

REDWOOD VALLEY COUNTY WATER DISTRICT

48 Years of Water Insecurity

SUMMARY

The Redwood Valley County Water District (RVCWD) cannot and has never been able to provide water security to its customers. The RVCWD does not have sufficient water rights or water resources to serve its current customers. Due to these deficiencies, since 1989 the RVCWD is currently under a court moratorium that does not allow the addition of another residential customer. The RVCWD has further self-imposed a limitation on new agricultural connections. There is no current water allocation to agricultural customers. At this time, the health and human safety needs of the RVCWD's domestic customers are being met with purchased water from the Millview County Water District (MCWD).

When the RVCWD was formed in 1964, they had no water rights. In January 1956 the residents of Redwood Valley voted to reject participation in the Coyote Valley Dam project. The other voters in the affected Upper Russian River basin approved the project and the formation of the Russian River Flood Control District (RRFCD). The RRFCD administers the 8,000 annual acre feet (AF/year) of storage water in Lake Mendocino allocated to Mendocino County.

In the early 1970's, Federal no-interest loans were available through the Bureau of Reclamation's *Small Projects Act* to fund western states water projects. The RVCWD needed assured water supplies to access the funding. A Memorandum of Guarantees (MoG) with RRFCD for excess/uncontracted water from Mendocino County's 8,000 AF/year of Lake Mendocino water allowed the RVCWD to pursue district voter approval and apply for the Federal funds. The MoG led to the current *stipulated judgment* that allows access to RRFCD uncontracted water.

The RVCWD had two outstanding voter approved Federal loans from 1975 and 1980 which totaled \$7.3 million. These Bureau of Reclamation loans paid for the following infrastructure: a water treatment plant, both a domestic and separate agricultural water distribution network, limited water storage and a system to pump water directly from Lake Mendocino. As of August 2021, the unpaid principal balance on the loan was \$6.85 million.

BACKGROUND

By a supermajority vote, the 2021-22 Mendocino County Grand Jury (GJ) investigated the RVCWD based on a citizen complaint.

METHODOLOGY

The GJ interviewed a member of the Mendocino County Board of Supervisors, (BOS), all the RVCWD board members, a former board member, the manager and a former manager. The GJ attended multiple local water entity board meetings. The GJ reviewed local, state, and federal documents which include:

- United States Environmental Protection Agency Safe Water Drinking Act,
- California Legislation Senate Bill 88 (SB 88),
- California Legislation Water Code § 30322, 30323 (estimate of County Water Districts),
- 1980 Stipulated Judgment, Mendocino Superior Court (RRFCD vs RVCWD),
- 1989 Superior Court of Mendocino sets moratorium on new domestic water hookups,
- 2003 GJ report titled *REDWOOD VALLEY COUNTY WATER DISTRICT* (RVCWD),
- Senator Feinstein letter, dated April 18, 2007,
- 2008 GJ report titled *SURPLUS WATER IS A OXYMORON: A Report on the Redwood Valley County Water District*,
- 2010 GJ report titled *LOBBIES, LAWSUITS & LEGISLATION*,
- 2017 LAFCo Russian River Flood Control Municipal Service review and Sphere of Influence update,
- Sonoma County Water Agency, *2002 History of the Development of the Water Resources of the Russian River*,
- US Army Corp of Engineers: *An Interpretive History of Coyote Valley Dam Mendocino County* Feb 1979,
- Redwood Valley County Water District's financial statements and independent auditor's reports from 2011-2020,
- Multiple contemporary local social and print media reports.

The GJ also reviewed minutes from the monthly board meeting of the following water entities:

- Russian River Flood Control District (RRFCD),
- Inland Water and Power Commission (IWPC),
- Upper Russian River Water Agency (URRWA),
- Mendocino County Inland Water and Power Commission (MCIWPC),
- Redwood Valley County Water District (RVCWD),
- Willow County Water District (WCWD),
- Millview County Water District (MCWD),
- Mendocino Local Agency Formation Commission (LAFCo),
- Mendocino County Board of Supervisor (BOS) serving as Mendocino County Water Agency/Mendocino County Drought ad hoc Committee.

DISCUSSION OF FACTS

History

Predicated on local funding requirements by Sonoma and Mendocino Counties, the State of California began the process of trying to build the Coyote Valley Dam with funding dedicated to flood control from the federal government.

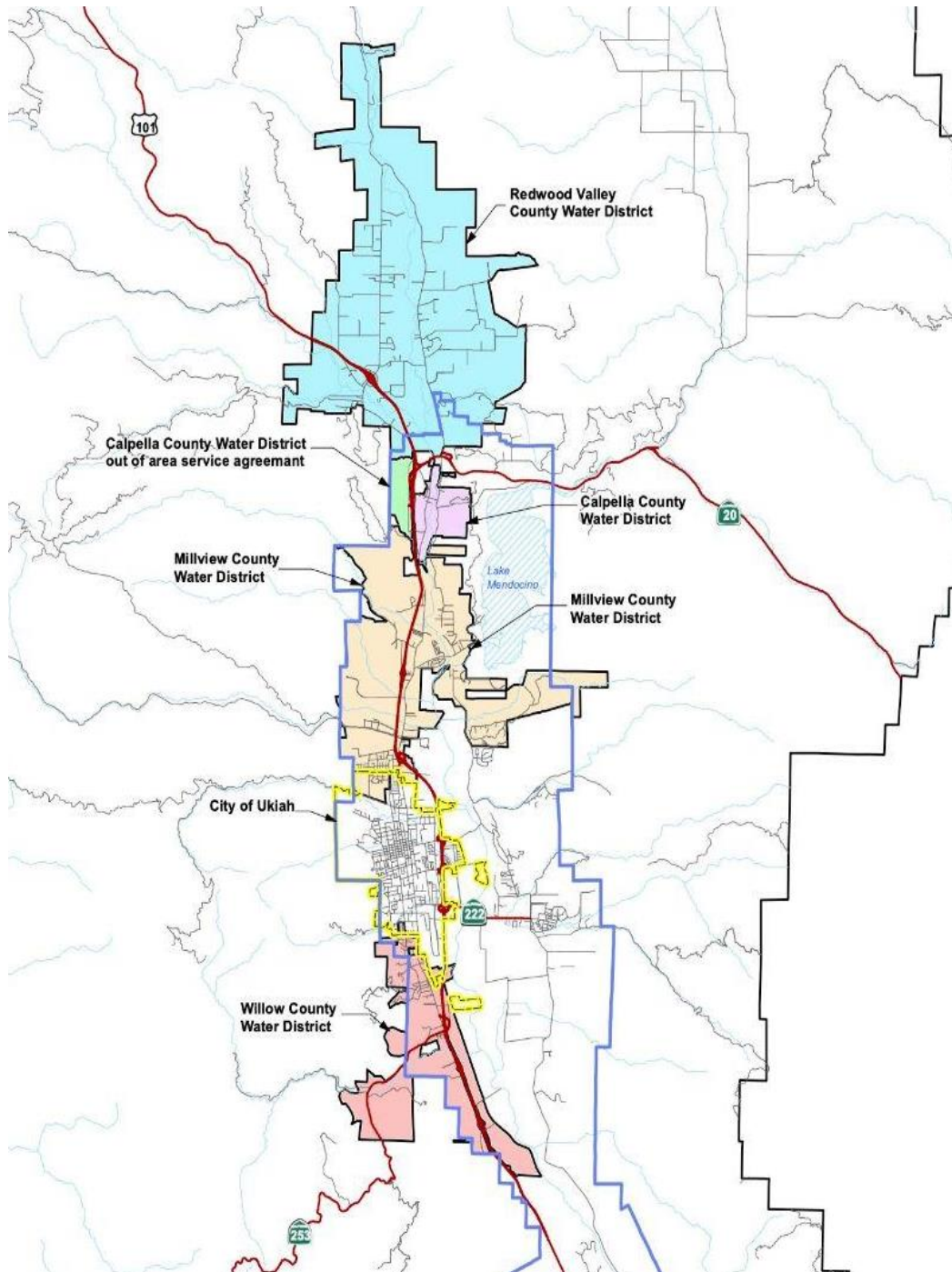
On January 29, 1949, the State of California filed applications for appropriation of Russian River water rights and established at that time by legislation, both the Sonoma County Flood Control and Water Conservation District (now the Sonoma County Water Agency-SCWA) and the Mendocino County Water Flood Control and Water Conservation District (now the Mendocino County Water Agency-MCWA).

Studies funded by both Mendocino and Sonoma with agreement from the State of California, settled on allocation of both financial burden and water rights access based upon 88.7 percent for Sonoma County and 11.3 percent for Mendocino County. This resulted in 8,000 AF/year available to Mendocino County and controlled by the above MCWA.

On January 24, 1956, Mendocino voters within the boundaries of the proposed upper Russian River watershed approved the issuance of bonds to meet the County's financial obligation to the Coyote Valley Dam project, and to approve the formation of a separate entity to control the 8,000 AF/year of water allotted to Mendocino County. The vote formed the Russian River Flood Control District (RRFCD), and five members were elected to a governing board. The RRFCD has the power to levy property taxes and fees, incur bonded indebtedness and develop contracts with outside parties.

It was through this pivotal 1956 election that the residents of Redwood Valley voted not to participate in the Coyote Valley Dam bond indebtedness and were therefore excluded from having access to Mendocino County's 8000 AF/year of water allotments.

The Redwood Valley County Water District was incorporated on January 16, 1964, under California Legislative Water Code § 30322, 30323. The RVCWD Board of Directors searched for many years for an adequate supply of water for projected growth of domestic, commercial, and agricultural needs. Their efforts have been unsuccessful.



Ukiah Valley Water District Map

On Feb 28, 1972, a Memorandum of Guarantees (MoG) between the Russian River Flood Control District and Redwood Valley County Water District made available to RVCWD excess water. That amount of water is defined as all uncontracted water from the Mendocino County 8,000 AF/year allotment. This MoG allowed RVCWD to move forward with applications for loan funds available through the Federal Bureau of Reclamation ‘Small Project Act’.

In 1975, 82 percent of voters in the RVCWD approved a district loan application for a \$4.8 million Bureau of Reclamation *Small Project Act* loan. This loan paid for the following infrastructure: a water treatment plant, both a domestic and separate agricultural water distribution network, limited water storage and a system to pump water directly from Lake Mendocino. The system became operational in 1979.

On December 10, 1975, RVCWD's Application #24955 with State Water Resources Control Board (SWRCB) was accepted and granted Permit #17593 which allows the RVCWD to pump directly from Lake Mendocino. Winter water rights to pump from Lake Mendocino are between October 1 and April 30 for a total of 4900 AF/year.

These rights are further limited by specific diversion parameters. The diversion may be made only during those times when the water level in Lake Mendocino cannot be increased due to the requirements of preserving storage capacity for flood control. During the period from Oct 1 through April 30, typically the surface level is above the conservation pool. The diversion may only be made when the flow in the Russian River at the confluence of the East Branch exceeds 150 cubic feet per second.

The permit allows RVCWD the right to store 2800 acre feet of winter water. However, the RVCWD does not have the storage capacity necessary for the volume of summer water needs. In the Spring of 2021 and for all of the 2021-22 winter season, RVCWD was unable to divert Lake Mendocino waters, as none of the above parameters were met.

In 1980, 78 percent of voters in the RVCWD approved an additional \$2.5 million Bureau of Reclamation loan. This 'escalation' loan was used to expand the water delivery systems.

In 1980 the RRFCD sued RVCWD to overturn the 1972 Memorandum of Guarantees (MoG). The ensuing 'Stipulated Judgment' by Mendocino Superior Court codified the MoG maintaining that the RRFCD must make available to RVCWD all excess water not contracted. This judgment is still in effect today and has been the main source of summer water for the residents of Redwood Valley.

Lake Mendocino's Coyote Valley Dam was originally built for flood control. Water release is based on seasonal dates and/or storage level. The Army Corp of Engineers and the Sonoma County Water Agency (SCWA) are the agencies in control of releasing water in Lake Mendocino. The Army Corp of Engineers monitors these specific releases as they are mandated by fixed flood control metrics and instream flow minimums required by federal statutes. The discretionary releases of stored water are dictated by SCWA.

In January 1989, the Superior Court of Mendocino County determined the RVCWD had potentially undependable water rights during the summer months. A Peremptory Writ of

Mandate was issued which required that RVCWD be prohibited from making any net increase in physical domestic service connections in the RVCWD. That moratorium on new hook-ups remains in place today. There are over 100 requests for new connections on a waiting list.

In 2001 the RVCWD board placed a self-imposed moratorium on new agricultural connections because the RVCWD knew it did not have sufficient rights or resources to deliver water for future agricultural growth.

The RVCWD maintains approximately 1350 domestic/commercial and 200 agricultural customers. The stagnation in growth has limited RVCWD's revenues to approximately \$1.2 million annually. Additionally, decreased water use reduces the annual revenue that affects the customer service and maintenance of the infrastructure. At the end of fiscal year 2020, domestic revenue represented 77 percent with the remaining 23 percent coming from agriculture. In 2021, rates per 1000 gallon (TGAL), treated domestic water are \$5.79/TGAL and untreated agricultural water is \$0.76 TGAL.

Currently, all domestic water for RVCWD customers is being purchased from Millview Water District and RVCWD household use is limited to 55 gallons per person per day. The RVCWD's stored water is used solely for fire suppression.

Since April 2021, there has been no available water from RVCWD for existing agricultural customers. Agricultural customers are operating only on storage ponds and groundwater.

Prior to 1979, delivery infrastructure for agricultural customers in Redwood Valley had less than 1500 acres of vineyards, almost entirely dry farmed. Access to irrigation water has allowed vineyard farming to expand to over 3000 acres, most of which now require summer irrigation. Approximately 66 percent of the water the RVCWD normally supplies its ratepayers is through the untreated agricultural delivery system. Agriculture customers pay meter fees regardless of water consumption. The most recent report available from 2020 showed agriculture meter revenues totaled \$104,880 annually.

Federal Loans

A principal balance of over \$6.8 million plus interest remains due to the Federal Government. This debt hinders the RVCWD's ability to secure loans, and limits their ability to take necessary steps to increase their water storage or upgrade their infrastructure as outlined in the last sentence of Senator Feinstein's April 18, 2007, letter:

“Before the District can secure private financing for new projects, it must renegotiate the existing loans to provide for their repayment subsequent to the repayment of new loans”.

In September 2021, the Bureau of Reclamation reached out to the RVCWD to begin discussions about repayment options for outstanding federal loans. The following response was sent by the RVCWD to the Bureau:

“Dear Mr. Conant: (Regional Director, US Dept of the Interior; re RVCWD Federal Debt)

Redwood Valley County Water District (“District”) has received the letter reminding the District of the unpaid debt owed to the United States. Please be assured that the District is as concerned about this obligation as is the United States. We continue to explore possible ways of solving the problem of the lack of water supply and, therefore, a lack of income to service this debt. The circumstances of the United States and the District are, indeed, unfortunate in this instance. We continue to believe that there is an economically feasible water storage or water development project that can solve the water supply problems of the District and of other public entities within Mendocino County and Sonoma County which could eventually lead to payment of this debt. We will continue to work towards that goal as we know your organization will.”

Involuntary Consolidation

SB 88 authorizes the State Water Resources Control Board (SWRCB) to intervene with water agencies that consistently fail to provide an adequate supply of drinking water. The SWRCB first provides technical assistance to analyze and recommend a course of action. Lacking progress, the SWRCB may initiate discussions with the deficient agency and neighboring/adjacent water agency regarding consolidation. If voluntary consolidation cannot be negotiated in a reasonable time period, the SWRCB may direct mandatory consolidation.

As of the publication of this report, informal and voluntary consolidation efforts are proceeding with the City of Ukiah and Upper Russian River Water Agency (URRWA) a Joint Powers Authority (JPA) working for the consolidation of Ukiah Valley's water. The board includes a single member from Willow County Water, Calpella County Water, Redwood Valley County Water, Millview County Water as well as the Ukiah Valley Sanitation District. The GJ is encouraged by the fact that RVCWD manager is intimately involved with current and ongoing

consolidation discussions.

The County of Mendocino Local Agency Formation Committees (LAFCo) has jurisdiction to oversee local agencies within the county and to regulate urban sprawl and assure adequate services and efficiencies of governance among and between the cities and the independent Special Districts. Any reorganization/consolidation/annexation of regional water districts will require a LAFCo review. At the May 2, 2022, LAFCo monthly meeting, the agenda included a presentation from the State Water Resources Control Board (SWRCB). LAFCo heard an informational presentation from a state water official and provided direction to staff regarding a request for a letter of support for potential reorganization of water service providers in the Ukiah Valley. On June 6, 2022, Mendocino LAFCo submitted to SWRCB a detailed letter of support for active consolidation efforts. This was relevant as the State of California wants LAFCo to understand the importance of this consolidation project.

Board of Directors and Community Involvement

In 2018, there was a resignation from the RVCWD Board of Directors. The remaining four members had 60 days to appoint a replacement for the balance of the term. This action was not performed. At that point, Mendocino County Board of Supervisors are responsible to appoint a member to the RVCWD board. This action was not performed, and the vacant board seat remains.

In June of 2021, during a record setting drought, the RVCWD advertised a public forum. The forum was to review and discuss a rate study that the RVCWD board had commissioned to address the financial challenges facing the RVCWD. The combined domestic, commercial, and agricultural connections total over 1,500 rate-paying customers. The public forum produced one person in attendance demonstrating support and 14 letters of protest.

FINDINGS

- F1. The consolidation of local water agencies is the logical first step in not only securing water availability for the RVCWD's residents and businesses, but for the entirety of the Ukiah basin. The GJ agrees with the 2003, 2008 and 2010 GJ reports and the consolidation recommendation in the most recent 2017 LAFCo report on the RRFCD Municipal Service review and Sphere of Influence update.
- F2. The RVCWD Boards have failed in efforts to annex Russian River Flood Control. The initial short-sighted decision by Redwood Valley voters in January 1956 to not participate in the Coyote Valley Dam project and gain access to subsequent RRFCD water right contracts has continued to plague residents in the RVCWD, as attempts to secure water rights have never come to fruition.

- F3. It is in the best interest of Redwood Valley residents for the current RVCWD Board to support all efforts to voluntarily consolidate rather than for the State of California to implement SB 88 proceedings.
- F4. The \$6.85 million principal balance in Federal Bureau of Reclamation *Small Project Act* loans remains a burden to the RVCWD, limiting access to available funding sources for infrastructure, maintenance, and upgrades.
- F5. Lack of water to supply agricultural customers has eliminated 23 percent of the RVCWD's annual revenue. Having not received agricultural water for almost two years, agricultural customers are asking to have their meters removed, putting an additional \$100,000 in meter revenues at risk. Consequently, vineyard production is reduced, district revenues are reduced, and some vineyard viability is put in jeopardy.
- F6. The BOS failed their fiduciary duty to fill the vacant seat on the RVCWD Board when the special district was unable to do so themselves.
- F7. Stakeholder apathy is not unique to RVCWD. Many special districts within Mendocino County struggle to generate interest in district stability and financial health. The GJ noted a lack of attendance at the RVCWD meetings and an apparent lack of concern over water rate hikes or daily water use limits.
- F8. The Mendocino County Water Agency (MCWA) is being reestablished for oversight of all water issues within the County. The MCWA would be the logical entity to bring forward monthly reports to the BOS to ensure RVCWD water security and the federal loan debt remain visible on the BOS legislative calendar.

RECOMMENDATIONS

The Grand Jury recommends that:

- R1. the RVCWD immediately pursue all avenues towards consolidation with local water districts to obtain secure access to sufficient water rights to meet the health and safety needs of the RVCWD domestic, commercial, and agricultural customers. (F1-F3, F5)
- R2. the RVCWD shall agendaize fiscal and water rights progress at their regular meetings. (F1-F5)

R3. within 90 days, the RVCWD engage in negotiations with the United States Department of the Interior, Bureau of Reclamation to pursue partial or full loan forgiveness and/or develop a repayment plan. (F4)

R4. the RVCWD shall find ways to engage their stakeholders in water security. (F7)

R5. the District 1 member to the BOS monitor and report on the current negotiations toward consolidation of water districts in the upper Russian River watershed on a quarterly basis. (F8)

R6. the BOS establish monthly agendized reporting mechanisms to receive regular MCWA progress reports, with a focus on the RVCWD crisis. (F8)

RESPONSES

Pursuant to Penal Code § 933.05, responses are required from the following boards:

Mendocino County Board of Supervisors (F1, F4, F6, F8) and (R1, R3, R5, R6)

Redwood Valley Water District Board (F1-5, F7) and (R1-4)

Pursuant to Penal Code § 933.05, responses are requested from the following individual:

California State Senator, District 2, (All Findings) and (All Recommendations)

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

- Safe Water Drinking Act www.epa.gov/sdwa
- Senate Bill 88 [Bill Text - SB-88 Water. \(ca.gov\)](#)
- 1980 Mendocino County Superior Court Ruling, RRFCD sued RVCWD
- [1980-Stipulated-Judgement-MCRRFC-WCID-and-Redwood-Valley-CWD.pdf \(secureservercdn.net\)](#)
- Senator Feinstein suspends Fed loan payments [Senator FeinsteinIntroduces Measure to Help Increase Drinking Water Supply for Redwood Valley](#)
- 2017 LAFCO Service Review RRFCD [MSR-SOI-for-MCRRFCWCID-2017.pdf \(secureservercdn.net\)](#)
- *2002 History of the Development of the Water Resources of the Russian River* [rrhistoryproof3.PDF \(krisweb.com\)](#)
- Interpretive History of Coyote Valley Dam [Exhibit-4-USACE-Coyote-Dam-History.pdf \(eelriver.org\)](#)
- Mendocino County Drought Resource [Mendocino County WaterAgency Drought Water Conservation Resources | Mendocino County, CA](#)
- RVCWD water right application 24955 and permit 17593 [DocumentRetriever.jsp \(ca.gov\)](#)
- SWRCB presentation at 5/2/2022 LAFCo [Risk Assessment Results Map 2022 - RAFA \(mendolafco.org\)](#)