

EL DORADO IRRIGATION DISTRICT

SUBJECT: Reapportioning District divisions.

PREVIOUS BOARD ACTION

August 22, 2011 – Board adopted Resolution No. 2011-016, establishing new division boundaries that provided for near equal division population.

BOARD POLICIES (BP), ADMINISTRATIVE REGULATIONS (AR), BOARD AUTHORITY AND STATUTES

BP 1010 Introduction

BP 2030 Role of the General Counsel

SUMMARY OF ISSUE

The 2020 decennial census triggers a mandatory legal duty for the District to adjust its division boundaries. Reapportionment must comply with state law and with constitutional principles that ensure our ratepayers continue to receive fair and equal representation.

The Board has reapportioned its division boundaries after every federal census for many decades and has taken various approaches to reapportionment in the past. For this reapportionment, the General Manager and General Counsel recommend that the Board assign the General Counsel as staff liaison and project manager for the reapportionment effort similar to the approach in 2011. The General Counsel, along with other District staff, will analyze census and other relevant data, develop multiple reapportionment options, present this information to the Board, and solicit public input in public workshop settings. The culmination of this effort will be a presentation of final reapportionment options, including a preferred option, for Board action prior to May 11, 2022.

BACKGROUND/DISCUSSION

Legal Framework

Both state law and Board policy require the District to adjust its division boundaries in the wake of the 2020 federal census. Board Policy 1010 states the District's division boundaries are regularly re-evaluated to ensure population is equally distributed among the divisions and the other criteria specified by California Election Code section 22000(a) are considered (these criteria are discussed below). The state law requirement arises out of the Irrigation District Law and the state Elections Code. Specifically, Water Code section 21605 requires the Board of Directors of every irrigation district whose directors, like the Board, are elected by division, to adjust the boundaries of the divisions in accordance with Section 22000 and 22001 of the Elections Code.

In turn, Elections Code section 22000(a) requires the adjustment of division boundaries "after each federal decennial census, and using that census as a basis." The new divisions shall, "as far as practicable," be "equal in population and in compliance with Section 10301 of Title 52 of the United States Code." The referenced federal statute is part of the Voting Rights Act of 1965, and it prohibits voting requirements or any standard, practice, or procedure that results in the denial or abridgement of any citizen's right to vote on account of race, color, or membership in a minority language group. A large body of federal court decisions also holds that the failure to

observe the "one person, one vote" principle and the imposition of racial, ethnic, or linguistic impediments to citizens' voting rights each violate the Equal Protection Clause in the Fourteenth Amendment to the United States Constitution.

Therefore, both the United States Constitution and state law compel the reapportionment process to satisfy the mandatory criteria of population equality and anti-discrimination. These criteria should be considered paramount in developing redistricting proposals. There is no set percentage by which division populations can deviate from precise mathematical equality and still pass constitutional muster, but the burden is on the District to show unique factors that justify anything more than insubstantial deviations.

Besides the two mandatory criteria of population equality and anti-discrimination, Elections Code section 22000(a) states that the reapportionment "may give consideration to the following factors: (1) topography, (2) geography, (3) cohesiveness, contiguity, integrity, and compactness of territory, and (4) community of interests of the division." Under state law, consideration of these factors is optional; however, Board Policy 1010 makes it mandatory for the District. Still, these factors are best seen as secondary, because they are not directly driven by constitutional equal-protection guarantees.

These secondary factors are interdependent - for example, topography and geography certainly play roles in the formation of communities of interest, and communities of interest affect the assessment of whether a division is cohesive and has integrity. Still, it is possible and desirable to examine each factor individually. Data likely to be useful in assessing individual secondary factors include: elevation, watershed boundaries, watercourses, major roads and road networks, boundaries of Community Regions and Rural Centers defined in the County's General Plan, boundaries of the District's Deer Creek and El Dorado Hills wastewater collection systems, the District's recycled water service area, County-designated agricultural regions, regions of large-lot residential subdivisions, concentrations of multi-family housing, and the location, type, and intensity of future development under applicable County planning and zoning enactments.

Timing Considerations

The District needs the detailed 2020 census data before launching its reapportionment effort—both because state law requires that the reapportionment be based on the census, and because the detailed census results will provide the District with population and demographic data needed to meet these two mandatory criteria. The data are not perfect, both because they represent a snapshot in time and because census-tract borders do not correspond perfectly to the boundaries of the District's service area. The District will necessarily apply interpretation and estimation to the census data received—a process that will take some time and judgment. Nevertheless, this census-tract information will provide the best available data.

Federal law requires release of the detailed census data no later than April 1. This year, however, the federal government has delayed releasing the data due to COVID-19-related complications in gathering data, unforeseen complexities in data processing due to increased response methods (internet, phone, paper self-response, administrative records, and visits by enumerators), and standard processing anomalies. The U.S. Census Bureau anticipates releasing redistricting counts to the states by September 30, 2021. For planning purposes, we should not assume that the data will be available before this date.

The timing of the detailed census data and state law requirement could raise a very unfortunate timing issue for the District and its electors if the release of census data is further delayed. Elections Code section 22000(d) states, "No change in division boundaries may be made within

180 days preceding the election of any director." The next Board election (Divisions 2 and 4) is November 8, 2022, therefore, no change in boundaries can go into effect between May 12 and November 7, 2022. Historically, the redistricting process has taken the District approximately five to six months to complete so as long as the federal government releases the census data by September 30, 2021, the District will most likely be able to complete the redistricting effort prior to May 11, 2022.

Procedural Recommendation

Neither Board Policy 1010 nor state law prescribes a specific procedure for adjusting division boundaries, other than to require that a majority of the Board adopt the final result by resolution. During the last reapportionment in 2011, the Board appointed then-General Counsel, Tom Cumpston, as the project manager. General Counsel formed a citizens' Redistricting Advisory Committee composed of the General Counsel and one resident per District division. Staff adapted the 2010 Census data to the boundaries of EID's service area and generated dozens of redistricting maps to be used in the process. Staff also hosted two rounds of public workshops to review the rough drafts and refined versions of the redistricting alternative maps in addition to redistricting presentations for local community organizations. Finally, Staff created a dedicated page on the District's website devoted to the redistricting effort. Ultimately, the Redistricting Advisory Committee presented four alternative maps to the Board and the Board adopted one of the alternatives to finalize the District's division boundaries on August 22, 2011.

In 2002, the Board chose a different procedure for conducting reapportionment. Rather than creating a citizens' advisory committee, the Board appointed a staff working group and retained a mapping consultant. Over a five-month period, staff and the consultant confirmed and adjusted the census-tract data to conform to District boundaries; developed a preliminary draft map of new divisions that equalized population and considered communities of interest; shared the results with each Board member individually; and presented a preferred option and alternative to the Board and public in two regular Board meetings.

In deciding how best to conduct reapportionment in 2021, staff recommends two guiding principles. First, both the process and the outcome of the District reapportionment must achieve the constitutional guarantee of equal protection (as discussed above). Second, the process of reapportionment should be conducted with the utmost transparency and opportunity for public participation.

With these guiding principles in mind, staff recommend that the District conduct reapportionment during a series of publicly noticed Board meetings, incorporating Zoom technology, to allow the public to participate remotely and in person, once in-person meetings resume, at every step in the process. As in 2011, General Counsel will act as project manager for the 2021 reapportionment. District Engineering staff will provide analytical support with geographic information system capabilities. District Communication staff will provide support with public outreach, including website materials, and District Information Technology staff will provide technical support. Staff anticipates conducting monthly public meetings (approximately 5-8) in the form of information items or public workshops. We also propose two public workshops to be held in the evenings and, if possible, in-person for review of initial and refined redistricting options. Assuming the District receives census data in September, staff anticipates conducting the reapportionment from September 2021 to May 2022. The Board will adopt its final division map in a public hearing prior to May 11, 2022.

FUNDING

At this time, we believe that sufficient in-house staff resources are available to support the project as recommended.

BOARD OPTIONS

None – Information only.

RECOMMENDATION

None – Information only.

ATTACHMENTS

None



Brian Poulsen
General Counsel



Jim Abercrombie
General Manager



REDISTRICTING



May 24, 2021

SUMMARY OF ISSUE

- The 2020 census triggers a mandatory legal duty for the District to adjust its division boundaries to ensure our ratepayers continue to receive fair and equal representation.
- Staff recommends that the District conduct the reapportionment in the most transparent manner possible, through a series of public Board meetings.
- General Counsel will act as project manager; staff will analyze census and relevant data, develop multiple reapportionment options, report activities to the Board, solicit public input in public workshop settings.

BACKGROUND / DISCUSSION

LEGAL FRAMEWORK

- State law and Board policy (BP) require the District to adjust division boundaries after every federal census.
- BP 1010: District's division boundaries are regularly re-evaluated to ensure population is equally distributed among the divisions and the other criteria specified by California Election Code section 22000(a) are considered.
- Water Code section 21605: requires the Board of Directors of every irrigation district, whose directors are elected by division, to adjust the boundaries of the divisions in accordance with Section 22000 and 22001 of the Elections Code.

BACKGROUND / DISCUSSION

LEGAL FRAMEWORK

- Elections Code section 22000(a):
 - Requires adjustment of division boundaries after federal census using that census as a basis
 - As practical, new divisions shall be equal in population and in compliance with Section 10301 of Title 52 of the United States Code
 - Protects against the denial or abridgement of any citizen's right to vote on account of race, color, or membership in a minority language group
- "One person, one vote" principle
- District must show factors that justify anything more than insubstantial deviation in population among divisions

BACKGROUND / DISCUSSION

LEGAL FRAMEWORK

- Elections Code section 22000(a) states reapportionment may give consideration to the following factors:
 - Topography
 - Geography
 - Cohesiveness, contiguity, integrity, and compactness of territory
 - Community of interests of the division

BACKGROUND / DISCUSSION

LEGAL FRAMEWORK

Data likely to be useful in assessing individual secondary factors include:

- Elevation
- Watershed boundaries
- Watercourses
- Major roads and road networks
- Boundaries of Community Regions and Rural Centers defined in the County's General Plan
- Boundaries of the District's Deer Creek and El Dorado Hills wastewater collection systems
- District's recycled water service area
- County-designated agricultural regions
- Regions of large-lot residential subdivisions
- Concentrations of multi-family housing
- Location, type, and intensity of future development under applicable County planning and zoning enactments

BACKGROUND / DISCUSSION

TIMING CONSIDERATIONS

- As census-tract borders do not correspond perfectly to District boundaries, we will apply interpretation and estimation to the census data which will take time.
- The government delayed releasing data due to COVID-19-related complications gathering data, complexities in data processing due to increased response methods, and standard processing anomalies.
- The U.S. Census Bureau anticipates releasing redistricting counts to the states by September 30, 2021.

BACKGROUND / DISCUSSION

TIMING CONSIDERATIONS

- Elections Code section 22000(d): No change in division boundaries may be made within 180 days preceding the election of any director.
- The next Board election (Divisions 2 and 4) is November 8, 2022.
 - No change in boundaries can go into effect between May 12 and November 7, 2022.
- The District anticipates completing the redistricting effort prior to May 11, 2022.

BACKGROUND / DISCUSSION

PROCEDURAL RECOMMENDATION

2011 Reapportionment

- General Counsel as project manager
- Citizens' Redistricting Advisory Committee
- Public workshops
- Presentations to local community organizations
- Webpage devoted to redistricting effort

2002 Reapportionment

- Staff working group
- Mapping consultant
- Internal effort
- Individual meetings with Board members to share the progress and draft maps

BACKGROUND / DISCUSSION

PROCEDURAL RECOMMENDATION

2021 Reapportionment Guiding Principles

- District reapportionment must achieve the constitutional guarantee of equal protection.
- The process should be conducted with the utmost transparency and opportunity for public participation.

BACKGROUND / DISCUSSION PROCEDURAL RECOMMENDATION

2021 Reapportionment

- Board will conduct reapportionment in 5-8 public meetings via Zoom and in-person attendance.
- Two public workshops to be held in the evenings and, if possible, in-person for review of initial and refined redistricting options.
- Staff anticipates conducting the reapportionment from September 2021 to May 2022.
- The Board will adopt its final division map in a public hearing prior to May 11, 2022

BACKGROUND / DISCUSSION PROCEDURAL RECOMMENDATION

2021 Reapportionment

- Staff recommends the General Counsel act as project manager.
- Engineering staff will provide analytical support with geographic information system capabilities.
- Communication staff will provide support with public outreach, including website materials.
- Information Technology staff will provide technical support.

BACKGROUND / DISCUSSION FUNDING

- At this time, we believe that sufficient in-house staff resources are available to support the project as recommended.

BOARD ACTION

- None – Information only

QUESTIONS?