

#6

Resolution 2023-0001 of the

Colusa Local Agency Formation Commission

Approving a Municipal Service Review of Irrigation Water Services Provided by and within the Glenn-Colusa Irrigation District in Colusa and Glenn Counties and Adopting Written Determinations Thereon

WHEREAS, California Government Code Section 56425 requires that a Local Agency Formation Commission ("LAFCO") adopt and periodically review Sphere of Influence Plans for all agencies in its jurisdiction; and,

WHEREAS, California Government Code Section 56430 requires that a LAFCO conduct a review of the municipal services provided by and within an agency prior to updating or adopting its Sphere of Influence Plan; and,

WHEREAS, the Sphere of Influence Plan is the primary planning tool for LAFCO and defines the probable physical boundaries and service area of a local agency as determined by LAFCO; and,

WHEREAS, on June 3rd, 2004, the Commission adopted its Work Plan and included a schedule for initiation of Municipal Service Reviews (MSRs) and Spheres of Influence; and

WHEREAS, the Commission adopted Resolution 2004-03 on March 4th, 2004 establishing guidelines for conducting MSRs, which applies to this MSR for services provided by the Glenn-Colusa Irrigation District; and,

WHEREAS, at the time and in the manner provided by law, the Executive Officer gave notice of the date, time, and place of a public hearing by the Commission for irrigation water services provided in the Glenn-Colusa Irrigation District service area, including approval of the report and adoption of the written determinations contained therein; and,

WHEREAS, the Commission hereby determines that the hearing draft of the Municipal Service Review for services provided by and within the Glenn-Colusa Irrigation District area and written determinations contained therein will provide information for updating the Sphere of Influence of the Glenn-Colusa Irrigation District, and is otherwise consistent with the purposes and responsibility of the Commission for planning the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities; and,

WHEREAS, in making this determination, the Commission has considered the documentation on file in this matter; and,

WHEREAS, the Commission has heard all interested parties desiring to be heard and has considered the proposal and report by the Executive Officer and all other relevant evidence and information presented at said hearing;

NOW, THEREFORE, the Local Agency Formation Commission of Colusa County hereby resolves, orders and determines the following:

- 1) The Municipal Service Review of Irrigation Water Services provided in the Glenn-Colusa Irrigation District area, attached hereto as Exhibit A, is approved and the written determinations presented in the Municipal Service Review report are hereby adopted.
- 2) LAFCO staff is further ordered to proceed as appropriate with update to the Sphere of Influence Plan of the Glenn-Colusa Irrigation District area.

3) LAFCO staff is further ordered to forward copies of this resolution containing the adopted Municipal Service Review to the Glenn-Colusa Irrigation District.

The foregoing resolution was duly passed by the Local Agency Formation Commission of Colusa County at a regular meeting held on April 6., 2023, by the following roll call vote:

Ayes:

Noes:

Absentions:

Absent:

Signed and approved by me after its passage this sixth day of April, 2023

Merced Corona, Chair
Colusa LAFCo

Attest:

John Benoit, Executive Officer
Colusa LAFCo

COLUSA LOCAL AGENCY FORMATION COMMISSION

Resolution No. 2023-0002

A Resolution Making Determinations and Approving A Sphere of Influence Update for the Glenn Colusa Irrigation District

WHEREAS, Government Code Section 56425 requires each Local Agency Formation Commission to adopt and periodically review and update a sphere of influence for each local governmental agency within its jurisdiction; and

WHEREAS, the Local Agency Formation Commission of Colusa County, in compliance with the aforementioned requirement, is providing a “plan for the probable physical boundaries and service area” for the Glenn Colusa Irrigation District; and

WHEREAS, the Commission has set the hearing date of April 6, 2023, for the update of the sphere of influence for the Glenn Colusa Irrigation District and has noticed this hearing at the times and as otherwise prescribed by Government Code Section 56150, *et seq.*; and

WHEREAS, the Commission has heard and previously adopted a Municipal Services Review of services provided by the Glenn Colusa Irrigation District in accordance with Gov. Code section 56430; and

WHEREAS, the Commission has reviewed and considered the proposed Sphere of Influence update report and the proposed Sphere of Influence Update Map which are attached hereto and incorporated herein; and

WHEREAS, Colusa LAFCO prepared a Notice of Exemption for such action since there is no change in the proposed boundaries and Sphere of Influence; and

WHEREAS, the Commission has considered those factors determined by it to be relevant to the proposed sphere of influence update, including, but not limited to, those factors specified in Government Code Section 56425, *et seq.*, and has heard from interested parties and considered requests for amendment and/or revision of the proposed updated sphere boundary, if any;

NOW, THEREFORE, BE IT RESOLVED that the Local Agency Formation Commission of Colusa County does hereby find and determine as follows:

1. That the proposed sphere of influence update with respect to the Glenn Colusa Irrigation District complies with the provisions of Government Code Section 56000, et seq.
2. That no significant protests have been received regarding the establishment of this Sphere of Influence update.
3. That, pursuant to Government Code Section 56425, the Commission makes and adopts those determinations set forth in the Sphere of Influence Study are attached hereto and incorporated herein.
4. The Colusa Local Agency Formation Commission hereby finds this Sphere update exempt from the provisions of the California Environmental Quality Act.
5. Pursuant to Government Code Section 56425 (i) the Glenn Colusa District is authorized to provide domestic water services within its territory. Other services provided by this District shall be considered latent powers.
6. That the Sphere of Influence Update Report including Sphere of Influence Maps and the Executive Officer's Report, for the Glenn Colusa Irrigation District updated Sphere of Influence is hereby adopted and approved as set forth in Attachment "A".

PASSED AND ADOPTED at a regular meeting of the Colusa Local Agency Formation Commission, State of California, on the April 6, 2023, by the following vote:

AYES:

NOES: -

ABSENT: -

ABSTAIN: -

Merced Corona, Chair
Colusa Local Agency Formation
Commission

Attest:

John Benoit, Executive Officer

NOTICE OF EXEMPTION

TO: County Clerk
County of Colusa
Colusa, CA 95453

FROM; Colusa LAFCO
P.O. Box 2694
Granite Bay, CA 95746

PROJECT TITLE: Glenn Colusa ID Sphere of Influence Update

PROJECT LOCATION: Colusa and Glenn Counties

DESCRIPTION OF PROJECT:

An update to the sphere plan for the Glenn Colusa Irrigation District

NAME OF PUBLIC AGENCY APPROVING PROJECT:

Colusa Local Agency Formation Commission

NAME OF PERSON OR AGENCY CARRYING OUT THE PROJECT:

John Benoit, Executive Officer for
Colusa Local Agency Formation Commission

EXEMPT STATUS:

Class 20 Categorical Exemption, "Changes in Organization of Local Agencies" CEQA
Guideline Section 15320.

REASONS WHY PROJECT IS EXEMPT:

The proposed project involves a sphere of influence update where the services provided by the district will not change as a result of this update and no unusual circumstances exist. This action will not change the Sphere of Influence nor lead to changes in the District Boundary

CONTACT PERSON:
John Benoit
LAFCO Executive Officer

TELEPHONE NUMBER:
(530) 619-5128

By: _____

Date: April 6, 2023

From: Ben King <bking@pacgoldag.com>
Subject: Native Tribal Community History References
Date: March 27, 2023 at 11:16:03 AM PDT
To: John Benoit <j.benoit4@icloud.com>
Cc: Ben King <bking@pacgoldag.com>

Good Morning Mr. Benoit,

I reviewed the draft GCID document again and I am working on my comments.

I do think you may want to reconsider your historical references of the local tribal communities and reflect the historical fact that GCID and Colusa and Glenn Counties are located on the native lands of three bands of Wintun Tribes. I believe you have referenced the Grindstone Community but I don't think you have mentioned the Cachil Dehe Band of Wintun which is located at the Colusa Rancheria nor the Cortina Band Kletsel Dehe located on the Cortina Rancheria.

I am not sure if your history about the naming of Colusa is correct or if is appropriate. Perhaps you should acknowledge the presence of the Colusa tribe on the Site at the time of the arrival of European trappers and explorers up the Sacramento River and at the time Will S. Green landed in Colusa. I am not sure why the document makes unnecessary references to tribal history especially assuming that Colusa had a Patwin genesis rather than a Wintun genesis.

I am attaching excerpts from the Will S. Green History from 1880 and an autobiography of John Bidwell which was included in the Justus Rogers History of 1891. The John Bidwell autobiography is really interesting but details the brutality of the time against native tribal people.

At you probably are aware the Waterboard has adopted an anti-racism and diversity equity and inclusion resolution and it probably would not serve GCID well to refer to tribal history incorrectly or ignore tribal history within the boundaries of GCID.

I will send you a couple more emails but I wanted to confirm what documents of overlapping and adjacent Mutual Water Companies/ Agencies have filed LAFCO documents:

Has RD 2047 filed any LAFCO Documents?

Has Sycamore Mutual Water Company filed any LAFCO Documents – do they need to since they are not a public Agency?

Has Colusa Drain Mutual Water Company filed any LAFCO Documents?

Has the Colusa Basin Drainage District filed any LAFCO Documents?

Has RD 479 any LAFCO Documents?

Thanks again for your time

Best Regards,

Ben King

From: Ben King <bking@pacgoldag.com>
Subject: GCID SOI Comments.
Date: March 27, 2023 at 1:10:00 PM PDT
To: John Benoit <j.benoit4@icloud.com>
Cc: Ben King <bking@pacgoldag.com>

Dear Mr. Benoit,

Here are my comments regarding the SOI document:

1. GCID was formed March 2, 1920 and comprised a large portion of the area that comprised RD 2047. RD 2047 was formed December 16, 1919 (see page 212 of Bulletin No. 37 of the 1930 DWR Publication.) A map and description for the GCID is on Page 58 of Bulletin No. 37

https://archive.org/details/financialgeneral37bontrich/_page/n1/mode/2up?view=theater

It is my opinion that the historical relationship between GCID and RD 2047 must be included in the SOI since it has been material since the inception of GCID and its material relationships with 6 other Public agency irrigation districts within the boundaries of RD 2047.

2. On June 2, 1953 , GCID and 5 other public agency irrigation districts entered into a 6 party agreement modifying the original plans for the flow of water down the Colusa Trough as proposed to the RD 2047 Board on June 17, 1921 by Charles D. St. Maurice. Mr. St. Maurice represented the County of Colusa and RD 2047 at the time. On July 16, 1954 the Six Party Agreement was expanded to include one mor public agency irrigation district. See the two agreements as attached.

It is important to note that the hydrological setting that RD 2047 and GCID was formed in. On Page 212 of DWR Bulletin No. 37 it is noted:

“Reclamation has been accomplished mainly by the construction of a

canal through the natural trough of the Colusa Drain to a connection with the back levee borrow pit of District No. 108 , thence to the Sacramento River at a point near Knights Landing”

3. The current Board for GCID includes Logan Dennis and Don Bransford is no longer President. John Amaro is the current President of GCID. I believe Don Bransford is still a member of the Board.

4. GCID has a material contractual relationship with the Tehama Colusa Canal Authority and may conduct water transfers with the TCCA. There is no discussion of this contractual relationship or how water transfers are approved by the Bureau of Reclamation. There is a reference to revenues on line 26 of the Budget that are derived from this contractual relationship but no background.

5. GCID states that it delivers water to the Colusa and Delevan Refuges but does not refer to any contractual relationship. Revenue is referenced on line 4 of the Budget

6. GCID refers to a contractual relationship with the Colusa Drain Mutual Water Company but does not reference any contractual relationship. Revenue from CDMWC is referenced on line 10 of the Budget – pages 20 and 21.

7. GCID is located within the boundaries of two Subbasins – the Colusa Subbasin and Corning Subbasin. It is a signatory to a Joint Powers Agreement with both the Glenn Groundwater Authority and Colusa Groundwater Authority. It is in a Cooperation Agreement with one other irrigation district and Glenn and Tehama Counties to the best of my knowledge regarding the Corning Subbasin.

8. GCID sometimes conducts out of basin water transfers which are subject to Glenn County and Colusa County ordinances restricting out of basin water transfers. GCID’s requirements of compliance with these ordinances should be noted in the SOI. Water Transfer Revenue is on line 10 of the Budget on Page 20.

9. The Groundwater Sustainability Plans for the Colusa Subbasin and Corning Subbasin have Measurable Objectives and Minimum Thresholds for the 5 Sustainability Indications. The GSP should address how GCID will be responsible for meeting the Minimum Thresholds for Surface Water Quality and Groundwater Quality. It is not clear to me that the surface water quality threshold mentioned in the SOI meets the GSP requirements for the two Subbasins.

10. GCID mentions that it purchases water in its Budget but there is no reference to contractual relationships for the purchase of water in the SOI.

11. GCID appears to operate a dam at the southeast corner of the Colusa Refuge but it does not appear that the dam is within the boundaries of GCID (See Maps in Sycamore Mutual Water Company attachment) The dam appears to be located within the jurisdiction of the Sycamore Mutual Water Company and potentially land within the boundary of the Colusa National Wildlife Refuge. This dam also acts as storage reservoir. There is no mention of the operation of this dam or storage reservoir in the SOI. There is no mention of a lease, license or other real property contractual relationship concerning this dam and reservoir. There is no mention of any permit for the construction and operation of the dam or reservoir. There is no mention about how this dam complies with Colusa County Ordinances regarding the obstruction of natural drainage. There is no mention about how this dam impacts downstream appropriative, riparian, or contractual rights to the water and natural water in the Colusa Trough. There is no mention about how this dam complies with FEMA regulations.

Thank you again for your time. I plan to send one more email to Chair Corona and Supervisor Bell regarding the covenant between T&M King Farms LLC and the County of Colusa not to obstruct natural flows of the Colusa Trough since they are Board Members for Colusa County. I will have some more historical maps and context in that email.

From: Ben King bking@pacgoldag.com 
Subject: GCID MSR/SOI Update Hearing Comments Relating To Dam in Colusa Basin Drain On South Border of Colusa National Refuge



Date: March 29, 2023 at 7:16 PM

To: jcorona@countyofcolusa.com, jbell@countyofcolusa.com

Cc: John Benoit j.benoit4@icloud.com, Ben King bking@pacgoldag.com, Luke Steidlmayer luke@steidlmayerlaw.com, Ben King bking@pacgoldag.com

March 29, 2023

Supervisor Merced Corona
Chairman
Colusa County LAFCO
Flood/FEMA Ad-Hoc Committee

Supervisor Janice Bell
Colusa County LAFCO

Dear Supervisors Corona and Bell,

I am submitting these comments for your consideration at the upcoming LAFCo Hearing on April 6, 2023 regarding the update of the MSR and SOI for GCID and as Supervisor Corona's role as a Member of the Flood/FEMA Ad-Hoc Committee.

There is a dam located at the south east corner of the Colusa National Wildlife Refuge within the channel of the Colusa Basin Drain. This dam creates a reservoir of water that spreads north in the channel of the Colusa Basin Drain and spreads over a significant area to the east and west of the channel.

As Supervisor Corona may remember I raised the issue that this dam was restricting needed environmental flows at the Board of Supervisors Meeting on June 21, 2023. I have attached photos from the riparian habitat and dry channel as of August 5, 2023 attached to an email to the California Department of Fish and Wildlife. There is also a photo of the dam site on that date showing how much water is held back by the dam.

There are three general issues that I asked you to consider in your deliberations regarding the approval of the proposed MSR/SOI for GCID:

1. What public trust and environmental issues are relevant for your consideration. As you can see from the August 5, 2023 photos there was no viable water available for aquatic life in the channel and the wildlife and riparian habitat was in high stress conditions. What are the minimum in-stream requirements for the channel below the dam?
2. The channel of the Colusa Basin Drain was dug in the natural waterway of the Colusa Trough and should be considered from a public trust perspective as a natural waterway with minimum in-stream requirements. I have attached excerpt from page 57 of the 1881 History of Colusa County – please refer to the marked text about the ridge separating the Upper Basin and the Lower Basin and the narrow water way – this is our property and the place where my great grandparents settled in 1860. To the north is what was called the Upper Basin and later the Davis Tule before Davis Ranches constructed a level and drained

most of the Upper Basin which left the Colusa National Refuge as the remaining permanent wetlands. To the south was what was known as the Lower Basin and this tule area was reclaimed by RD 108 starting in 1871. Our historical property starts just north of the RD 108 and ends just south of the Hahn Road crossing at the Colusa Basin Drain. The attached Map from the 1891 History of Justus Rogers also highlights the natural hydrological and topographical setting below the dam.

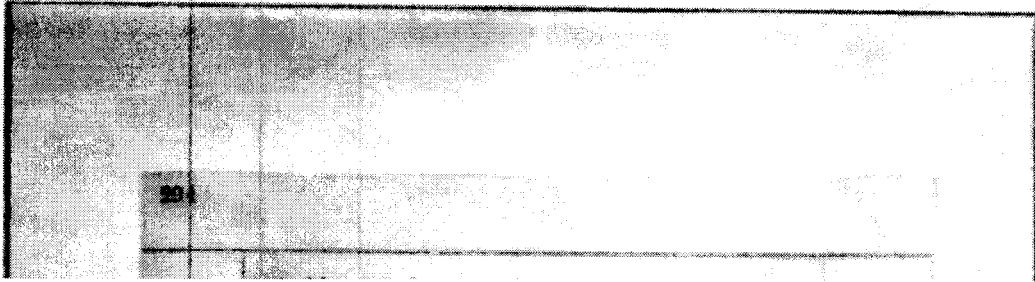
3. Our family has substantial property rights and public interest advocacy rights to demand that the County of Colusa and the State of California uphold the covenants granted my grandfather in 1920. This easement allowed for the drainage of the Upper Basin and enabled most of the Davis tule to be drained and the levee on the Davis property to be moved west to reclaim a substantial portion of the Davis Tule. Please refer to the Deed for the Easement dated August 12, 1920 where the covenants between my family and the County of Colusa and State of California are set forth. Please also refer to the second page of the Deed where the two covenants are marked: (1) not to stop the natural drainage and leave openings for the natural drainage and (2) not to prevent our family from full use of the natural water from sources north of our property.
4. Is the GCID MSR/SOI consistent with the historical understanding of stakeholder rights and the transparency provided by the RD 2047 SOI. The RD2047 SOI mentions that it was the understanding that none of the adjacent landowners could obstruct the channel of the channel of Colusa Basin Drain which is consistent with the legal rights my family retains in our Deed. Additionally, the RD 2047 has substantial disclosure about the 5 Party Agreement which was amended to be a 6 Party Agreement. There is no mention of this Agreement as Amended in the GCID document . Furthermore there was mentioned in a footnote that the 5(6) Party Agreement was going to be amended again to include the Colusa Drain Mutual Water Company pursuant to an action or disclosure item relating to the April 24, 2018 Board of Supervisors Meeting. Was this agreement with CDMWC ever consummated?
5. Whether or not this dam was constructed in compliance of Chapters 9 and 33 of the Colusa County Ordinances and/or complies with FEMA requirements. Was a permit obtain under Chapter 9 of the Colusa County Code? Does this dam comply with the prohibition against an encroachment of alteration of watercourse as set out in Chapter 33 which was recently revised pursuant to Ordinance 822. Does this dam comply with FEMA?
6. If GCID is in fact the operator of this Dam – does it own, lease or license the site of the dam and the reservoir? Does it need a permit from the State to construct or operate the dam? Does GCID need a permit or license to store the water in the reservoir? Does GCID own or lease the site where the water in the reservoir behind the dam is held?
7. Is the transparency and disclosure in the GCID regarding its material contact sufficient to meet LAFCo requirements. I have sent a separate email setting out the material public agency and contractual relationships that are not in the MSR/SOI which Mr. Benoit mentioned he would provide to you.

Thank you for your time and consideration

Best Regards,

Ben King
Manager
T&M King Farms, LLC

Mail Attachment Except From Map From 1891 August 1920
Will S....rty.pdf Colusa....rty.pdf Easem...nia.pdf





State Water Resources Control Board

In reply refer to:
CID:6565

Ben King
P.O. Box 29
Colusa, CA 95932

Dear Mr. King,

The Division of Water Rights received your complaint on August 5, 2022, alleging that dams on the Colusa Basin Main Drain are impacting flows to the detriment of fish in the drain. The dams that you referenced operate as weirs that normally allow flow bypass. My assessment of the area you presented in the complaint is that natural stream-flow in the Colusa Drain does not exist or is de-minimus at this time of the season. Currently, it appears the dams are used to facilitate re-diversion of tail water and field drainage. Any issues, if they exist, would be under the purview of participating districts and water companies.

Since no measurable natural flow is entering Colusa Drain and the Division has no authority to manage purchase water agreements, the Division proposes to close this complaint within 30 days unless additional evidence is submitted to justify further investigation. If you have any questions concerning this matter, please contact Chuck Arnold of my staff at (916) 341-5634 or by email at chuck.arnold@waterboards.ca.gov.

Sincerely,



Robert P. Cervantes
Program Manager – Enforcement
Division of Water Rights

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

From: Ben King bking@pacgoldag.com
Subject: Excerpts From SOI For RD 2047
Date: March 30, 2023 at 10:23 AM
To: John Benoit j.benoit4@icloud.com
Cc: jcorona@countyofcolusa.com, jbell@countyofcolusa.com, Luke Steidlmayer luke@steidlmayerlaw.com, Ben King bking@pacgoldag.com



Dear Mr. Benoit,

This will be my final comments before the April 6th Hearing. I am copying Chair Corona and Supervisor Bell on this email since it relates to the email I sent last night regarding the County Code and the dam at the south eastern edge of the Colusa National Wildlife Refuge. I did not have access to the SOI for RD 2047 until I received it from you yesterday so my apologies for this addendum comment.

Here is an excerpt from Page 48 of the RD 2047 Excerpt:

“Even though no specific mention of water use was included in the right-of-way agreements, the consensus within the District was that the landowners had the right to use any water crossing their property **but that no obstruction could be allowed in the channel.** In order to accomplish the drainage plan described above, it was necessary that the District obtain the rights to use certain improvements and works of various districts located between the southern end of Reclamation District 2047 and Knights Landing.”

I would like to point out that the covenants in my Deed correspond with the historical consensus “**that no obstruction could be allowed in the channel.**” My question is how has this use of the channel changed from “no obstruction” to a dam that destroys aquatic and wildlife habitat in addition to violating covenants given in exchange for an easement. The GCID SOI should have this disclosure and provide an explanation for the existence and operation of the dam.

Another historical fact is that RD2047 was to include all of the area from Willow Creek to the top of RD108’s facilities. Right now the area south of the dam is without any public agency jurisdiction but only includes the jurisdiction of Colusa Drain Mutual Water Company which can not provide for delivery of water south of the dam without the operator of the dam releasing such water. Even last year the CDMWC should have been able to deliver 9 pct of its contractual rights with the USBR but was not able to due to the dam.

Regarding the “Five Party Agreement” – as I mentioned before none of the history or the existence of the Agreement is referenced in the GCID MSR/SOI. On Page 49 of the RD 2047 SOI there is reference to a plan to extend the Five Party Agreement to include Willow Creek Mutual Water Company and CDMWC – has that happened?

There is also a footnote 69 referencing:

69 COUNTY OF COLUSA BOARD OF SUPERVISORS, Melissa Kitts Deputy Clerk to the Board, 547 Market Street, Ste. 102, Colusa, CA 95932, (530) 458-0735, mkitts@countyofcolusa.com. April 24, 2018.

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Do you know what this footnote is intended to reference? I don't believe that April 24th was a BOS Meeting Date and could not see anything on the Agendas for the Meetings before or after?

Finally in Footnote 68 there is reference to : **Reclamation District No. 2047, "Brief History and Responsibilities," May 31, 1996** Can you send me a copy of this document as soon as possible or provide any information about where I can obtain the Brief History and Responsibilities for RD 2047?

Thank you very much for your time and consideration

Best Regards,

Ben King