**Sierra County**  
**Board of Supervisors’**  
**Agenda Transmittal & Record of Proceedings**  

**MEETING DATE:** August 20, 2019  
**TYPE OF AGENDA ITEM:** ☑ Regular  ☐ Timed  ☐ Consent  
**DEPARTMENT:** Board of Supervisors  
**APPROVING PARTY:** Heather Foster, Clerk of the Board  
**PHONE NUMBER:** 530-289-3295

| AGENDA ITEM: Discussion/direction regarding letter from Michael Welbourn expressing concerns over FEMA violations on certain properties located within the City of Loyalton. |
| SUPPORTIVE DOCUMENTS ATTACHED: ☐ Memo  ☐ Resolution  ☐ Agreement  ☑ Other  
See attached letter |

**BACKGROUND INFORMATION:**

| FUNDING SOURCE: N/A  
GENERAL FUND IMPACT: No Additional General Fund Impact  
OTHER FUND: |
| AMOUNT: $ N/A  
ARE ADDITIONAL PERSONNEL REQUIRED? ☐ Yes, -- --  ☑ No  
IS THIS ITEM ALLOCATED IN THE BUDGET? ☐ Yes  ☑ No  
IS A BUDGET TRANSFER REQUIRED? ☐ Yes  ☑ No |

**SPACE BELOW FOR CLERK’S USE**

| BOARD ACTION: ☐ Approved  
☐ Approved as amended  
☐ Adopted  
☐ Adopted as amended  
☐ Denied  
☐ Other  
☐ No Action Taken  
☐ Set public hearing  
For: __________________________  
☐ Direction to: __________________________  
☐ Referred to: __________________________  
☐ Continued to: __________________________  
☐ Authorization given to: __________________________  
Resolution 2019- ____________  
Agreement 2019- ____________  
Ordinance ____________  
Vote:  
Ayes:  
Noes:  
Abstain:  
Absent:  
☐ By Consensus |

**COMMENTS:**

| ☐  
| ☐  
| ☐  
| ☐  
| ☐  
| ☐  |

**CLERK TO THE BOARD** __________________________  
**DATE** __________________________
August 9th 2019

To: Board of Supervisors, County of Sierra, Downieville CA
Mr. Lee Adams, Mr. Paul Roen, Mr. Peter Hubner, Mr. Jim Beard and Ms. Sharon Drydon.

From: Michael H. Welbourn
P.O. Box 1157/54 Patterson Circle
Loyalton, CA 96118
530-993-0453

Subj: FEMA Violation, Fence/Dam/Barricade, Dirt Berm/Dam located 308 Main St. & 201 Patton St. Loyalton, CA 96118

The City of Loyalton has no floodplain plan of any kind nor a 100 year floodplain plan. The City of Loyalton never has had one and continues to be out of compliance with the Federal Government and the State of California. In September 2018 I had addressed this issue with the city clerk Ms. Cathy LeBlanc to have it confirmed the City has no 100 year floodplain plan or any flood plan for that matter but stated they have a floodplain map!

The summer of 2018, Mr. Eugene K. Nielsen of 739 E 8425 S, Sandy Utah 84094 owner of this property built what he calls a fence, in reality the photos dictate otherwise, it is a dam/barricade to redirect the water west towards Taylor Street as this dam/barricade is directly behind my home at 54 Patterson Circle and those at 52 Patterson Circle, 53 Patterson Circle effecting the homes on Taylor and North side of Hwy 49.

August 7th 2019 the same owner of this property is in the process of raising the floodplain level as to build a high dirt berm/dam/barricade as to redirect the water behind as in the aforementioned properties.

1. With respect to the Board of Supervisors, County of Sierra in regards to the Floodplain Management having read it in its entirety on Sept 6th 2019, under Sierra County Part 32, Floodplain Management on the County of Sierras Official Website and noted codes under 32.01, 32.02 and especially 32.03, 32.04 and Statement of Purpose (a) thru (h) I submit the following.

2. Legal definition of Government Units as seen in 32.01: “Government units are unique kinds of legal entities established by political processes which have legislative, judicial or executive authority OVER other “Institutional Units,” “Institutional Units,” that would be over Loyalton, Downieville CA being County Seat.
3. **Legal definition of Institutional Unit**: The institutional unit is an elementary economic decision-making center characterized by uniformity of behavior and decision-making autonomy in the exercise of its principal function within a given area.

4. **Definition of Legal Entity**: A county, according to the court, is a "body politic and corporate." A body politic is a civil division of the State for purposes of governmental administration.

With respect to the Board of Supervisors, they well know the city has no city engineer under employment nor the financial wherewithal to hire a permanent engineer, nor does it possess the knowledge base, qualifications or the ability to meet Federal or State mandates in creation of a 100 year floodplain plan.

With respect to the Board of Supervisors, this is a county problem and to think it not would be seriously naïve as you are the regulatory entity of Sierra County CA.

Taxes are paid by county residents to the County of Sierra for all regulatory issues including public health and safety as we are all being placed at risk by the actions of a rogue property owner of 308 Main St. and 201 Patton St.

The Sierra County Part 32 Floodplain Plan/Management is not open for interpretation as it is well defined in their duties to Sierra County Resident and not just portions that suits the counties administrative needs or purposes when they want or not want, furthermore I see no language in Part 32 stating the City of Loyalton is nullified/exempt and or removed from this floodplain plan, Part 32 Floodplain Management for reasons of being the only incorporated city in the county or on the counties official website in their adoption of this plan on behalf of Sierra County found at: https://www.sierracounty.ca.gov/259/Floodplain-Management.

As intended, under the Constitution of the United States, being the Law of the Land dating back to the Articles of Confederation, this Nations hierarchy by design and leadership flows: Federal Government to State, States retaining their sovereignty, State to County, County to City and rural America and that has been well established for all purposes for 243 years.

Smithneck Creek passing through Loyalton appears not to fall in the Smithneck Creek Wildlife Area or the National Forest according to the California Department of Fish and Wildlife Map but appears to do so through Sierra Brooks. Given the condition and lack of maintenance/foliage, tree’s/brush growth of Smithneck Creek through Loyalton of its natural
flow and bypass from the old mill property, which is outside of the city limits then back into the city limits down to the bridge at Highway 49 and Taylor Street. Flooding has become a common occurrence over the past few years when it needs not be given this has been cleaned in the past of the overgrowth as a result of the 1997 flood.

As to 308 Main St. & 201 Patton St., I addressed the fence/dam/barricade issue with Mr. Nielsen and to the contrary, his property is located in the floodplain according to National Flood Hazard Layer FIRMette FEMA 060630 map taken from the Federal FEMA website which fell on deaf ears.

Smithneck Creek flows through Sierra County, Sierra Brooks, further being fueled along the way upstream by Bear Valley Creek as it flows down and out to the valley floor/wetlands.

Flooding became prevalent with the illegal redirection and a construction of a debris dam on Smithneck Creek in 1997 by Sierra Pacific Industries to save the co-gen from flooding but broke and flooded 3 feet of water down Patterson Circle, Patterson and Taylor Streets.

I have been in Sierra County, Loyalton over thirty years and over twenty in my home. I would further like to point out, 308 Main St. & 201 Patton St. where fence/dam/barricade was built, now an additional dirt berm/dam/barricade is being built. I would like to point out these buildings have remained empty and unoccupied and uninhabitable though owned, are in a serious state of decay and represents a clear and present danger as a serious fire hazard and public health and safety issue.

One unit was rented out a few years back but tenants left and refused to pay rent due to habitability issues, sewer issues breaching the surface of the ground and pipes, fear of fire danger as stated to me by the occupants upon their departure. At present the owner has just completed a roofing project on that particular building.

This fence/dam/barricade and now dirt berm/dam/barricade is an intentional obstruction in how water flows as the fence dam/barricade has been sealed with foam and other materials as to prevent water flow through this barricade, property and floodplain, which will raise the floodplain level even higher which will impede the flow of water, causing backup/blockage as duly noted and observed in September 2018 by Mr. Tim Beals Sierra County Public Works Director and head of Sierra County Engineering Department of this dam/barricade when inspected by him and myself.
I respectfully request the County of Sierra pursuant to their established Floodplain Part 32 Management Plan having the responsibility under public health and safety to its residents to resolve this issue to prevent property damages to several homes in the area through negligence of said property owner building these formidable obstructions.

FEMA Definition/Description.

Reference: FEMA Floodway states: ✔Definition/Description
A "Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Communities must regulate development in these floodways to ensure that there are no increases in upstream flood elevations. For streams and other watercourses where FEMA has provided Base Flood Elevations (BFEs), but no floodway has been designated, the community must review floodplain development on a case-by-case basis to ensure that increases in water surface elevations do not occur, or identify the need to adopt a floodway if adequate information is available.

In closing with respect to all, I firmly believe everyone has the right to defend their property and with respect to this issue, in my opinion this does appear to be a malicious act with no consideration given to permanent residents to which the owner of 308 Main St. and 201 Patton is not. This act on his part could bare serious legal consequences by restricting the natural flow of Smithneck Creek through a determined flood plain.

During a flood, water is obviously not manageable, I have three very large gates on my property of which I open or remove, allowing free flow of water and debris as not to create obstruction. If this fence/dam and dirt berm/dam is allowed to remain obstructing and redirecting flow, it will cause considerable damage to several homes, not only in the cult-tisac but Patterson and Taylor Streets.

Your attention and resolve to this matter will be appreciated.

Respectfully,

Michael H. Welbourn

Cc: FEMA, Oakland CA, DFEH, California Department of Fish & Wildlife, Sierra County Sheriff’s Office
This map compiles with FEMA's standards for the use of digital flood maps if it is not void as described below.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 8/6/2019 at 11:21:29 AM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

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The basemap shown complies with FEMA's basemap accuracy standards.

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California Department of Fish and Wildlife
North Central Region
ANTELOPE VALLEY WILDLIFE AREA
SMITHNECK CREEK WILDLIFE AREA
Sierra County

Approximately 8 mi to Highway 70

SMITHNECK CREEK WILDLIFE AREA

No OHV's allowed except on county roads on state lands.

Disclaimer: Boundaries are approximate.
Maps are intended for general purposes only.

January 2018 - WLB