

DESMOND, NOLAN, LIVAICH & CUNNINGHAM

ATTORNEYS AT LAW

September 1, 2021

Via Email Only

Yuba LAFCo

Email: phensley@co.yuba.ca.us

915 8th Street, Suite 130

Marysville, California 95901

**RE: Objection to RD 817's and RD 2103's Application to Reorganize
Boundaries**

Dear Commissioners:

Our office represents Michael Rue, the owner of property within Reclamation District (RD) 817. We have reviewed the Executive Officer's Report from July 29, 2021, and have found that our client's property is not being included or otherwise analyzed as part of the boundary reorganization / merger.

As you know, the justification for proceeding with this boundary reorganization is based on the premise that "hydraulic basins with more than one local maintaining agency consider consolidation to operate more efficiently." However, there is no showing that the 2,719.74 acres of territory are part of a separate hydraulic basin than the 507.30 acres that remain. Any reference to separate hydraulic basins in the Feather River Plan is based on the burden created by artificial conditions. The Horseshoe area is not a natural hydraulic basin, and to now try and slice it off of RD 817—after 110 years—without discussion of the impacts to the remaining 507.30 acres creates a hole in the analysis that cannot be closed without further review.

As you know, the issues surrounding flood protection and hydrology in this area are complex. As such, any analysis must be comprehensive and provide you with the substance you need to make a fully informed decision. The current application, like others related to properties in the area, is insufficient. The Commission simply does not have all the information that is necessary to make an informed decision. It is not the Commission's fault nor is it the fault of staff. RD 817's analysis is simply

15th & S Building
1830 15th Street
Sacramento, California 95811-6649
Telephone: 916/443-2051
Facsimile: 916/443-2651
E-mail: bmannings@dnlc.net

J. Russell Cunningham
Brian Manning
Kristen Ditlevsen Renfro
Benjamin C. Tagert

Of Counsel
William W. Nolan
Gary Livaich
Edward K. Dunn

Earl D. Desmond
(1895-1958)
E. Vayne Miller
(1904-1965)
Richard F. Desmond
(1923-2004)
William C. Livaich
(1950-2007)

insufficient. It is on RD 817 to carry the burden and they have failed. This is evident when reviewing the Executive Officer's Report. The Report is completely silent as to why our client's property is excluded and what the impact of the annexation/merger is on the remaining property. In particular, the fiscal data is silent as to the impact on the 507.30 acres that will be excluded from this reorganization. As proposed, this reorganization will not provide adequate resource services to the lands within RD 817. Further, this report fails to provide a discussion of how such services will even be provided.

As indicated in the Executive Officer's July 29, 2021 Report, the Commission, in determining the Sphere of Influence for each local agency, "shall prepare a written statement of determinations with respect to" specific findings. This includes "(iv) An analysis of the effects of a proposed sphere of influence amendment on other agencies and their service capabilities." This Section concludes that there "should be no adverse effects of this reorganization and Sphere Amendment." There is no discussion about the adverse impacts to RD 817, which will retain the responsibility for the remaining 507.30 acres. Although the staff report focuses on the benefits of moving the 2,719.74 acres to the new district, it is silent as to the impact on the remaining 507.30 acres. Without an analysis on the impact of the reorganization to the remaining 507.30 acres, we believe that the Commission does not have the necessary information before it in order to approve the findings necessary for a reorganization.

As such, we ask that this Commission deny the item and leave it to the applicants to provide a comprehensive and detailed analysis that satisfies the requirements. The application is setting this Board up for failure. The Board should insist on a full analysis of the impacts to RD 817 and all owners and property within the District. The applicants need to provide a comprehensive analysis of the positive and negative impacts of their proposed action. Otherwise, the Board is lacking, through no fault of staff, the necessary information to make an informative decision.

Additionally, we request to be notified when the analysis is complete so that we may have the opportunity to review and comment prior to the Commission's decision. Further, we have noted that the proposed resolution references a CEQA exemption. Given that the Executive Officer's Report fails to discuss the 507.30 acres, we presume that the exemption is inadequate. Should the Commission wish to continue the proceedings so that we can discuss this issue in more depth, we would be happy

September 1, 2021

Page 3

to sit down and discuss our concerns further. We thank you in advance for your consideration of our objection to RD 817's and RD 2103's application to reorganize boundaries.

Sincerely,

DESMOND, NOLAN, LIVAICH & CUNNINGHAM



Brian Manning
BTM/kms

cc: Client