and declares that flood protection in the Sacramento and San Joaquin Rivers drainage areas is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution.

SEC. 3. Section 65860.1 is added to the Government Code, to read:

65860.1. (a) Within 36 months of the adoption Central Valley Flood Protection Plan by the Central Valley Flood Protection Board pursuant to Section 9612 of the Water Code, but not more than 12 months after the amendment of its general plan pursuant to Section 65302.9, each city and county within the Sacramento-San Joaquin Valley shall amend its zoning ordinance so that it is consistent with the general plan, as amended.

(b) Notwithstanding any other provision of law, this section applies to all cities, including charter cities, and counties within the Sacramento-San Joaquin Valley. The Legislature finds and declares that flood protection in the Sacramento and San Joaquin Rivers drainage areas is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution.

SEC. 4. Section 65865.5 is added to the Government Code, to read:

65865.5. (a) Notwithstanding any other provision of law, after the amendments required by Section 65302.9 and 65860.1 have become effective, the legislative body of a city or county within the Sacramento-San Joaquin Valley shall not enter into a development agreement for any property that is located within a flood hazard zone unless the city or county finds, based on substantial evidence in the record, one of the following:

(1) The facilities of the State Plan of Flood Control or other flood management facilities protect the property to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(2) The city or county has imposed conditions on the development agreement that will protect the property to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(3) The local flood management agency has made adequate progress on the construction of a flood protection system which will result in flood protection equal to or greater than the urban level of flood protection in urban or urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas for property located within a flood hazard zone, intended to be protected by the system. For urban and urbanizing areas protected by project levees, the urban level of flood protection shall be achieved by 2025.

(b) The effective date of amendments referred to in this section shall be the date upon which the statutes of limitation specified in subdivision (c) of Section 65009 have run or, if the amendments and any associated environmental documents are challenged in court, the validity of the amendments and any associated environmental documents has been upheld in a final decision.

(c) Nothing in this section shall be construed to change or diminish existing requirements of local floodplain management laws, ordinances, resolutions, or regulations necessary to local agency participation in the national flood insurance program.

SEC. 5. Section 65962 is added to the Government Code, to read:

65962. (a) Notwithstanding any other provision of law, after the amendments required by Sections 65302.9 and 65860.1 have become effective, each city and county within the Sacramento-San Joaquin Valley shall not approve any discretionary permit or other discretionary entitlement, or any ministerial permit that would result in the construction of a new residence, for a project that is located within a flood hazard zone unless the city or county finds, based on substantial evidence in the record, one of the following:

(1) The facilities of the State Plan of Flood Control or other flood management facilities protect the project to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(2) The city or county has imposed conditions on the permit or discretionary entitlement that will protect the project to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(3) The local flood management agency has made adequate progress on the construction of a flood protection system which will result in flood protection equal to or greater than the urban level of flood protection in urban or urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas for property located within a flood hazard zone, intended to be protected by the system. For urban and urbanizing areas protected by project levees, the urban level of flood protection shall be achieved by 2025.

(b) The effective date of amendments referred to in this section shall be the date upon which the statutes of limitation specified in subdivision (c) of Section 65009 have run or, if the amendments and any associated environmental documents are challenged in court, the validity of the amendments and any associated environmental documents has been upheld in a final decision.

(c) Nothing in this section shall be construed to change or diminish existing requirements of local floodplain management laws, ordinances, resolutions, or regulations necessary to local agency participation in the national flood insurance program.

SEC. 6. Section 66474.5 is added to the Government Code, to read:

66474.5. (a) Notwithstanding any other provision of law, after the amendments required by Sections 65302.9 and 65860.1 have become effective, the legislative body of each city and county within the Sacramento-San Joaquin Valley shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, for any subdivision that is located within a flood hazard zone unless the city or county finds, based on substantial evidence in the record, one of the following:

(1) The facilities of the State Plan of Flood Control or other flood management facilities protect the subdivision to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(2) The city or county has imposed conditions on the subdivision that will protect the project to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(3) The local flood management agency has made adequate progress on the construction of a flood protection system which will result in flood protection equal to or greater than the urban level of flood protection in urban or urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas for property located within a flood hazard zone, intended to be protected by the system. For urban and urbanizing areas protected by project levees, the urban level of flood protection shall be achieved by 2025.

(b) The effective date of amendments referred to in this section shall be the date upon which the statutes of limitation specified in subdivision (c) of Section 65009 have run or, if the amendments and any associated environmental documents are challenged in court, the validity of the amendments and any associated environmental documents has been upheld in a final decision.

(c) Nothing in this section shall be construed to change or diminish existing requirements of local floodplain management laws, ordinances, resolutions, or regulations necessary to local agency participation in the national flood insurance program.

SEC. 7. Section 50465 is added to the Health and Safety Code, to read:

50465. (a) On or before January 1, 2009, the Department of Water Resources shall propose for adoption and approval by the California Building Standards Commission updated requirements to the California Building Standards Code for construction in areas protected by the facilities of the Central Valley Flood Protection Plan where flood levels are anticipated to exceed three feet for the 200-year flood event. The amendments to the California Building Standards Code shall be sufficient to reduce the risk of flood damage and to protect life, safety, and the construction in those areas.

(b) Before the department proposes the amendments to the California Building Standards Code required pursuant to subdivision (a), the department shall consult with the Central Valley Flood Protection Board, the Division of the State Architect, and the Office of the State Fire Marshal.

SEC. 8. Chapter 4 (commencing with Section 8200) is added to Part 1 of Division 5 of the Water Code, to read:

CHAPTER 4. Local Plans of Flood Protection

8200. This chapter shall be known and may be cited as the Local Flood Protection Planning Act.

8201. (a) A local agency may prepare a local plan of flood protection in accordance with this chapter.

(b) A local plan of flood protection shall include all of the following:

(1) A strategy to meet the urban level of flood protection, including planning for residual flood risk and system resiliency.

(2) Identification of all types of flood hazards.

(3) Identification and risk assessment of the various facilities that provide flood protection for flood hazard areas, for current and future land uses.

(4) Identification of current and future flood corridors.

(5) Identification of needed improvements and costs of those improvements to the flood protection facilities that are necessary to meet flood protection standards.

(6) An emergency response and evacuation plan for flood-prone areas.

(7) A strategy to achieve multiple benefits, including flood protection, groundwater recharge, ecosystem health, and reduced maintenance costs over the long term.

(8) A long-term funding strategy for improvement and ongoing maintenance and operation of flood protection facilities.

(c) A local agency that is not a city or county that prepares a plan pursuant to this chapter must consult with the cities and counties that have jurisdiction over the planning area to assure that the local plan of flood protection is consistent with local general plans.

(d) Plans prepared pursuant to this chapter, within the Sacramento-San Joaquin Valley as defined by Section 9602, shall be consistent with the Central Valley Flood Protection Plan pursuant to Section 9610.

SEC. 9. Part 6 (commencing with Section 9600) is added to Division 5 of the Water Code, to read:

PART 6. Central Valley Flood Protection

CHAPTER 1. General Provisions

9600. This act shall be known and may be cited as the Central Valley Flood Protection Act of 2008.

9601. The Legislature finds and declares all of the following:

(a) The Central Valley of California is experiencing unprecedented development, resulting in the conversion of historically agricultural lands and communities to densely populated residential and urban centers.

(b) The Legislature recognizes that by their nature, levees, which are earthen embankments typically founded on fluvial deposits, cannot offer complete protection from flooding, but can decrease its frequency.

(c) The Legislature recognizes that the level of flood protection afforded rural and agricultural lands by the original flood control system would not be adequate to protect those lands if they are developed for urban uses, and that a dichotomous system of flood protection for urban and rural lands has developed through many years of practice.

(d) The Legislature further recognizes that levees built to reclaim and protect agricultural land may be inadequate to protect urban development unless those levees are significantly improved.

(e) Cities and counties rely upon federal flood plain information when approving developments, but the information available is often out of date and the flood risk may be greater than that indicated using available federal information.

(f) The Legislature recognizes that the current federal flood standard is not sufficient in protecting urban and urbanizing areas within flood prone areas throughout the Central Valley.

(g) Linking land use decisions to flood risk and flood protection estimates comprises only one element of improving lives and property in the Central Valley. Federal, state, and local agencies may construct and operate flood protection facilities to reduce flood risks, but flood risks will nevertheless remain for those who choose to reside in Central Valley flood plains. Making those flood risks more apparent will help ensure that Californians make careful choices when deciding whether to build homes or live in Central Valley flood plains, and if so, whether to prepare for flooding or maintain flood insurance.

9602. Unless the context requires otherwise, the definitions set forth in this section govern the construction of this part.

(a) "Board" means the Central Valley Flood Protection Board.

(b) "Plan" means the Central Valley Flood Protection Plan.

(c) "Project levee" means any levee that is part of the facilities of the State Plan of Flood Control, as defined in Section 5096.805 of the Public Resources Code.

(d) "Public safety infrastructure" means public safety infrastructure necessary to respond to a flood emergency, including, but not limited to, street and highway evacuation routes, public utilities necessary for public health and safety, including drinking water and wastewater treatment facilities, and hospitals.

(e) "Sacramento-San Joaquin Valley" means any lands in the bed or along or near the banks of the Sacramento River or San Joaquin River, or any of their tributaries or connected therewith, or upon any land adjacent thereto, or within any of the overflow basins thereof, or upon any land susceptible to overflow therefrom. The Sacramento-San Joaquin Valley does not include lands lying within the Tulare Lake basin, including the Kings River.

(f) "State Plan of Flood Control" has the meaning set forth in subdivision (j) of Section 5096.805 of the Public Resources Code.

(g) "System" means the Sacramento-San Joaquin River Flood Management System described in Section 9611.

(h) "Urban area" has the same meaning as that set forth in subdivision (k) of Section 5096.805 of the Public Resources Code.

(i) "Urban level of flood protection" means the level of protection that is necessary to withstand flooding that has a 1-in-200 chance of occurring in any given year using criteria consistent with, or developed by, the department.

9603. (a) The Central Valley Flood Protection Plan shall be a descriptive document, and neither the plan nor anything in this part shall be construed to expand the liability of the state for the operation or maintenance of any flood management facility beyond the scope of the State Plan of Flood Control, except as specifically determined by the board pursuant to Section 9611. Neither the development nor the adoption of the Central Valley Flood Protection Plan shall be construed to constitute any commitment by the state to provide, to continue to provide, or to maintain at, or to increase flood protection to, any particular level.

(b) The Central Valley Flood Protection Plan reflects a systemwide approach to protecting the lands currently protected from flooding by existing facilities of the State Plan of Flood Control. Any flood protection benefits accruing to lands or communities outside the State Plan of Flood Control are incidental and shall not constitute any commitment by the state to provide, to continue to provide, or to maintain at, or to increase flood protection to, any particular level.

CHAPTER 2. Plan Development

9610. (a) By July 1, 2008, the department shall develop preliminary maps for the 100 and 200 year floodplains protected by project levees. The 100 year floodplain maps shall be prepared using criteria developed or accepted by the Federal Emergency Management Agency (FEMA).

(1) The department shall use available information from the 2002 Sacramento-San Joaquin River Basin Comprehensive Study, preliminary and regulatory FEMA flood insurance rate maps, recent floodplain studies and other sources to compile preliminary maps.

(2) The department shall provide the preliminary maps to cities and counties within the Sacramento-San Joaquin Valley for use as best available information relating to flood protection.

(3) The department shall post this information on the board's Internet Web site and may periodically update the maps as necessary.

(b) By July 1, 2008, the department shall give notice to cities in the Sacramento-San Joaquin Valley outside areas protected by project levees regarding maps and other information as to flood risks available from the Federal Emergency Management Agency or other federal, state or local agency.

(c) On or before December 31, 2010, the department shall prepare a status report on the progress and development of the Central Valley Flood Protection Plan pursuant to Section 9612. The department shall post this information on the board's Internet Web site, and make it available to the public.

9611. The Sacramento-San Joaquin River Flood Management System comprises all of the following:

(a) The facilities of the State Plan of Flood Control as that plan may be amended pursuant to this part.

(b) Any existing dam, levee, or other flood management facility that is not part of the State Plan of Flood Control if the board determines, upon recommendation of the department, that the facility does one or more of the following:

(1) Provides significant systemwide benefits for managing flood risks within the Sacramento-San Joaquin Valley.

(2) Protects urban areas within the Sacramento-San Joaquin Valley.

(c) Upon completion of the Central Valley Flood Protection Plan pursuant to this part, the department may identify and propose to the board additional structural and nonstructural facilities that may become facilities of the State Plan of Flood Control, consistent with the Central Valley Flood Protection Plan. The board may add those facilities to the State Plan of Flood Control based on a determination showing how the facility accomplishes the purposes identified in subdivision (b).

(d) For the purposes of subdivision (c), facilities that may become facilities of the State Plan of Flood Control include bypasses, floodway corridors, flood plain storage, or other projects that expand the capacity of the flood protection system in the Sacramento-San Joaquin Valley to provide flood protection.

9612. (a) The department shall prepare, and the board shall adopt, a plan identified as the Central Valley Flood Protection Plan in accordance with this part.

(b) No later than January 1, 2012, the department shall prepare the Central Valley Flood Protection Plan in accordance with this part, and shall transmit the plan to the board, which shall adopt the plan no later than July 1, 2012.

(c) The board shall hold at least two hearings to receive comments on the proposed plan. At least one hearing shall be held in the Sacramento Valley and at least one hearing shall be held in the San Joaquin Valley. The board shall also accept comments in writing with regard to the proposed plan.

(d) The board may make changes to the proposed plan to resolve issues raised in the hearings or to respond to comments received by the board. The board shall publish its proposed changes to the proposed plan at least two weeks before adopting the plan.

(e) The plan shall be updated in subsequent years ending in 2 and 7.

(f) The department or the board may appoint one or more advisory committees to assist in the preparation of the plan. If the department or the board appoints one or more advisory committees, the advisory committee or committees shall include representation by interested organizations.

9613. (a) Consistent with subdivision (b) of Section 5096.821 of the Public Resources Code, the department may implement flood protection improvements for urban areas protected by facilities of the State Plan of Flood Control before the adoption of Central Valley Flood Protection Plan if the director determines, in writing, that all of the following apply:

(1) The improvements are necessary and require state funding before the completion of the Central Valley Flood Protection Plan prepared pursuant to Section 9612.

(2) The improvements will reduce or avoid risk to human life in one or more urban areas.

(3) The improvements will not impair or impede future changes to regional flood protection or the Central Valley Flood Protection Plan.

(4) The improvements will be maintained by a local agency that has committed sufficient funding to maintain both the existing and improved facilities of the State Plan of Flood Control.

(5) The affected cities, counties, and other public agencies will have sufficient revenue resources for the operation and maintenance of the facility.

(6) Upon the allocation of funds for a project, the proposed project is ready for implementation.

(7) The improvements comply with existing law.

(b) The flood protection improvements authorized by this section may include improvements to specific facilities of the State Plan of Flood Control or acquisition of flood easements for floodways that support facilities of the State Plan of Flood Control to increase levels of flood protection for urban areas in accordance with subdivision (b) of Section 5096.821 of the Public Resources Code.

(c) The department and the board shall investigate and evaluate the feasibility of potential bypasses or floodways that would significantly reduce flood stage in the San Joaquin River Watershed, upstream and south of Paradise Cut.

9614. The plan shall include all of the following:

(a) A description of the Sacramento-San Joaquin River Flood Management System and the cities and counties included in the system.

(b) A description of the performance of the system and the challenges to modifying the system to provide appropriate levels of flood protection using available information.

(c) A description of the facilities included in the State Plan of Flood Control, including all of the following:

(1) The precise location and a brief description of each facility, a description of the population and property protected by the facility, the system benefits provided by the facility, if any, and a brief history of the facility, including the year of construction, major improvements to the facility, and any failures of the facility.

(2) The design capacity of each facility.

(3) A description and evaluation of the performance of each facility, including the following:

(A) An evaluation of failure risks due to each of the following:

(i) Overtopping.

(ii) Under seepage and seepage.

(iii) Structural failure.

(iv) Other sources of risk, including seismic risks, that the department or the board determines are applicable.

(B) A description of any uncertainties regarding performance capability, including uncertainties arising from the need for additional engineering evaluations or uncertainties arising from changed conditions such as changes in estimated channel capacities.

(d) A description of each existing dam that is not part of the State Plan of Flood Control that provides either significant systemwide benefits for managing flood risks within the Sacramento-San Joaquin Valley or protects urban areas within the Sacramento-San Joaquin Valley.

(e) A description of each existing levee and other flood management facility not described in subdivision (d) that is not part of the State Plan of Flood Control that provides either significant systemwide benefits for managing flood risks within the Sacramento-San Joaquin Valley or protects an urban area as defined by subdivision (k) of Section 5096.805 of the Public Resources Code.

(f) A description of the probable impacts of projected climate change, projected land use patterns, and other potential flood management challenges on the ability of the system to provide adequate levels of flood protection.

(g) An evaluation of the structural improvements and repairs necessary to bring each of the facilities of the State Plan of Flood Control to within its design standard. The evaluation shall include a prioritized list of recommended actions necessary to bring each facility not identified in subdivision (h) to within its design standard.

(h) The evaluation shall include a list of facilities recommended to be removed from the State Plan of Flood Control. For each facility recommended for removal, the evaluation shall identify both of the following:

(1) The reasons for proposing the removal of the facility from the State Plan of Flood Control.

(2) Any additional recommended actions associated with removing the facility from the State Plan of Flood Control.

(i) A description of both structural and nonstructural methods for providing an urban level of flood protection to current urban areas where an urban area means the same as set forth in subdivision (k) of Section 5096.805 of the Public Resources Code. The description shall also include a list of recommended next steps to improve urban flood protection.

(j) A description of structural and nonstructural means for enabling or improving systemwide riverine ecosystem function, including, but not limited to, establishment of riparian habitat and seasonal inundation of available flood plains where feasible.

9615. For the purposes of preparing the plan, the department shall collaborate with the United States Army Corps of Engineers and the owners and operators of flood management facilities.

9616. (a) The plan shall include a description of both structural and nonstructural means for improving the performance and elimination of deficiencies of levees, weirs, bypasses, and facilities, including facilities of the State Plan of Flood Control, and, wherever feasible, meet multiple objectives, including each of the following:

(1) Reduce the risk to human life, health, and safety from flooding, including protection of public safety infrastructure.

(2) Expand the capacity of the flood protection system in the Sacramento-San Joaquin Valley to either reduce floodflows or convey floodwaters away from urban areas.

(3) Link the flood protection system with the water supply system.

(4) Reduce flood risks in currently nonurbanized areas.

(5) Increase the engagement of local agencies willing to participate in improving flood protection, ensuring a better connection between state flood protection decisions and local land use decisions.

(6) Improve flood protection for urban areas to the urban level of flood protection.

(7) Promote natural dynamic hydrologic and geomorphic processes.

(8) Reduce damage from flooding.

(9) Increase and improve the quantity, diversity, and connectivity of riparian, wetland, flood plain, and shaded riverine aquatic habitats, including the agricultural and ecological values of these lands.

(10) Minimize the flood management system operation and maintenance requirements.

(11) Promote the recovery and stability of native species populations and overall biotic community diversity.

(12) Identify opportunities and incentives for expanding or increasing use of floodway corridors.

(13) Provide a feasible, comprehensive, and long-term financing plan for implementing the plan.

(14) Identify opportunities for reservoir reoperation in conjunction with groundwater flood storage.

(b) The plan shall include a prioritized list of recommended actions to reduce flood risks and meet the objectives described in subdivision (a).

CHAPTER 3. Plan Implementation

9620. Upon the adoption of the plan by the board, all of the following apply:

- (a) The facilities identified pursuant to subdivision (a) of Section 9614 shall be deemed to be part of the system.
- (b) The board shall act on the recommendations to remove facilities identified pursuant to subdivision (h) of Section 9614 from the State Plan of Flood Control.
- (c) The department shall develop a recommended schedule and funding plan to implement the recommendations of the plan. To develop the recommended schedule and funding plan, the department may collaborate with local and federal agencies.

9621. Consistent with the adoption of the Central Valley Flood Protection Plan pursuant to this part, each county shall collaborate with cities within its jurisdiction to develop flood emergency plans within 24 months of the adoption of the plan.

9622. Consistent with the adoption of the Central Valley Flood Protection Plan pursuant to this part, each city, county, and city and county shall collaborate with the state and local flood management agencies to provide relocation assistance or other cost-effective strategies for reducing flood risk to existing economically disadvantaged communities located in nonurbanized areas.

9623. Consistent with the adoption of the Central Valley Flood Protection Plan pursuant to this part, each city, county, and city and county shall collaborate with the state and local flood management agencies to develop funding mechanisms to finance local flood protection responsibilities by January 1, 2010.

9624. Notwithstanding any other provision of law, this part applies to all cities, including charter cities, and counties included in the plan pursuant to Section 9614. The Legislature finds and declares that flood protection in the Sacramento-San Joaquin Valley is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution.

9625. (a) By January 1, 2010, the department shall develop cost-sharing formulas, as needed, for funds made available by the Disaster Preparedness and Flood Prevention Bond Act of 2006 (Chapter 1.699 (commencing with Section 5096.800) of Division 5 of the Public Resources Code) and the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Division 43 (commencing with Section 75001) of the Public Resources Code) for repairs or improvements of facilities included in the plan to determine the local share of the cost of design and construction.

(b) The cost-share formulas developed by the department shall be established pursuant to Section 12585.7.

(c) In developing cost-share formulas, the department shall consider the ability of local governments to pay their share of the capital costs of the project.

(d) Prior to finalizing cost-share formulas, the department shall conduct public meetings to consider public comments. The department shall post the draft cost-share formula on its Internet Web site at least 30 days before the public meetings. To the extent feasible, the department shall provide outreach to disadvantaged communities to promote access and participation in the meetings.

SEC. 10. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 11. This act shall become operative only if Assembly Bill 162 and Senate Bill 17 of the 2007-08 Regular Session of the Legislature are enacted and become operative.



California LEGISLATIVE INFORMATION

SB-17 Flood protection. (2007-2008)

Senate Bill No. 17

CHAPTER 365

An act to amend Section 11564 of the Government Code, and to amend Sections 8521, 8550, 8551, 8552, 8554, 8575, and 8590 of, to amend the heading of Part 4 (commencing with Section 8520) of Division 5 of, to add Sections 8522.3, 8522.5, 8523, 8577, 8578, and 8610.5 to, to add Article 8 (commencing with Section 8725) to Chapter 3 of Part 4 of Division 5 of, and to repeal and add Article 2 (commencing with Section 8580) to Chapter 2 of Part 4 of Division 5 of, the Water Code, relating to water.

[Approved by Governor October 10, 2007. Filed with Secretary of State
October 10, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

SB 17, Florez. Flood protection.

(1) Existing law establishes the 7-member Reclamation Board in the Department of Water Resources. Existing law requires the board members to be appointed and to serve at the pleasure of the Governor. Existing law prescribes compensation for each board member for time spent attending meetings of the board in the amount of \$100, except as specified. Existing law requires the board to elect one of its members as president. Existing law requires the board to appoint a secretary, who may be a board member, and authorizes the board to appoint a general manager, a chief engineer, and an assistant secretary. Existing law authorizes the board to employ certain other employees.

This bill would rename the Reclamation Board the Central Valley Flood Protection Board. The bill would require the board to act independently of the department. The bill would state the intent of the Legislature to transfer the duties and corresponding funding allocated to the Reclamation Board as it exists on December 31, 2007, together with all necessary positions, to the board as it is reconstituted on and after January 1, 2008. The bill would prohibit the department from overturning any action or decision by the board. The bill would increase the membership of the board from 7 to 9 members. The bill would require 7 members to be appointed by the Governor, subject to Senate confirmation, 4 of whom would be required to meet specified eligibility requirements and 3 of whom would be designated as public members. The bill would require one board member to be appointed by the Senate Committee on Rules and one board member to be appointed by the Speaker of the Assembly and would designate those 2 members as public members. The bill, with a certain exception, would require the board members to serve 4-year terms. The bill would require the board members to receive a salary identical to that received by members of the State Air Resources Board. The bill would require the Governor to select one of the board members as president. The bill would repeal provisions relating to the appointment or employment of specified personnel and, instead, authorize the board to appoint an executive officer and chief engineer and to employ legal counsel and other necessary staff.

(2) Existing law provides that a member of the board having an interest in lands within the drainage district is not disqualified from voting to execute any part of the plans of flood control or from carrying out the objects of the board.

This bill would instead require that a member of the board comply with specified conflict of interest requirements when voting to carry out any part of a plan of flood control and when carrying out the objects of

certain provisions of law relating to the board. The bill would subject the board members to specified requirements relating to conflict of interest and ex parte communications.

(3) Existing law authorizes the board to engage in various flood control activities along the Sacramento River, San Joaquin River, their tributaries, and related areas.

This bill would prohibit a board member from advocating to a federal agency on behalf of a project that has been or is reasonably anticipated to be submitted to the board for review unless the board authorizes that action in accordance with specified requirements. The bill would require the board to adopt regulations relating to evidentiary hearings and to hold evidentiary hearings to determine any matter that requires the issuance of a permit. The bill would require the board to take action only after allowing public comment and to consider, as applicable, specified matters for the purpose of taking that action in any evidentiary hearing. The bill would authorize the board to collaborate with state and federal agencies, if appropriate, regarding certain multiobjective flood management strategies. The bill would require the department to prepare a preliminary report, by December 31, 2009, on the status of the State Plan of Flood Control and to submit the report to the board. The bill would require the department to inspect the project levees, as defined, and to include certain components in the preliminary report. The bill would require the board, by December 31, 2010, to adopt and submit to the Governor and the Legislature a final report in accordance with prescribed procedures. The bill would require the board, on or before December 31, 2010, to prepare and adopt a strategic flood protection plan. The bill would require the board to establish and update, every 5 years, standards for levee construction, operation, and maintenance. The bill would require the board to review local and regional land use plans to ensure their compliance with flood protection and public safety standards adopted by the board. The bill would require the board to review, and authorize the board to make recommendations regarding, flood control plans adopted by local public agencies. The bill would prohibit the board from allocating any funds to a local public agency for a flood control project unless the board determines that project ensures adequate flood protection consistent with existing law. The bill would establish procedures for the decertification of locally maintained flood control facilities as a part of the State Plan of Flood Control.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11564 of the Government Code is amended to read:

11564. (a) Effective January 1, 1988, an annual salary of twenty-five thousand one hundred eighteen dollars (\$25,118) shall be paid to each member of the State Air Resources Board and the Central Valley Flood Protection Board, if each member devotes a minimum of 60 hours per month to board work. The salary shall be reduced proportionately if less than 60 hours per month is devoted to board work.

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

SEC. 2. The heading of Part 4 (commencing with Section 8520) of Division 5 of the Water Code is amended to read:

PART 4. THE CENTRAL VALLEY FLOOD PROTECTION BOARD

SEC. 3. Section 8521 of the Water Code is amended to read:

8521. "Board" means the Central Valley Flood Protection Board. Any reference to the Reclamation Board in this or any other code means the Central Valley Flood Protection Board.

SEC. 4. Section 8522.3 is added to the Water Code, to read:

8522.3. "Facilities of the State Plan of Flood Control" means the levees, weirs, channels, and other features of the State Plan of Flood Control.

SEC. 5. Section 8522.5 is added to the Water Code, to read:

8522.5. "Project levee" means any levee that is a part of the facilities of the State Plan of Flood Control.

SEC. 6. Section 8523 is added to the Water Code, to read:

8523. "State Plan of Flood Control" means the state and federal flood control works, lands, programs, plans, policies, conditions, and mode of maintenance and operations of the Sacramento River Flood Control Project described in Section 8350, and of flood control projects in the Sacramento River and San Joaquin River watersheds authorized pursuant to Article 2 (commencing with Section 12648) of Chapter 2 of Part 6 of Division 6 for which the board or the department has provided the assurances of nonfederal cooperation to the United States, and those facilities identified in Section 8361.

SEC. 7. Section 8550 of the Water Code is amended to read:

8550. (a) The board is continued in existence and shall continue to exercise and have all of its powers, duties, purposes, responsibilities, and jurisdiction.

(b) Notwithstanding any other provision of law, the board shall act independently of the department. The department shall not overturn any action or decision by the board.

(c) It is the intent of the Legislature to transfer the duties and corresponding funding allocated to the Reclamation Board as it exists on December 31, 2007, together with all necessary positions, to the board as it is reconstituted on and after January 1, 2008.

SEC. 8. Section 8551 of the Water Code is amended to read:

8551. (a) Except as provided in subdivision (g), the board consists of nine members who shall be appointed in accordance with this section.

(b) (1) Seven members of the board shall be appointed by the Governor, subject to Senate confirmation.

(2) Of the members appointed pursuant to paragraph (1), the following requirements apply:

(A) One person shall be an engineer.

(B) One person shall have training, experience, and expertise in geology or hydrology.

(C) One person shall be a flood control expert with not less than five years' experience.

(D) One person shall be an attorney with water experience.

(E) Three persons shall be public members.

(c) One member of the board shall be appointed by the Senate Committee on Rules.

(d) One member of the board shall be appointed by the Speaker of the Assembly.

(e) The members appointed pursuant to subdivisions (c) and (d) shall be public members.

(f) (1) Except as provided in paragraph (2), the board members appointed pursuant to subdivision (b), (c), or (d) shall serve four-year terms.

(2) The board members initially appointed pursuant to this section shall determine, by lot, that five members shall serve four-year terms and four members shall serve two-year terms.

(g) Each board member holding office on December 31, 2007, shall continue to serve until his or her successor is appointed and has been qualified to hold office. The order of replacement shall be determined by lot.

SEC. 9. Section 8552 of the Water Code is amended to read:

8552. (a) Each member of the board shall receive the necessary expenses incurred by the member in the performance of official duties.

(b) Any member of the board traveling outside the state pursuant to authorization of the board, and the approval of the Governor and Director of Finance as provided by Section 11032 of the Government Code, while so engaged shall receive per diem and his or her necessary expenses.

(c) Each member of the board shall receive the salary provided for in Section 11564 of the Government Code.

SEC. 10. Section 8554 of the Water Code is amended to read:

8554. The Governor shall select one of the members of the board as president.

SEC. 11. Section 8575 of the Water Code is amended to read:

8575. A member of the board shall comply with the conflict-of-interest requirements of Section 87100 of the Government Code when voting to carry out any part of a plan of flood control and when carrying out the objects of this part.

SEC. 12. Section 8577 is added to the Water Code, to read:

8577. (a) A board member shall not participate in any board action or attempt to influence any decision or recommendation by any employee of, or consultant to, the board that involves himself or herself or that involves any entity with which the member is connected as a director, officer, consultant, or full- or part-time employee, or in which the member has a direct personal financial interest within the meaning of Section 87100 of the Government Code.

(b) A board member shall not participate in any proceeding before any agency as a consultant or in any other capacity on behalf of any person that actively participates in matters before the board.

(c) For a period of 12 months after leaving office, a former board member shall not act as agent or attorney for, or otherwise represent, any other person before the board by making any formal or informal appearance or by making any oral or written communication to the board.

(d) A board member shall not advocate to the United States Army Corps of Engineers or other federal agency on behalf of any project that has been or is reasonably anticipated to be submitted to the board for review, unless the board authorizes that action in accordance with Section 8560.

SEC. 13. Section 8578 is added to the Water Code, to read:

8578. (a) For the purposes of this section, "ex parte communication" means any oral or written communication concerning matters, other than purely procedural matters, under the board's jurisdiction that are subject to a vote.

(b) (1) A board member or any person, excluding a staff member of the board acting in his or her official capacity, who intends to influence the decision of a board member on a matter before the board, shall not conduct an ex parte communication.

(2) If an ex parte communication occurs, the board member shall notify the interested party that a full disclosure of the ex parte communication shall be entered in the board's record.

(3) Communications cease to be ex parte communications when the board member or the person who engaged in the communication with the board member fully discloses the communication and requests in writing that it be placed in the board's official record of the proceeding.

(c) Notwithstanding Section 11425.10 of the Government Code, the ex parte communications provisions of the Administrative Procedure Act (Article 7 (commencing with Section 11430.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code) do not apply to proceedings of the board to which this section applies.

SEC. 14. Article 2 (commencing with Section 8580) of Chapter 2 of Part 4 of Division 5 of the Water Code is repealed.

SEC. 15. Article 2 (commencing with Section 8580) is added to Chapter 2 of Part 4 of Division 5 of the Water Code, to read:

Article 2. Employees

8580. (a) The board may appoint an executive officer.

(b) The board may appoint a chief engineer.

(c) The board may employ legal counsel and other necessary staff.

SEC. 16. Section 8590 of the Water Code is amended to read:

8590. To carry out the primary state interest described in Section 8532, the board may do any of the following:

- (a) Acquire either within or outside the boundaries of the drainage district, by purchase, condemnation or by other lawful means in the name of the drainage district, all lands, rights-of-way, easements, property or material necessary or requisite for the purpose of bypasses, weirs, cuts, canals, sumps, levees, overflow channels and basins, reservoirs and other flood control works, and other necessary purposes, including drainage purposes.
- (b) Construct, clear, and maintain bypasses, levees, canals, sumps, overflow channels and basins, reservoirs and other flood control works.
- (c) Construct, maintain, and operate ditches, canals, pumping plants, and other drainage works.
- (d) Make contracts in the name of the drainage district to indemnify or compensate any owner of land or other property for any injury or damage caused by the exercise of the powers conferred by this division, or arising out of the use, taking, or damage of any property for any of the purposes of this division.
- (e) Collaborate with state and federal agencies, if appropriate, regarding multiobjective flood management strategies that incorporate agricultural conservation, ecosystem protection and restoration, or recreational components.

SEC. 17. Section 8610.5 is added to the Water Code, to read:

8610.5. (a) (1) The board shall adopt regulations relating to evidentiary hearings pursuant to Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code.

- (2) The board shall hold an evidentiary hearing for any matter that requires the issuance of a permit.
- (3) The board is not required to hold an evidentiary hearing before making a decision relating to general flood protection policy or planning.
- (b) The board may take an action pursuant to Section 8560 only after allowing for public comment.
- (c) The board shall, in any evidentiary hearing, consider all of the following, as applicable, for the purpose of taking any action pursuant to Section 8560:
 - (1) Evidence that the board admits into its record from any party, state or local public agency, or nongovernmental organization with expertise in flood or floodplain management.
 - (2) The best available science that relates to the scientific issues presented by the executive officer, legal counsel, the department, or other parties that raise credible scientific issues.
 - (3) Effects of the proposed decision on the entire State Plan of Flood Control.
 - (4) Effects of reasonably projected future events, including but not limited to, changes in hydrology, climate, and development within the applicable watershed.

SEC. 18. Article 8 (commencing with Section 8725) is added to Chapter 3 of Part 4 of Division 5 of the Water Code, to read:

Article 8. State Plan of Flood Control

8725. (a) On or before December 31, 2009, the department shall prepare a preliminary report on the status of the State Plan of Flood Control and submit the preliminary report to the board for its adoption in accordance with this section.

- (b) On or before December 31, 2008, the department shall provide a report to the Governor and Legislature on its progress toward meeting the requirements of subdivision (a).
- (c) For the purposes of preparing the preliminary report, the department shall inspect the project levees. The preliminary report shall include all of the following:

(1) A description and the location of all facilities of the State Plan of Flood Control, including, but not limited to, levees, canals, weirs, bypasses, and pumps. The description shall include the identification of the agency responsible for maintaining the facility.

(2) An evaluation of the performance and deficiencies of project levees and other facilities of the State Plan of Flood Control.

(3) A prioritized list of actions necessary to improve the performance of, and to the maximum extent practicable, to eliminate deficiencies of, project levees and other facilities of the State Plan of Flood Control, using the following criteria for establishing its priority list:

(A) The likelihood of failure by the levee or facility.

(B) The current population protected by the levee or facility.

(C) The public safety infrastructure protected by the levee or facility. For purposes of this subparagraph, "public safety infrastructure" means the street and highway evacuation routes, hospitals, and other public safety infrastructure necessary to respond to a flood emergency.

(4) An examination of both structural and nonstructural methods for improving the performance and eliminating deficiencies of project levees and other facilities of the State Plan of Flood Control, and, wherever feasible, a description of actions intended to meet multiple objectives, including each of the following:

(A) Reducing the risk to human life, health, and safety from flooding.

(B) Promoting natural dynamic hydrologic and geomorphic processes.

(C) Reducing damages from flooding.

(D) Increasing and improving the quantity, diversity, and connectivity of riparian, wetland, floodplain, and shaded riverine aquatic habitats, including agriculture and the ecological values of these lands.

(E) Minimizing the flood management system operation and maintenance requirements.

(F) Promoting the recovery and stability of native species populations and overall biotic community diversity.

(5) A description of the historical development of the State Plan of Flood Control.

(6) A description of the roles and responsibilities of federal, state, and local agencies.

(7) A description of all other relevant projects, programs, activities, and policies that are a material component of the State Plan of Flood Control.

(8) An examination to determine if the listing of facilities in Section 8361 is properly inclusive or if additions or deletions are appropriate, together with any revisions of roles and responsibilities.

(9) An examination to determine which additional existing flood control facilities, if any, should be added to the State Plan of Flood Control. In determining whether a facility should be added to the State Plan of Flood Control, the department and the board shall consider the following:

(A) Whether the facility operates in coordination with other facilities of the State Plan of Flood Control.

(B) Whether the facility protects any contiguous area with more than 10,000 residents.

(C) Whether the facility protects public safety infrastructure as defined in subparagraph (C) of paragraph (3).

(d) On or before December 31, 2010, the board shall adopt and submit to the Governor and the Legislature a final report that includes any changes that it determines to be necessary based on the public comments received pursuant to subdivision (e).

(e) (1) The board shall conduct at least two public meetings to consider public comments prior to adopting the report. At least one meeting shall be conducted at a location in the Sacramento Valley and at least one meeting shall be conducted at a location in the San Joaquin Valley or the Sacramento-San Joaquin Delta as described in Section 12220.

(2) The board shall publish the department's preliminary report prepared pursuant to subdivision (a) on its Internet Web site at least 30 days before the date of the first public meeting required by paragraph (1).

(3) To the extent feasible, the board shall provide outreach to disadvantaged communities to promote access and participation in the meetings.

(f) The department shall assist the board in developing the necessary information that responds to public comments for inclusion in the final report.

(g) It is the intent of the Legislature that the report to the Governor and the Legislature on the status of the state flood control system become the basis for developing and implementing one or more natural communities conservation plans or joint natural communities conservation plan/habitat conservation plans for flood management projects.

8726. (a) On or before December 31, 2010, the board shall prepare and adopt a strategic flood protection plan, consistent with Section 8725. The board shall make relevant maps available to the public and shall post these maps on its Internet Web site.

(b) The board shall establish and update, at a minimum, every five years, standards for levee construction, operation, and maintenance.

(c) The board shall review and comment on local and regional land use plans regarding their compliance with flood protection and public safety standards adopted by the board.

(d) The board shall review flood control plans adopted by local public agencies regarding the adequacy of those plans to protect public safety. The board may recommend revisions to those plans to improve public safety protection.

(e) The board shall not allocate any funds to a local public agency for a flood control project unless the board determines that the project ensures adequate flood protection consistent with existing state and federal law.

8727. (a) (1) A local agency that is responsible for maintaining a unit or portion of the State Plan of Flood Control, at a public hearing of the local agency, upon approval of the board, may submit a petition to the board and the United States for decertification of the flood control facility as a part of the State Plan of Flood Control.

(2) Not less than 90 days before the proposed submittal of the petition, the local agency shall provide notice to the department, the board, any affected county, any affected city, and any affected levee district. The notice shall specify the reasons for the proposed decertification and the local agency's plan for the levee if the decertification is approved.

(3) The board may approve the submittal of the petition at a public hearing if the county board of supervisors of any county, and the city council of any city, that receives protection from the levee provides written approval for the submittal of the petition.

(b) The board may approve a petition for decertification submitted in accordance with subdivision (a) if it determines that other levees will not be adversely affected and that other elements of the State Plan of Flood Control will not be adversely affected, and that it is in the best interest of the state.

(c) The decertification shall be effective upon the approval of the decertification by the board and the United States.



California LEGISLATIVE INFORMATION

AB-5 Flood management. (2007-2008)

Assembly Bill No. 5

CHAPTER 366

An act to amend Section 11564 of, and to repeal Section 13332.11.1 of, the Government Code, to repeal Section 5096.830 of the Public Resources Code, and to amend Sections 8521, 8550, 8551, 8552, 8554, 8575, 8590, 12878, 12878.1, 12878.21, and 12878.23 of, to amend the heading of Part 4 (commencing with Section 8520) of Division 5 of, to add Sections 8306, 8522.3, 8522.5, 8523, 8577, 8578, 8610.5, 8612, 8613, 9625, and 12585.12 to, to add Chapter 9 (commencing with Section 9110) to Part 4 of Division 5 of, to add Part 8 (commencing with Section 9650) to Division 5 of, to repeal Article 8 (commencing with Section 8725) of Chapter 3 of Part 4 of Division 5 of, and to repeal and add Article 2 (commencing with Section 8580) Chapter 2 of Part 4 of Division 5 of, the Water Code, relating to flood management, and making an appropriation therefor.

[Approved by Governor October 10, 2007. Filed with Secretary of State
October 10, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

AB 5, Wolk. Flood management.

(1) Existing law establishes the 7-member Reclamation Board in the Department of Water Resources. Existing law requires the board members to be appointed and to serve at the pleasure of the Governor. Existing law prescribes compensation for each board member for time spent attending meetings of the board in the amount of \$100, except as specified. Existing law requires the board to elect one of its members as president. Existing law requires the board to appoint a secretary, who may be a board member, and authorizes the board to appoint a general manager, a chief engineer, and an assistant secretary. Existing law authorizes the board to employ certain other employees.

This bill would rename the Reclamation Board the Central Valley Flood Protection Board. The bill would require the board to act independently of the department. The bill would state the intent of the Legislature to transfer the duties and corresponding funding allocated to the Reclamation Board as it exists on December 31, 2007, together with all necessary positions, to the board as it is reconstituted on and after January 1, 2008. The bill would prohibit the department from overturning any action or decision by the board. The bill would increase the membership of the board from 7 to 9 members. The bill would require 7 members to be appointed by the Governor, subject to Senate confirmation, 4 of whom would be required to meet specified eligibility requirements and 3 of whom would be designated as public members. The bill would require one board member to be the Chair of the Senate Committee on Natural Resources and Water and one board member to be the Chair of the Assembly Committee on Water, Parks and Wildlife, and would designate those 2 members as nonvoting ex officio members. The bill, with a certain exception, would require the board members to serve 4-year terms. The bill would require the board members to receive a salary identical to that received by members of the State Air Resources Board and would incorporate additional changes made by AB 933, which has been chaptered. The bill would require the Governor to select one of the board members as president. The bill would repeal provisions relating to the appointment or employment of specified personnel and, instead, authorize the board to appoint an executive officer and chief engineer and to employ legal counsel and other necessary staff.

(2) Existing law provides that a member of the board having an interest in lands within the drainage district is not disqualified from voting to execute any part of the plans of flood control or from carrying out the objectives of the board.

This bill would instead require that a member of the board comply with specified conflict of interest requirements when voting to carry out any part of a plan of flood control and when carrying out the objectives of certain provisions of law relating to the board. The bill would subject the board members to specified requirements relating to conflict of interest and ex parte communications.

(3) Existing law authorizes the board to engage in various flood control activities along the Sacramento River, San Joaquin River, their tributaries, and related areas.

This bill would prohibit a board member from advocating to a federal agency on behalf of a project that has been or is reasonably anticipated to be submitted to the board for review unless the board authorizes that action in accordance with specified requirements. The bill would require the board to adopt regulations relating to evidentiary hearings and to hold evidentiary hearings to determine any matter that requires the issuance of a permit. The bill would require the board to take action only after allowing public comment and to consider, as applicable, specified matters for the purpose of taking that action in any evidentiary hearing. The bill would authorize the board to collaborate with state and federal agencies, if appropriate, regarding certain multiobjective flood management strategies.

(4) The Department of Water Resources performs various flood control activities throughout the state. Existing law also authorizes the Reclamation Board to engage in various flood control activities along the Sacramento River and San Joaquin River, their tributaries, and related areas. Existing law requires the board to establish and enforce standards for the maintenance and operation of, and to undertake other responsibilities with regard to, flood control works under its jurisdiction.

This bill would authorize the department to provide meals and other necessary support to any person engaged in emergency flood fight activities, as defined, on behalf of, or in cooperation with, the department. The bill would require the department, on or before December 31, 2008, to prepare, and the board to adopt, a schedule for mapping areas at risk of flooding in the Sacramento River and San Joaquin River drainage. The bill would authorize the board or the department to establish a program of mitigation banking for the activities of the board or the department and for the benefit of local districts in the discharge of specified flood control responsibilities.

The bill would require the department to prepare, and the board to adopt, a flood control system status report, to be updated periodically, for the State Plan of Flood Control, as defined, and to undertake a related inspection of project levees, as defined. The bill would require the department, on or before September 1, 2010, and on or before September 1 of each year thereafter, to provide written notice to each landowner whose property is determined to be within a levee flood protection zone. The bill would require the department to prepare and maintain maps for levee flood protection zones. The bill would authorize the department to revise the maps to include updated information.

The bill would require, on or before September 30 of each year, a local agency responsible for the operation and maintenance of a project levee to prepare and submit to the department a specified report of information for inclusion in periodic flood management reports prepared by the department. By establishing these requirements on a local agency, the bill would impose a state-mandated local program. The bill would require the department, on or before December 31, 2008, to prepare and transmit to the board a report on project levees that are operated and maintained by each local agency using certain information. The bill would specify that a local agency responsible for the operation and maintenance of a project levee may propose to the board an upgrade of the project levee.

(5) Existing law authorizes, on a project-by-project basis, and in accordance with designated plans, state participation in federal flood control projects and specifies the degree of cooperation to be assumed by the state and local agencies in connection with those projects. Existing law, except as otherwise provided, requires the board to give assurances satisfactory to the Secretary of the Army that local cooperation as required by federal law will be furnished by the state in connection with described flood control projects.

This bill would authorize the department and the board to participate with the federal government or local agencies in the design of environmental enhancements associated with a federal flood control project, and to participate in the construction of environmental enhancements associated with a federal flood control project for which the state has authorized state participation.

(6) Existing law establishes procedures for the assumption of flood control maintenance and operation duties by the department in connection with the formation of a maintenance area on behalf of a federal flood control project unit if the department finds that a unit of a project is not being operated or maintained in accordance with standards established by federal regulations or the governing body of a local agency obligated to operate and maintain that unit by resolution declares that it no longer desires to operate and maintain the unit. Under existing law, the department and the board are not required to form a maintenance area if neither agency has given the nonfederal assurances to the United States required for the project, except as otherwise provided for a project for which an application for the formation of the maintenance area has been submitted on or before July 1, 2003. Existing law prescribes requirements relating to the imposition of assessments on behalf of a maintenance area. Existing law requires the funds generated by the imposition of the assessments to be deposited in the Water Resources Revolving Fund and continuously appropriates those funds to pay the operation and maintenance costs of maintenance areas. Existing law provides for the dissolution of a maintenance area.

This bill would provide for the formation of a maintenance area if the department determines that a project unit is not being operated or maintained in accordance with federal regulations or the modification of a project unit that has been permitted by the board and that provides flood protection is not being operated or maintained in accordance with the requirements established by the board or the department, or if the local agency obligated to operate and maintain the project unit declares that it no longer desires to do so. The bill would provide that, if a maintenance area is formed for a portion of a project unit, any remaining portion of the project unit not included in the maintenance area remains the responsibility of the local agency obligated to operate and maintain that unit. The bill would authorize the board and the department to consolidate maintenance areas that share a common boundary.

The bill would delete the provisions relating to the formation of a maintenance area for a project for which an application for the formation of a maintenance area has been submitted on or before July 1, 2003. The bill would provide that the department is not required to perform certain work in connection with the formation of a maintenance area requested by a local agency until the local agency requesting the formation of the maintenance area pays to the department an amount of money that reflects certain costs incurred by the department.

The bill would change requirements relating to the imposition of assessments by revising the definition of the term "maintenance" to include work described as maintenance by the board or the department. By expanding the definition of that term to include additional work, the costs of which would be paid on behalf of maintenance areas from the continuous appropriation of funds from the Water Resources Revolving Fund, the bill would make an appropriation.

(7) Under existing law, the department expends or allocates funds on behalf of various flood control projects within the Sacramento-San Joaquin Delta and related areas.

This bill, commencing July 1, 2008, would subject the allocation or expenditure of funds by the state for the upgrade of a project levee, if that upgrade is authorized on or after July 1, 2008, that protects an urban area in which more than 1,000 people reside to a requirement that the local agency responsible for the operation and maintenance of the project levee and any city or county protected by the project levee enter into an agreement to adopt a safety plan that includes specified components, within 2 years. If a city or county is responsible for the operation or maintenance of the project levee, the bill would require the governing body to approve a resolution committing to the preparation of a safety plan within 2 years. The bill would define the "upgrade of a project levee" to mean specified improvements, excluding any action undertaken on an emergency basis.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(9) This bill would repeal certain provisions added by AB 156 if AB 156 and this bill are enacted and become operative and other conditions are met.

(10) This bill would repeal a provision added by SB 17 if SB 17 and this bill are enacted and become operative and other conditions are met.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature hereby finds and declares all of the following:

- (a) The central valley of this state is experiencing unprecedented development, resulting in the conversion of historically agricultural lands and communities to densely populated residential and urban centers.
- (b) The Legislature recognizes that by their nature, levees, which are earthen embankments typically founded on fluvial deposits, cannot offer complete protection from flooding, but can decrease its frequency.
- (c) The Legislature recognizes that the level of flood protection afforded rural and agricultural lands by the original flood control system is not considered adequate to protect those lands when developed for urban uses, and that a dichotomous system of flood protection for urban and rural lands has developed through many years of practice.
- (d) The Legislature further recognizes that levees built to reclaim and protect agricultural land may be inadequate to protect urban development unless those levees are significantly improved.
- (e) Local agencies are primarily responsible for making land use decisions in the state, and the Legislature intends that they retain that lead role.
- (f) Local agencies rely upon federal flood plain information when approving developments, but the information available is often out of date and the flood risk may be greater than that indicated using available federal information.
- (g) Flood plain management tools such as flood plain mapping, the National Flood Insurance Program, and the designated floodway program, represent important supplemental activities to educate the public about, and protect the public from, flood hazards.
- (h) It is necessary for the state to immediately undertake the task of mapping flood plains and submitting up-to-date information to the federal government so that the federal National Flood Insurance Program maps reflect current and accurate conditions. In this way, the public can be provided with reliable information regarding flooding potential, and local agencies can make informed land use and flood management decisions so that the risk to life and property can be effectively reduced.

SEC. 2. Section 11564 of the Government Code is amended to read:

11564. (a) Effective January 1, 1988, an annual salary of twenty-five thousand one hundred eighteen dollars (\$25,118) shall be paid to each member of the State Air Resources Board and the Central Valley Flood Protection Board, if each member devotes a minimum of 60 hours per month to state board work. The salary shall be reduced proportionately if less than 60 hours per month is devoted to state board work.

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

(c) Notwithstanding subdivision (b), any salary increase is subject to Section 11565.5.

SEC. 3. Section 13332.11.1 of the Government Code, as added by Assembly Bill 156 of the 2007-08 Regular Session of the Legislature, is repealed.

SEC. 4. Section 5096.830 of the Public Resources Code, as added by Assembly Bill 156 of the 2007-08 Regular Session of the Legislature, is repealed.

SEC. 5. Section 8306 is added to the Water Code, to read:

8306. (a) Notwithstanding any other provision of law, the department may provide meals and other necessary support to any person, including, but not limited to, an employee of the department, who is engaged in emergency flood fight activities on behalf of, or in cooperation with, the department.

(b) For the purposes of this section, "emergency flood fight activities" mean actions taken under emergency conditions to maintain flood control features, the failure of which threaten to destroy life, property, or resources.

SEC. 6. The heading of Part 4 (commencing with Section 8520) of Division 5 of the Water Code is amended to read:

PART 4. THE CENTRAL VALLEY FLOOD PROTECTION BOARD

SEC. 7. Section 8521 of the Water Code is amended to read:

8521. "Board" means the Central Valley Flood Protection Board. Any reference to the Reclamation Board in this or any other code means the Central Valley Flood Protection Board.

SEC. 8. Section 8522.3 is added to the Water Code, to read:

8522.3. "Facilities of the State Plan of Flood Control" means the levees, weirs, channels, and other features of the State Plan of Flood Control.

SEC. 9. Section 8522.5 is added to the Water Code, to read:

8522.5. "Project levee" means any levee that is a part of the facilities of the State Plan of Flood Control.

SEC. 10. Section 8523 is added to the Water Code, to read:

8523. "State Plan of Flood Control" means the state and federal flood control works, lands, programs, plans, policies, conditions, and mode of maintenance and operations of the Sacramento River Flood Control Project described in Section 8350, and of flood control projects in the Sacramento River and San Joaquin River watersheds authorized pursuant to Article 2 (commencing with Section 12648) of Chapter 2 of Part 6 of Division 6 for which the board or the department has provided the assurances of nonfederal cooperation to the United States, and those facilities identified in Section 8361.

SEC. 11. Section 8550 of the Water Code is amended to read:

8550. (a) The board is continued in existence and shall continue to exercise and have all of its powers, duties, purposes, responsibilities, and jurisdiction.

(b) Notwithstanding any other provision of law, the board shall act independently of the department. The department shall not overturn any action or decision by the board.

(c) It is the intent of the Legislature to transfer the duties and corresponding funding allocated to the Reclamation Board as it exists on December 31, 2007, together with all necessary positions, to the board as it is reconstituted on and after January 1, 2008.

SEC. 12. Section 8551 of the Water Code is amended to read:

8551. (a) Except as provided in subdivision (g), the board consists of nine members who shall be appointed in accordance with this section.

(b) (1) Seven members of the board shall be appointed by the Governor, subject to Senate confirmation.

(2) Of the members appointed pursuant to paragraph (1), the following requirements apply:

(A) One person shall be an engineer.

(B) One person shall have training, experience, and expertise in geology or hydrology.

(C) One person shall be a flood control expert with not less than five years' experience.

(D) One person shall be an attorney with water experience.

(E) Three persons shall be public members.

(c) One member of the board shall be the Chair of the Senate Committee on Natural Resources and Water, to the extent that service with the board does not conflict with his or her legislative duties.

(d) One member of the board shall be the Chair of the Assembly Committee on Water, Parks and Wildlife, to the extent that service with the board does not conflict with his or her legislative duties.

(e) The members appointed pursuant to subdivisions (c) and (d) shall be nonvoting ex officio members.

(f) (1) Except as provided in paragraph (2), the board members appointed pursuant to subdivision (b) shall serve four-year terms.

(2) The board members initially appointed pursuant to this section shall determine, by lot, that five members shall serve four-year terms and four members shall serve two-year terms.

(g) Each board member holding office on December 31, 2007, shall continue to serve until his or her successor is appointed and has been qualified to hold office. The order of replacement shall be determined by lot.

SEC. 13. Section 8552 of the Water Code is amended to read:

8552. Each member of the board appointed pursuant to subdivision (b) of Section 8551 shall receive compensation as follows:

(a) Each member shall receive the necessary expenses incurred by the member in the performance of official duties.

(b) Any member traveling outside the state pursuant to authorization of the board, and the approval of the Governor and Director of Finance as provided by Section 11032 of the Government Code, while so engaged shall receive per diem and his or her necessary expenses.

(c) Each member shall receive the salary provided for in Section 11564 of the Government Code.

SEC. 14. Section 8554 of the Water Code is amended to read:

8554. The Governor shall select one of the members of the board as president.

SEC. 15. Section 8575 of the Water Code is amended to read:

8575. A member of the board shall comply with the conflict of interest requirements of Section 87100 of the Government Code when voting to carry out any part of a plan of flood control and when carrying out the objects of this part.

SEC. 16. Section 8577 is added to the Water Code, to read:

8577. (a) A board member shall not participate in any board action or attempt to influence any decision or recommendation by any employee of, or consultant to, the board that involves himself or herself or that involves any entity with which the member is connected as a director, officer, consultant, or full- or part-time employee, or in which the member has a direct personal financial interest within the meaning of Section 87100 of the Government Code.

(b) A board member shall not participate in any proceeding before any agency as a consultant or in any other capacity on behalf of any person that actively participates in matters before the board.

(c) For a period of 12 months after leaving office, a former board member shall not act as agent or attorney for, or otherwise represent, any other person before the board by making any formal or informal appearance or by making any oral or written communication to the board.

(d) A board member shall not advocate to the United States Army Corps of Engineers or other federal agency on behalf of any project that has been or is reasonably anticipated to be submitted to the board for review, unless the board authorizes that action in accordance with Section 8560.

SEC. 17. Section 8578 is added to the Water Code, to read:

8578. (a) For the purposes of this section, "ex parte communication" means any oral or written communication concerning matters, other than purely procedural matters, under the board's jurisdiction that are subject to a vote.

(b) (1) No board member nor any person or organization with an interest in board decisions, nor any person representing a person or organization with an interest in board decisions, excluding a staff member of the board acting in his or her official capacity, who intends to influence the decision of a board member on a matter before the board, shall conduct an ex parte communication.

(2) If an ex parte communication occurs, the board member shall notify the interested party that a full disclosure of the ex parte communication shall be entered in the board's record.

(3) Communications cease to be ex parte communications when the board member or the person who engaged in the communication with the board member fully discloses the communication and requests in writing that it be placed in the board's official record of the proceeding.

(c) Notwithstanding Section 11425.10 of the Government Code, the ex parte communications provisions of the Administrative Procedure Act (Article 7 (commencing with Section 11430.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code) do not apply to proceedings of the board to which this section applies.

SEC. 18. Article 2 (commencing with Section 8580) of Chapter 2 of Part 4 of Division 5 of the Water Code is repealed.

SEC. 19. Article 2 (commencing with Section 8580) is added to Chapter 2 of Part 4 of Division 5 of the Water Code, to read:

Article 2. Employees

8580. (a) The board may appoint an executive officer.

(b) The board may appoint a chief engineer.

(c) The board may employ legal counsel and other necessary staff.

SEC. 20. Section 8590 of the Water Code is amended to read:

8590. To carry out the primary state interest described in Section 8532, the board may do any of the following:

(a) Acquire either within or outside the boundaries of the drainage district, by purchase, condemnation or by other lawful means in the name of the drainage district, all lands, rights-of-way, easements, property or material necessary or requisite for the purpose of bypasses, weirs, cuts, canals, sumps, levees, overflow channels and basins, reservoirs and other flood control works, and other necessary purposes, including drainage purposes.

(b) Construct, clear, and maintain bypasses, levees, canals, sumps, overflow channels and basins, reservoirs and other flood control works.

(c) Construct, maintain, and operate ditches, canals, pumping plants, and other drainage works.

(d) Make contracts in the name of the drainage district to indemnify or compensate any owner of land or other property for any injury or damage caused by the exercise of the powers conferred by this division, or arising out of the use, taking, or damage of any property for any of the purposes of this division.

(e) Collaborate with state and federal agencies, if appropriate, regarding multiobjective flood management strategies that incorporate agricultural conservation, ecosystem protection and restoration, or recreational components.

SEC. 21. Section 8610.5 is added to the Water Code, to read:

8610.5. (a) (1) The board shall adopt regulations relating to evidentiary hearings pursuant to Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) The board shall hold an evidentiary hearing for any matter that requires the issuance of a permit.

(3) The board is not required to hold an evidentiary hearing before making a decision relating to general flood protection policy or planning.

(b) The board may take an action pursuant to Section 8560 only after allowing for public comment.

(c) The board shall, in any evidentiary hearing, consider all of the following, as applicable, for the purpose of taking any action pursuant to Section 8560:

- (1) Evidence that the board admits into its record from any party, state or local public agency, or nongovernmental organization with expertise in flood or flood plain management.
- (2) The best available science that relates to the scientific issues presented by the executive officer, legal counsel, the department, or other parties that raise credible scientific issues.
- (3) Effects of the proposed decision on the entire State Plan of Flood Control.
- (4) Effects of reasonably projected future events, including but not limited to, changes in hydrology, climate, and development within the applicable watershed.

SEC. 22. Section 8612 is added to the Water Code, to read:

8612. (a) On or before December 31, 2008, the department shall prepare, and the board shall adopt, a schedule for mapping areas at risk of flooding in the Sacramento River and San Joaquin River drainage.

(b) The department shall update the schedule annually and shall present the updated schedule to the board for adoption on or before December 31 of each year. The update shall include the status of mapping in progress and an estimated time of completion. The schedule shall be based on the present and expected future risk of flooding and associated consequences.

SEC. 23. Section 8613 is added to the Water Code, to read:

8613. (a) The board or the department may establish a program of mitigation banking for the activities of the board or the department under this part and for the benefit of local districts in the discharge of their flood control responsibilities under this part and the State Water Resources Law of 1945 (Chapter 1 (commencing with Section 12570) and Chapter 2 (commencing with Section 12639) of Part 6 of Division 6).

(b) For the purposes of carrying out subdivision (a), the board or the department, in consultation with all appropriate state, local, and federal agencies with jurisdiction over environmental protection that are authorized to regulate and impose requirements upon the flood control work performed under this part or the State Water Resources Law of 1945 (Chapter 1 (commencing with Section 12570) and Chapter 2 (commencing with Section 12639) of Part 6 of Division 6), may establish a system of mitigation banking by which mitigation credits may be acquired in advance for flood control work to be performed by the board, the department, or a local agency authorized to operate and maintain facilities of the State Plan of Flood Control.

SEC. 24. Article 8 (commencing with Section 8725) of Chapter 3 of Part 4 of Division 5 of the Water Code, as added by Senate Bill 17 of the 2007-08 Regular Session of the Legislature, is repealed.

SEC. 25. Chapter 9 (commencing with Section 9110) is added to Part 4 of Division 5 of the Water Code, to read:

CHAPTER 9. Reports

Article 1. Definitions

9110. Unless the context requires otherwise, the definitions set forth in this article govern the construction of this chapter.

- (a) "Fiscal year" has the same meaning as that set forth in Section 13290 of the Government Code.
- (b) "Levee flood protection zone" means the area, as determined by the board or the department, that is protected by a project levee.
- (c) "Local agency" means a local agency responsible for the maintenance of a project levee.
- (d) "Maintenance" has the same meaning as that set forth in subdivision (f) of Section 12878.
- (e) "Project levee" means any levee that is part of the facilities of the State Plan of Flood Control.
- (f) "State Plan of Flood Control" has the same meaning as that set forth in Section 5096.805 of the Public Resources Code.

Article 2. State Reports

9120. (a) The department shall prepare and the board shall adopt a flood control system status report for the State Plan of Flood Control. This status report shall be updated periodically, as determined by the board. For the purposes of preparing the report, the department shall inspect the project levees and review available information to ascertain whether there are evident deficiencies.

(b) The status report shall include identification and description of each facility, an estimate of the risk of levee failure, a discussion of the inspection and review undertaken pursuant to subdivision (a), and appropriate recommendations regarding the levees and future work activities.

(c) On or before December 31, 2008, the board shall advise the Legislature, in writing, as to the board's schedule of implementation of this section.

9121. (a) On or before September 1, 2010, and on or before September 1 of each year thereafter, the department shall provide written notice to each landowner whose property is determined to be entirely or partially within a levee flood protection zone.

(b) The notice shall include statements regarding all of the following:

(1) The property is located behind a levee.

(2) Levees reduce, but do not eliminate, the risk of flooding and are subject to catastrophic failure.

(3) If available, the level of flood risk as described in the flood control system status report described in Section 9120 and a levee flood protection zone map prepared in accordance with Section 9130.

(4) The state recommends that property owners in a levee flood protection zone obtain flood insurance, such as insurance provided by the Federal Emergency Management Agency through the National Flood Insurance Program.

(5) Information about purchasing federal flood insurance.

(6) The Internet address of the Web site that contains the information required by the flood management report described in Section 9141.

(7) Any other information determined by the department to be relevant.

(c) A county, with assistance from the department, shall annually provide to the department, by electronic means, lists of names and addresses of property owners in a levee flood protection zone located in that county.

(d) Notwithstanding any other provision of the law, the department may enter into contracts with private companies to provide the notices required by this section.

9122. The board shall determine the areas benefited by facilities of the State Plan of Flood Control based on information developed by the department.

Article 3. Levee Flood Protection Zone Maps

9130. (a) The department shall prepare and maintain maps for levee flood protection zones. The department shall prepare the maps by December 31, 2008, and shall include in the maps a designation of those lands where flood levels would be more than three feet deep if a project levee were to fail, using the best available information. The maps shall include other flood depth contours if that information is available.

(b) The department shall distribute the levee flood protection zone maps to appropriate governmental agencies, as determined by the department.

(c) The department shall make the maps readily available to the public. The department may charge a fee for the cost of reproducing the maps. To the extent feasible, maps shall be made available on the Internet Web site of the department.

(d) The department may periodically revise the maps to include updated information when that information becomes available.

Article 4. Local Reports

9140. (a) On or before September 30 of each year, a local agency responsible for the operation and maintenance of a project levee shall prepare and submit to the department, in a format specified by the department, a report of information for inclusion in periodic flood management reports prepared by the department relating to the project levee. The information submitted to the department shall include all of the following:

- (1) Information known to the local agency that is relevant to the condition or performance of the project levee.
- (2) Information identifying known conditions that might impair or compromise the level of flood protection provided by the project levee.
- (3) A summary of the maintenance performed by the local agency during the previous fiscal year.
- (4) A statement of work and estimated cost for operation and maintenance of the project levee for the current fiscal year, as approved by the local agency.
- (5) Any other readily available information contained in the records of the local agency relevant to the condition or performance of the project levee, as determined by the board or the department.

(b) A local agency described in subdivision (a) that operates and maintains a nonproject levee that also benefits land within the boundaries of the area benefited by the project levee shall include information pursuant to subdivision (a) with regard to the nonproject levee.

(c) A local agency that incurs costs for the maintenance or improvement of a project or nonproject levee under the delta levee maintenance subventions program established pursuant to Part 9 (commencing with Section 12980) of Division 6 may submit information submitted to satisfy the requirements of that program to meet the requirements of paragraph (3) of subdivision (a), but may do so only for that reach of the levee included in that program.

(d) (1) A local agency responsible for the operation and maintenance of a levee not otherwise subject to this section may voluntarily prepare and submit to the department or the board a flood management report for posting on the Internet Web site of the department or the board.

(2) A flood management report submitted pursuant to paragraph (1) shall be made available on the Internet Web site of the board if the local agency is partially or wholly within the geographical boundaries of the board's jurisdiction. Otherwise, the report shall be made available on the Internet Web site of the department.

9141. (a) The department shall prepare and transmit to the board a report on the project levees operated and maintained by each local agency, using information provided by the local agency pursuant to Section 9140 and information from relevant portions of any of the following documents, as determined by the department:

- (1) Annual inspection reports on local agency maintenance prepared by the department or the board.
- (2) The State Plan of Flood Control.
- (3) The flood control system status report described in Section 9120.
- (4) The schedule for mapping described in Section 8612.
- (5) Any correspondence, document, or information deemed relevant by the department.

(b) The department shall make the flood management report for each local agency available on the Internet Web site of the board and shall provide the report to all of the following entities:

- (1) The local agency.
- (2) Any city or county within the local agency's jurisdiction.
- (3) Any public library located within the local agency's jurisdiction.

(c) The report shall be completed on or before December 31, 2008, and shall be updated annually.

9142. A local agency responsible for the operation and maintenance of a project levee may propose to the board an upgrade of the project levee if the local agency determines that the upgrade is appropriate. The local agency may implement that upgrade if approved by the board.

SEC. 26. Section 9625 is added to the Water Code, to read:

9625. (a) By January 1, 2010, the department shall develop cost-sharing formulas, as needed, for funds made available by the Disaster Preparedness and Flood Prevention Bond Act of 2006 (Chapter 1.699 (commencing with Section 5096.800) of Division 5 of the Public Resources Code) and the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Division 43 (commencing with Section 75001) of the Public Resources Code) for repairs or improvements of facilities included in the plan to determine the local share of the cost of design and construction.

(b) For qualifying projects pursuant to subdivision (a), the state's share of the nonfederal share shall be set at a minimum level of 50 percent.

(c) In developing cost-share formulas, the department shall consider the ability of local governments to pay their share of the capital costs of the project.

(d) Prior to finalizing cost-share formulas, the department shall conduct public meetings to consider public comments. The department shall post the draft cost-share formula on its Internet Web site at least 30 days before the public meetings. To the extent feasible, the department shall provide outreach to disadvantaged communities to promote access and participation in the meetings.

SEC. 27. Part 8 (commencing with Section 9650) is added to Division 5 of the Water Code, to read:

PART 8. PROJECT LEVEE UPGRADES

9650. (a) (1) Commencing July 1, 2008, the allocation or expenditure of funds by the state for the upgrade of a project levee, if that upgrade is authorized on or after July 1, 2008, that protects an area in which more than 1,000 people reside shall be subject to a requirement that the local agency responsible for the operation and maintenance of the project levee and any city or county protected by the project levee, including a charter city or charter county, enter into an agreement to adopt a safety plan within two years. If a city or county is responsible for the operation and maintenance of the project levee, the governing body shall approve a resolution committing to the preparation of a safety plan within two years.

(2) The local entity responsible for the operation and maintenance of the project levee shall submit a copy of the safety plan to the department and the Reclamation Board.

(b) The safety plan, at a minimum, shall include all of the following elements:

(1) A flood preparedness plan that includes storage of materials that can be used to reinforce or protect a levee when a risk of failure exists.

(2) A levee patrol plan for high water situations.

(3) A flood-fight plan for the period before state or federal agencies assume control over the flood fight.

(4) An evacuation plan that includes a system for adequately warning the general public in the event of a levee failure, and a plan for the evacuation of every affected school, residential care facility for the elderly, and long-term health care facility.

(5) A floodwater removal plan.

(6) A requirement, to the extent reasonable, that either of the following applies to a new building in which the inhabitants are expected to be essential service providers:

(A) The building is located outside an area that may be flooded.

(B) The building is designed to be operable shortly after the floodwater is removed.

(c) The safety plan shall be integrated into any other local agency emergency plan and shall be coordinated with the state emergency plan.

(d) This section does not require the adoption of an element of the safety plan that was adopted previously and remains in effect.

9651. Unless the context requires otherwise, the definitions set forth in this section govern the construction of this part.

(a) "Emergency plan" and "state emergency plan" have the meanings set forth in subdivisions (a) and (b), respectively, of Section 8560 of the Government Code.

- (b) "Essential service providers" includes, but is not limited to, hospitals, fire stations, police stations, and jails.
- (c) "Long-term health care facility" has the same meaning as defined in Section 1418 of the Health and Safety Code.
- (d) "Project levee" means any levee that is part of the facilities of the State Plan of Flood Control.
- (e) "Residential care facility for the elderly" has the same meaning as defined in Section 1569.2 of the Health and Safety Code.
- (f) "School" means a public or private preschool, elementary school, or secondary school or institution.
- (g) "State Plan of Flood Control" means the state and federal flood control works, lands, programs, plans, policies, conditions, and mode of maintenance and operations of the Sacramento River Flood Control Project described in Section 8350, and of flood control projects in the Sacramento River and San Joaquin River watersheds authorized pursuant to Article 2 (commencing with Section 12648) of Chapter 2 of Part 6 of Division 6 for which the board or the department has provided the assurances of nonfederal cooperation to the United States, and those facilities identified in Section 8361.
- (h) (1) "Upgrade of a project levee" means installing a levee underseepage control system, increasing the height or bulk of a levee, installing a slurry wall or sheet pile into the levee, rebuilding a levee because of internal geotechnical flaws, or adding a stability berm.
- (2) Notwithstanding paragraph (1), an upgrade of a project levee does not include any action undertaken on an emergency basis.

SEC. 28. Section 12585.12 is added to the Water Code, to read:

12585.12. The department and the board may participate with the federal government or local agencies in the design of environmental enhancements associated with a federal flood control project, and may participate in the construction of environmental enhancements associated with a federal flood control project for which the state has authorized state participation.

SEC. 29. Section 12878 of the Water Code is amended to read:

12878. Unless the context otherwise requires, the following definitions apply throughout this chapter:

- (a) "Department" means Department of Water Resources.
- (b) "Director" means the Director of Water Resources.
- (c) "Board" means the State Reclamation Board.
- (d) Wherever the words "board or department" or "board or director" are used together in this chapter they shall mean board as to any project in the Sacramento or San Joaquin Valleys or on or near the Sacramento River or the San Joaquin River or any of their tributaries, and department or director as to any project in any other part of the state outside of the jurisdiction of the board.
- (e) "Project" means any project that has been authorized pursuant to Chapter 2 (commencing with Section 12639) or Chapter 4 (commencing with Section 12850) and concerning which assurances have been given to the Secretary of the Army or the Secretary of Agriculture that the state or a political subdivision thereof will operate and maintain the project works in accordance with regulations prescribed by the federal government or any project upon which assurances have been given to the Secretary of the Army and upon which the Corps of Engineers, United States Army, has performed work pursuant to Section 208 of Public Law 780, 83rd Congress, 2nd Session, approved September 3, 1954.
- (f) "Maintenance" means work described as maintenance by the federal regulations issued by the Secretary of the Army, the Secretary of Agriculture, the department, or the board for any project.
- (g) "Maintenance area" means described or delineated lands that are found by the board or department to be benefited by the maintenance and operation of a particular unit of a project.
- (h) "Unit" means any portion of the works of a project designated as a unit by the board or department, other than the works prescribed in Section 8361, or works operated and maintained by the United States.
- (i) "Land" includes improvements.

(j) "Local agency" means and includes all districts or other public agencies responsible for the operation of works of any project under Section 8370, Chapter 2 (commencing with Section 12639) or Chapter 4 (commencing with Section 12850) or any other law of this state.

(k) "Cost of operation and maintenance" means, for the purposes of maintenance areas established after July 31, 2004, as the result of relinquishment by a local agency pursuant to Section 12878.1 only, the cost of all maintenance, as defined in subdivision (f), and shall also include, but is not limited to, all of the following costs:

(1) All costs incurred by the department or the board in the formation of the maintenance area under this chapter.

(2) Any costs, if deemed appropriate by the department, to secure insurance covering liability to others for damages arising from the maintenance activities of the department or from flooding in the maintenance area.

(3) Any costs of defending any action brought against the state, the department, or the board, or any employees of these entities, for damages arising from the maintenance activities of the department or from flooding in the maintenance area.

(4) Any costs incurred in the payment of any judgment or settlement of an action against the state, the department, or the board, or any employees of these entities, for damages arising from the formation of the maintenance area or from any maintenance activities of the department or flooding in the maintenance area.

SEC. 30. Section 12878.1 of the Water Code is amended to read:

12878.1. (a) If the department determines that a unit of a project is not being operated or maintained in accordance with the standards established by federal regulations, if the department determines that the modification of a unit of a project that has been permitted by the board and that provides flood protection is not being operated or maintained in accordance with the requirements established by the board or the department, or if the governing body of a local agency obligated to operate and maintain that unit by resolution duly adopted and filed with the department declares that it no longer desires to operate and maintain the project unit, the department shall prepare a statement to that effect specifying in detail the particular items of work necessary to be done in order to comply with the standards of the federal government and the requirements of the board or the department together with an estimate of the cost thereof for the current fiscal year and for the immediately ensuing fiscal year.

(b) Subject to subdivision (c), but notwithstanding any other provision of law, the board or the department is not required to proceed in accordance with subdivision (a) or with the formation of a maintenance area under this chapter if neither the board nor the department has given the nonfederal assurances to the United States required for the project. If neither the board nor the department has given the nonfederal assurances to the United States required for the project, the board or department may elect to proceed with the formation if it determines that the formation of a maintenance area is in the best interest of the state.

(c) If a local agency requests the department to form a maintenance area by resolution duly adopted and filed with the department, the department shall estimate the cost of preparing the statement of necessary work and the cost thereof, and all other applicable costs incurred by the department before the formation of the maintenance area. The department shall submit that estimate to the local agency. The department is not required to perform any additional work to form that maintenance area until the local agency pays the department the amount estimated pursuant to this subdivision.

SEC. 31. Section 12878.21 of the Water Code is amended to read:

12878.21. Upon the formation of a maintenance area, the department shall thereafter operate and maintain the unit until such time as the maintenance area may be dissolved pursuant to this chapter. If the board or the department forms a maintenance area for a portion of a unit of a project, any remaining portion of the unit of a project not included in the maintenance area shall remain the responsibility of the local agency obligated to operate and maintain that unit.

SEC. 32. Section 12878.23 of the Water Code is amended to read:

12878.23. (a) The board or the department may modify the boundaries of any established maintenance area or zones within the maintenance area, the description of works to be maintained within the maintenance area, and the determination of relative benefits within any zone, upon its own initiative or upon petition by the governing

body of the local agency formerly responsible for the operation and maintenance of the unit or by the board of supervisors of the county in which all or a portion of the unit is located.

(b) The board or the department may consolidate maintenance areas that share a common boundary.

SEC. 33. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 34. Section 3 of this bill shall only become operative if AB 156 and this bill are enacted and become operative, AB 156 adds Section 13332.11.1 to the Government Code, and this bill is enacted last.

SEC. 35. Section 4 of this bill shall only become operative if AB 156 and this bill are enacted and become operative, AB 156 adds Section 5096.830 to the Public Resources Code, and this bill is enacted last.

SEC. 36. Section 24 of this bill shall only become operative if SB 17 and this bill are enacted and become operative, SB 17 adds Article 8 (commencing with Section 8725) to Chapter 3 of Part 4 of Division 5 of the Water Code, and this bill is enacted last.



California

LEGISLATIVE INFORMATION

AB-70 Flood liability. (2007-2008)

Assembly Bill No. 70

CHAPTER 367

An act to add Section 8307 to the Water Code, relating to flood liability.

[Approved by Governor October 10, 2007. Filed with Secretary of State
October 10, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

AB 70, Jones. Flood liability.

Existing law, under various circumstances, subjects a public entity or an employee of a public entity to liability for property damage or personal injury caused by or from floods or floodwaters.

This bill would provide that a city or county may be required to contribute its fair and reasonable share of the property damage caused by a flood to the extent that it has increased the state's exposure to liability for property damage by unreasonably approving, as defined, new development in a previously undeveloped area, as defined, that is protected by a state flood control project, unless the city or county meets specified requirements.

The bill would become operative only if SB 5 is enacted and becomes effective on or before January 1, 2008.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 8307 is added to the Water Code, to read:

8307. (a) A city or county may be required to contribute its fair and reasonable share of the property damage caused by a flood to the extent that the city or county has increased the state's exposure to liability for property damage by unreasonably approving new development in a previously undeveloped area that is protected by a state flood control project. However, a city or county shall not be required to contribute if, after the amendments required by Sections 65302.9 and 65860.1 of the Government Code have become effective, the city or county complies with Sections 65865.5, 65962, and 66474.5 of the Government Code as applicable with respect to that development. This section shall not be construed to extend or toll the statute of limitations for challenging the approval of any new development.

(b) A city or county is not required to contribute unless an action has been filed against the state asserting liability for property damage caused by a flood and the provisions of subdivision (a) providing for contribution have been satisfied. A city or county is not required to contribute if the state settles the claims against it without providing the city or county with an opportunity to participate in settlement negotiations.

(c) For the purposes of this section:

(1) "State flood control project" means any flood control works within the Sacramento River Flood Control Project described in Section 8350, and of flood control projects in the Sacramento River and San Joaquin River

watersheds authorized pursuant to Article 2 (commencing with Section 12648) of Chapter 2 of Part 6 of Division 6.

(2) "Undeveloped area" means an area devoted to "agricultural use," as defined in Section 51201 of the Government Code, or "open space land," as defined in Section 65560 of the Government Code, that, as of January 1, 2008, is not already designated for development in a general or specific plan or by a local zoning ordinance.

(3) "Unreasonably approving" means approving a new development project without appropriately considering significant risks of flooding made known to the approving agency as of the time of approval and without taking reasonable and feasible action to mitigate the potential property damage to the new development resulting from a flood.

(4) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.

(d) This section shall not apply to any land or projects for which an application for development has been submitted to the city or county prior to January 1, 2008.

SEC. 2. Section 1 of this act shall become operative only if Senate Bill 5 of the 2007-08 Regular Session of the Legislature is enacted and becomes effective on or before January 1, 2008.



California

LEGISLATIVE INFORMATION

AB-162 Land use: water supply. (2007-2008)

Assembly Bill No. 162

CHAPTER 369

An act to amend Sections 65302, 65303.4, 65352, 65584.04, and 65584.06 of, and to add Sections 65300.2 and 65302.7 to, the Government Code, relating to local planning.

[Approved by Governor October 10, 2007. Filed with Secretary of State
October 10, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

AB 162, Wolk. Land use: water supply.

(1) The Planning and Zoning Law requires a city or county general plan to include specified mandatory elements, including a land use element that designates the proposed general distribution and general location and extent of the uses of the land for various purposes and a conservation element that considers, among other things, the effect of development within the jurisdiction, as described in the land use element, on natural resources located on public lands, including military installations, and provides that the conservation element may also cover, among other things, flood control.

This bill would require the land use element to identify and annually review those areas covered by the general plan that are subject to flooding as identified by flood plain mapping prepared by the Federal Emergency Management Agency or the Department of Water Resources. The bill also would require, upon the next revision of the housing element, on or after January 1, 2009, the conservation element of the general plan to identify rivers, creeks, streams, flood corridors, riparian habitat, and land that may accommodate floodwater for purposes of groundwater recharge and stormwater management. By imposing new duties on local public officials, the bill would create a state-mandated local program.

(2) The Planning and Zoning Law also requires that a city or county general plan contain a safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides, subsidence, liquefaction, and other seismic, geologic, and fire hazards.

This bill would also require, upon the next revision of the housing element, on or after January 1, 2009, the safety element to identify, among other things, information regarding flood hazards and to establish a set of comprehensive goals, policies, and objectives, based on specified information for the protection of the community from, among other things, the unreasonable risks of flooding.

The bill would also require the planning agency, upon each revision of the housing element to review, and if necessary, to identify new information that was not available during the previous revision of the safety element and would provide criteria by which cities and counties that have flood plain management ordinances may comply with these provisions.

(3) The Planning and Zoning Law also requires, prior to the periodic review of its general plan and prior to preparing or revising its safety element, each city and county to consult with the Division of Mines and Geology of the Department of Conservation and with the Office of Emergency Services, as specified, and requires that at specified times prior to adoption or amendment of the safety element, each city and county submit one copy of

a draft or amendment of the safety element to specified state agencies and local governments for review pursuant to specified procedures.

Existing law establishes the 7-member Reclamation Board in the Department of Water Resources and requires the board members to be appointed and serve at the pleasure of the Governor. Senate Bill 17 of the 2006-07 Regular Session, if enacted, would rename the Reclamation Board as the Central Valley Flood Protection Board, and would revise the membership of the board.

This bill would also require each city and county located within the boundaries of the Sacramento and San Joaquin Drainage District to submit the draft element or draft amendment to the safety element of its general plan to the Central Valley Flood Protection Board and every local agency that provides flood protection to territory in the city or county at least 90 days prior to the adoption of, or amendment to, the safety element. The bill would also require the board and a local agency to review the draft or an existing safety element and report its written recommendations to the planning agency within 60 days of its receipt of the draft or existing safety element, as specified.

(4) The Planning and Zoning Law requires, prior to action by a legislative body to adopt or substantially amend a general plan, that the planning agency refer the proposed action to specified state, local, and federal agencies.

This bill would also require that the proposed action be referred to the board when the proposed action is within the boundaries of the Sacramento and San Joaquin Drainage District.

(5) The Planning and Zoning Law requires at least 2 years prior to a scheduled revision of a local government's housing element that each council of governments, or delegate subregion, as applicable, or the Department of Housing and Community Development, where there is no council of governments, develop a proposed methodology for distributing the existing and projected regional housing needs to cities, counties, and cities and counties within the region or within the subregion, where applicable, pursuant to specified provisions. That law requires that the methodology be consistent with specified objectives that include, among other things, a determination of the availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities.

This bill would provide that the determination of available land suitable for urban development may exclude lands where the flood management infrastructure designed to protect the jurisdiction is not adequate to avoid the risk of flooding such that the development of housing would be impractical due to cost or other considerations.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65300.2 is added to the Government Code, to read:

65300.2. (a) For the purposes of this article, a "200-year flood plain" is an area that has a 1 in 200 chance of flooding in any given year, based on hydrological modeling and other engineering criteria accepted by the Department of Water Resources.

(b) For the purposes of this article, a "levee protection zone" is an area that is protected, as determined by the Central Valley Flood Protection Board or the Department of Water Resources, by a levee that is part of the facilities of the State Plan of Flood Control, as defined under Section 5096.805 of the Public Resources Code.

SEC. 1.5. Section 65302 of the Government Code is amended to read:

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources,

recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The location and designation of the extent of the uses of the land for public and private uses shall consider the identification of land and natural resources pursuant to paragraph (3) of subdivision (d). The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify and annually review those areas covered by the plan that are subject to flooding identified by flood plain mapping prepared by the Federal Emergency Management Agency (FEMA) or the Department of Water Resources. The land use element shall also do both of the following:

(1) Designate in a land use category that provides for timber production those parcels of real property zoned for timberland production pursuant to the California Timberland Productivity Act of 1982, Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5.

(2) Consider the impact of new growth on military readiness activities carried out on military bases, installations, and operating and training areas, when proposing zoning ordinances or designating land uses covered by the general plan for land, or other territory adjacent to military facilities, or underlying designated military aviation routes and airspace.

(A) In determining the impact of new growth on military readiness activities, information provided by military facilities shall be considered. Cities and counties shall address military impacts based on information from the military and other sources.

(B) The following definitions govern this paragraph:

(i) "Military readiness activities" mean all of the following:

(I) Training, support, and operations that prepare the men and women of the military for combat.

(II) Operation, maintenance, and security of any military installation.

(III) Testing of military equipment, vehicles, weapons, and sensors for proper operation or suitability for combat use.

(ii) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the United States Department of Defense as defined in paragraph (1) of subsection (e) of Section 2687 of Title 10 of the United States Code.

(b) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, any military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan.

(c) A housing element as provided in Article 10.6 (commencing with Section 65580).

(d) (1) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. The conservation element shall consider the effect of development within the jurisdiction, as described in the land use element, on natural resources located on public lands, including military installations. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies, including flood management, water conservation, or groundwater agencies that have developed, served, controlled, managed, or conserved water of any type for any purpose in the county or city for which the plan is prepared. Coordination shall include the discussion and evaluation of any water supply and demand information described in Section 65352.5, if that information has been submitted by the water agency to the city or county.

(2) The conservation element may also cover all of the following:

(A) The reclamation of land and waters.

(B) Prevention and control of the pollution of streams and other waters.

(C) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.

(D) Prevention, control, and correction of the erosion of soils, beaches, and shores.

(E) Protection of watersheds.

(F) The location, quantity and quality of the rock, sand and gravel resources.

(3) Upon the next revision of the housing element on or after January 1, 2009, the conservation element shall identify rivers, creeks, streams, flood corridors, riparian habitats, and land that may accommodate floodwater for purposes of groundwater recharge and stormwater management.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560).

(f) (1) A noise element which shall identify and appraise noise problems in the community. The noise element shall recognize the guidelines established by the Office of Noise Control in the State Department of Health Care Services and shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

(A) Highways and freeways.

(B) Primary arterials and major local streets.

(C) Passenger and freight on-line railroad operations and ground rapid transit systems.

(D) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(E) Local industrial plants, including, but not limited to, railroad classification yards.

(F) Other ground stationary noise sources, including, but not limited to, military installations, identified by local agencies as contributing to the community noise environment.

(2) Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level (Ldn). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

(3) The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

(4) The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) (1) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence, liquefaction, and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of Division 2 of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wild land and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, military installations, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards.

(2) The safety element, upon the next revision of the housing element on or after January 1, 2009, shall also do the following:

(A) Identify information regarding flood hazards, including, but not limited to, the following:

(i) Flood hazard zones. As used in this subdivision, "flood hazard zone" means an area subject to flooding that is delineated as either a special hazard area or an area of moderate or minimal hazard on an official flood insurance rate map issued by the Federal Emergency Management Agency. The identification of a flood hazard zone does not imply that areas outside the flood hazard zones or uses permitted within flood hazard zones will be free from flooding or flood damage.

(ii) National Flood Insurance Program maps published by FEMA.

(iii) Information about flood hazards that is available from the United States Army Corps of Engineers.

(iv) Designated floodway maps that are available from the Central Valley Flood Protection Board.

(v) Dam failure inundation maps prepared pursuant to Section 8589.5 that are available from the Office of Emergency Services.

(vi) Awareness Floodplain Mapping Program maps and 200-year flood plain maps that are or may be available from, or accepted by, the Department of Water Resources.

(vii) Maps of levee protection zones.

(viii) Areas subject to inundation in the event of the failure of project or nonproject levees or floodwalls.

(ix) Historical data on flooding, including locally prepared maps of areas that are subject to flooding, areas that are vulnerable to flooding after wildfires, and sites that have been repeatedly damaged by flooding.

(x) Existing and planned development in flood hazard zones, including structures, roads, utilities, and essential public facilities.

(xi) Local, state, and federal agencies with responsibility for flood protection, including special districts and local offices of emergency services.

(B) Establish a set of comprehensive goals, policies, and objectives based on the information identified pursuant to subparagraph (A), for the protection of the community from the unreasonable risks of flooding, including, but not limited to:

(i) Avoiding or minimizing the risks of flooding to new development.

(ii) Evaluating whether new development should be located in flood hazard zones, and identifying construction methods or other methods to minimize damage if new development is located in flood hazard zones.

(iii) Maintaining the structural and operational integrity of essential public facilities during flooding.

(iv) Locating, when feasible, new essential public facilities outside of flood hazard zones, including hospitals and health care facilities, emergency shelters, fire stations, emergency command centers, and emergency communications facilities or identifying construction methods or other methods to minimize damage if these facilities are located in flood hazard zones.

(v) Establishing cooperative working relationships among public agencies with responsibility for flood protection.

(C) Establish a set of feasible implementation measures designed to carry out the goals, policies, and objectives established pursuant to subparagraph (B).

(3) After the initial revision of the safety element pursuant to paragraph (2), upon each revision of the housing element, the planning agency shall review and, if necessary, revise the safety element to identify new information that was not available during the previous revision of the safety element.

(4) Cities and counties that have flood plain management ordinances that have been approved by FEMA that substantially comply with this section, or have substantially equivalent provisions to this subdivision in their general plans, may use that information in the safety element to comply with this subdivision, and shall summarize and incorporate by reference into the safety element the other general plan provisions or the flood plain ordinance, specifically showing how each requirement of this subdivision has been met.

(5) Prior to the periodic review of its general plan and prior to preparing or revising its safety element, each city and county shall consult the California Geological Survey of the Department of Conservation, the Central Valley Flood Protection Board, if the city or county is located within the boundaries of the Sacramento and San Joaquin Drainage District, as set forth in Section 8501 of the Water Code, and the Office of Emergency Services for the purpose of including information known by and available to the department, the office, and the board required by this subdivision.

(6) To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's safety element that pertains to the city's planning area in satisfaction of the requirement imposed by this subdivision.

SEC. 2. Section 65302.7 is added to the Government Code, to read:

65302.7. (a) For the purposes of complying with Section 65302.5, each county or city located within the boundaries of the Sacramento and San Joaquin Drainage District, as set forth in Section 8501 of the Water Code, shall submit the draft element of, or draft amendment to, the safety element to the Central Valley Flood

Protection Board and to every local agency that provides flood protection to territory in the city or county at least 90 days prior to the adoption of, or amendment to, the safety element of its general plan.

(b) The Central Valley Flood Protection Board and each local agency described in paragraph (1) shall review the draft or an existing safety element and report their respective written recommendations to the planning agency within 60 days of the receipt of the draft or existing safety element. The Central Valley Flood Protection Board and each local agency shall review the draft or existing safety element and may offer written recommendations for changes to the draft or existing safety element regarding both of the following:

(1) Uses of land and policies in areas subjected to flooding that will protect life, property, and natural resources from unreasonable risks associated with flooding.

(2) Methods and strategies for flood risk reduction and protection within areas subjected to flooding.

(c) Prior to the adoption of its draft element or draft amendments to the safety element, the board of supervisors of the county or the city council of a city shall consider the recommendations made by the Central Valley Flood Protection Board and any local agency that provides flood protection to territory in the city or county. If the board of supervisors or the city council determines not to accept all or some of the recommendations, if any, made by the Central Valley Flood Protection Board or the local agency, the board of supervisors or the city council shall make findings that state its reasons for not accepting a recommendation and shall communicate those findings in writing to the Central Valley Flood Protection Board or to the local agency.

(d) If the Central Valley Flood Protection Board's or the local agency's recommendations are not available within the time limits required by this section, the board of supervisors or the city council may act without those recommendations. The board of supervisors or city council shall consider the recommendations at the next time it considers amendments to its safety element.

SEC. 3. Section 65303.4 of the Government Code is amended to read:

65303.4. The Department of Water Resources or the Central Valley Flood Protection Board, as appropriate, and the Department of Fish and Game may develop site design and planning policies to assist local agencies which request help in implementing the general plan guidelines for meeting flood control objectives and other land management needs.

SEC. 4. Section 65352 of the Government Code is amended to read:

65352. (a) Prior to action by a legislative body to adopt or substantially amend a general plan, the planning agency shall refer the proposed action to all of the following entities:

(1) A city or county, within or abutting the area covered by the proposal, and any special district that may be significantly affected by the proposed action, as determined by the planning agency.

(2) An elementary, high school, or unified school district within the area covered by the proposed action.

(3) The local agency formation commission.

(4) An areawide planning agency whose operations may be significantly affected by the proposed action, as determined by the planning agency.

(5) A federal agency if its operations or lands within its jurisdiction may be significantly affected by the proposed action, as determined by the planning agency.

(6) (A) The branches of the United States Armed Forces that have provided the Office of Planning and Research with a California mailing address pursuant to subdivision (d) of Section 65944 when the proposed action is within 1,000 feet of a military installation, or lies within special use airspace, or beneath a low-level flight path, as defined in Section 21098 of the Public Resources Code, provided that the United States Department of Defense provides electronic maps of low-level flight paths, special use airspace, and military installations at a scale and in an electronic format that is acceptable to the Office of Planning and Research.

(B) Within 30 days of a determination by the Office of Planning and Research that the information provided by the Department of Defense is sufficient and in an acceptable scale and format, the office shall notify cities, counties, and cities and counties of the availability of the information on the Internet. Cities, counties, and cities and counties shall comply with subparagraph (A) within 30 days of receiving this notice from the office.

(7) A public water system, as defined in Section 116275 of the Health and Safety Code, with 3,000 or more service connections, that serves water to customers within the area covered by the proposal. The public water system shall have at least 45 days to comment on the proposed plan, in accordance with subdivision (b), and to provide the planning agency with the information set forth in Section 65352.5.

(8) The Bay Area Air Quality Management District for a proposed action within the boundaries of the district.

(9) On and after March 1, 2005, a California Native American tribe, that is on the contact list maintained by the Native American Heritage Commission, with traditional lands located within the city or county's jurisdiction.

(10) The Central Valley Flood Protection Board for a proposed action within the boundaries of the Sacramento and San Joaquin Drainage District, as set forth in Section 8501 of the Water Code.

(b) Each entity receiving a proposed general plan or amendment of a general plan pursuant to this section shall have 45 days from the date the referring agency mails it or delivers it in which to comment unless a longer period is specified by the planning agency.

(c) (1) This section is directory, not mandatory, and the failure to refer a proposed action to the other entities specified in this section does not affect the validity of the action, if adopted.

(2) To the extent that the requirements of this section conflict with the requirements of Chapter 4.4 (commencing with Section 65919), the requirements of Chapter 4.4 shall prevail.

SEC. 5. Section 65584.04 of the Government Code is amended to read:

65584.04. (a) At least two years prior to a scheduled revision required by Section 65588, each council of governments, or delegate subregion as applicable, shall develop a proposed methodology for distributing the existing and projected regional housing need to cities, counties, and cities and counties within the region or within the subregion, where applicable pursuant to this section. The methodology shall be consistent with the objectives listed in subdivision (d) of Section 65584.

(b) (1) No more than six months prior to the development of a proposed methodology for distributing the existing and projected housing need, each council of governments shall survey each of its member jurisdictions to request, at a minimum, information regarding the factors listed in subdivision (d) that will allow the development of a methodology based upon the factors established in subdivision (d).

(2) The council of governments shall seek to obtain the information in a manner and format that is comparable throughout the region and utilize readily available data to the extent possible.

(3) The information provided by a local government pursuant to this section shall be used, to the extent possible, by the council of governments, or delegate subregion as applicable, as source information for the methodology developed pursuant to this section. The survey shall state that none of the information received may be used as a basis for reducing the total housing need established for the region pursuant to Section 65584.01.

(4) If the council of governments fails to conduct a survey pursuant to this subdivision, a city, county, or city and county may submit information related to the items listed in subdivision (d) prior to the public comment period provided for in subdivision (c).

(c) Public participation and access shall be required in the development of the methodology and in the process of drafting and adoption of the allocation of the regional housing needs. Participation by organizations other than local jurisdictions and councils of governments shall be solicited in a diligent effort to achieve public participation of all economic segments of the community. The proposed methodology, along with any relevant underlying data and assumptions, and an explanation of how information about local government conditions gathered pursuant to subdivision (b) has been used to develop the proposed methodology, and how each of the factors listed in subdivision (d) is incorporated into the methodology, shall be distributed to all cities, counties, any subregions, and members of the public who have made a written request for the proposed methodology. The council of governments, or delegate subregion, as applicable, shall conduct at least one public hearing to receive oral and written comments on the proposed methodology.

(d) To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:

(1) Each member jurisdiction's existing and projected jobs and housing relationship.

(2) The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:

(A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.

(B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions. The determination of available land suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.

(C) Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis.

(D) County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area.

(3) The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.

(4) The market demand for housing.

(5) Agreements between a county and cities in a county to direct growth toward incorporated areas of the county.

(6) The loss of units contained in assisted housing developments, as defined in paragraph (8) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions.

(7) High-housing cost burdens.

(8) The housing needs of farmworkers.

(9) The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.

(10) Any other factors adopted by the council of governments.

(e) The council of governments, or delegate subregion, as applicable, shall explain in writing how each of the factors described in subdivision (d) was incorporated into the methodology and how the methodology is consistent with subdivision (d) of Section 65584. The methodology may include numerical weighting.

(f) Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by a city or county shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.

(g) In addition to the factors identified pursuant to subdivision (d), the council of governments, or delegate subregion, as applicable, shall identify any existing local, regional, or state incentives, such as a priority for funding or other incentives available to those local governments that are willing to accept a higher share than proposed in the draft allocation to those local governments by the council of governments or delegate subregion pursuant to Section 65584.05.

(h) Following the conclusion of the 60-day public comment period described in subdivision (c) on the proposed allocation methodology, and after making any revisions deemed appropriate by the council of governments, or delegate subregion, as applicable, as a result of comments received during the public comment period, each council of governments, or delegate subregion, as applicable, shall adopt a final regional, or subregional, housing need allocation methodology and provide notice of the adoption of the methodology to the jurisdictions within the region, or delegate subregion as applicable, and to the department.

SEC. 6. Section 65584.06 of the Government Code is amended to read:

65584.06. (a) For cities and counties without a council of governments, the department shall determine and distribute the existing and projected housing need, in accordance with Section 65584 and this section. If the department determines that a county or counties, supported by a resolution adopted by the board or boards of supervisors, and a majority of cities within the county or counties representing a majority of the population of the county or counties, possess the capability and resources and has agreed to accept the responsibility, with respect to its jurisdiction, for the distribution of the regional housing need, the department shall delegate this responsibility to the cities and county or counties.

(b) The distribution of regional housing need shall, based upon available data and in consultation with the cities and counties, take into consideration market demand for housing, the distribution of household growth within the county assumed in the regional transportation plan where applicable, employment opportunities and commuting patterns, the availability of suitable sites and public facilities, agreements between a county and cities in a county to direct growth toward incorporated areas of the county, or other considerations as may be requested by the affected cities or counties and agreed to by the department. As part of the allocation of the regional housing need, the department shall provide each city and county with data describing the assumptions and methodology used in calculating its share of the regional housing need. Consideration of suitable housing sites or land suitable for urban development is not limited to existing zoning ordinances and land use restrictions of a locality, but shall include consideration of the potential for increased residential development under alternative zoning ordinances and land use restrictions. The determination of available land suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.

(c) Within 90 days following the department's determination of a draft distribution of the regional housing need to the cities and the county, a city or county may propose to revise the determination of its share of the regional housing need in accordance with criteria set forth in the draft distribution. The proposed revised share shall be based upon comparable data available for all affected jurisdictions, and accepted planning methodology, and shall be supported by adequate documentation.

(d) (1) Within 60 days after the end of the 90-day time period for the revision by the cities or county, the department shall accept the proposed revision, modify its earlier determination, or indicate why the proposed revision is inconsistent with the regional housing need.

(2) If the department does not accept the proposed revision, then, within 30 days, the city or county may request a public hearing to review the determination.

(3) The city or county shall be notified within 30 days by certified mail, return receipt requested, of at least one public hearing regarding the determination.

(4) The date of the hearing shall be at least 10 but not more than 15 days from the date of the notification.

(5) Before making its final determination, the department shall consider all comments received and shall include a written response to each request for revision received from a city or county.

(e) If the department accepts the proposed revision or modifies its earlier determination, the city or county shall use that share. If the department grants a revised allocation pursuant to subdivision (d), the department shall ensure that the total regional housing need is maintained. The department's final determination shall be in writing and shall include information explaining how its action is consistent with this section. If the department indicates that the proposed revision is inconsistent with the regional housing need, the city or county shall use the share that was originally determined by the department. The department, within its final determination, may adjust the allocation of a city or county that was not the subject of a request for revision of the draft distribution.

(f) The department shall issue a final regional housing need allocation for all cities and counties within 45 days of the completion of the local review period.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.