

# EL DORADO LAFCO

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LOCAL AGENCY FORMATION COMMISSION

## **RESOLUTION NUMBER L-2009-07**

Denying the Summer Brook Annexation to the El Dorado Irrigation District  
LAFCO Project No. 2008-03

**WHEREAS**, on November 6, 2008, Amar Ghorri and Imran Aziz submitted a landowner petition ("petition") requesting the annexation of Assessor's Parcel Numbers (APNs) 102-210-12 and 102-220-13 shown in 'Exhibit A' (hereinafter referred to as the "subject territory") into the El Dorado Irrigation District (EID); and

**WHEREAS**, Amar Ghorri and Imran Aziz, as 50% of the landowners who own 50% of the assessed value of the subject territory, initiated the petition in conformance with Government Code §56864; and

**WHEREAS**, on December 18, 2008, Mariam Ghorri and Ambreen Yamin-Aziz, as the other 50% of the landowners who own the remaining 50% of the assessed value of the subject territory, submitted written consent for the inclusion of the parcels into the annexation application; and

**WHEREAS**, the petition is in conformance with Government Code §56650 et seq.; and

**WHEREAS**, the proposal was assigned LAFCO Project No. 2008-03 and is referred to as the "Summer Brook Annexation to the El Dorado Irrigation District"; and

**WHEREAS**, the two parcels comprising the subject territory consist of a total of approximately 90 acres; and

**WHEREAS**, the petition requests the annexation of the subject territory into EID; and

**WHEREAS**, Revenue and Taxation Code §99 requires an agreement for the exchange of property tax revenues in the event of a jurisdictional change of local agencies; and

**WHEREAS**, property tax exchange negotiations were completed and approved by the County of El Dorado ("the County") on February 3, 2009, and by EID on January 27, 2009; and

**WHEREAS**, EID requested termination of the informational hearing proceedings pursuant to Government Code §56857(b); and

**WHEREAS**, pursuant to Government Code §56857(c) the Commission terminated the informational hearing proceedings; and

**WHEREAS**, a Mitigated Negative Declaration of Environmental Impact (MND) has been prepared for the project by El Dorado County as outlined by the California Environmental Quality Act (“CEQA”); and

**WHEREAS**, the El Dorado Local Agency Formation Commission (“LAFCO”) has reviewed said MND, a copy of which is filed at the LAFCO office; and

**WHEREAS**, a supplemental Addendum to the Mitigated Negative Declaration of Environmental Impact (Addendum) has been prepared for the project by LAFCO to provide additional analysis of the environmental impact to utilities and recreation, as outlined by CEQA; and

**WHEREAS**, within the scope of the MND and Addendum, any potential environmental impacts of the project were considered and addressed; and

**WHEREAS**, the Executive Officer has examined the petition, certified that it is adequate and has accepted the petition for filing on August 26, 2009; and

**WHEREAS**, the Executive Officer set a public hearing for September 23, 2009 for consideration of the petition, MND and Addendum and caused Notice thereof to be posted, published and mailed at the times and in the manner required by law at least twenty-one (21) days in advance of that date; and

**WHEREAS**, said Notice stated that the petition, MND and Addendum would be considered by this Commission at the hearing; and

**WHEREAS**, the Executive Officer, pursuant to Government Code §56665, has reviewed this petition and prepared and distributed a report, including recommendations, and has furnished a copy of this report to each person entitled to a copy at least five (5) days prior to the September 23, 2009 meeting during which the petition was considered; and

**WHEREAS**, on September 23, 2009, the matter came on regularly for hearing before this Commission, at the time and place specified in the Notice of the Public Hearing; and

**WHEREAS**, at said hearing, the petition, MND, Addendum and the Executive Officer’s Report and Recommendations were reviewed and considered; and

**WHEREAS**, an opportunity was given to all interested persons, organizations, and agencies to present oral or written protests, objections, and any other information concerning the proposal and all related matters; and

**WHEREAS**, this Commission has received, heard, discussed and considered all oral and written testimony related to the petition, including, but not limited to, protests and objections, the Executive Officer's report and recommendations, the MND, Addendum and determinations, plans for providing service, spheres of influence, applicable General and Specific Plans, each of the policies, priorities and functions set forth in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, including those set forth in Government Code §§56377, 56668 and 56668.3, LAFCO's Policies and Guidelines and all other materials presented as prescribed by law; and

**WHEREAS**, a motion to approve the annexation failed on a vote of 3 ayes and 3 noes; and

**WHEREAS**, in accordance with Government Code §56895, the applicant submitted a written request for reconsideration of the project on October 22, 2009; and

**WHEREAS**, in accordance with Government Code §56895, the Executive Officer set a public hearing for December 2, 2009 for the reconsideration of the petition, MND and Addendum and caused Notice thereof to be posted, published and mailed at the times and in the manner required by law at least twenty-one (21) days in advance of that date; and

**WHEREAS**, said Notice stated that the petition, MND and Addendum would be reconsidered by this Commission at the hearing; and

**WHEREAS**, the Executive Officer, pursuant to Government Code §56665, has reviewed this request and prepared and distributed a staff memo, and has furnished a copy of this report to each person entitled to a copy at least five (5) days prior to the December 2, 2009 meeting during which the petition was reconsidered; and

**WHEREAS**, on December 2, 2009, the matter came on regularly for hearing before this Commission, at the time and place specified in the Notice of the Public Hearing; and

**WHEREAS**, at said hearing, the petition, MND, Addendum and the Executive Officer's Report and Recommendations were reviewed and reconsidered; and

**WHEREAS**, an opportunity was given to all interested persons, organizations, and agencies to present oral or written protests, objections, and any other information concerning the proposal and all related matters; and

**WHEREAS**, this Commission has received, heard, discussed and reconsidered all oral and written testimony related to the petition, including, but not limited to, the request for reconsideration, protests and objections, the Executive Officer's report and recommendations, the MND, Addendum and determinations, plans for providing service, spheres of influence, applicable General and Specific Plans, each of the policies, priorities and functions set forth in the Cortese-Knox-Hertzberg Local

Government Reorganization Act of 2000, including those set forth in Government Code §§56377, 56668 and 56668.3, LAFCO's Policies and Guidelines and all other materials presented as prescribed by law.

**NOW, THEREFORE, IT IS HEREBY RESOLVED, DETERMINED, ORDERED AND FOUND** by the El Dorado Local Agency Formation Commission as follows:

1. Each of the foregoing recitals is true and correct.
2. This resolution making determinations is made pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, California Government Code §56000 et seq.
3. The following agencies and districts were notified concerning this petition: El Dorado Irrigation District; El Dorado County representing CSAs 7, 9, 9 Zone 17, 10 and 10 Zone D; El Dorado County Water Agency; El Dorado County Resource Conservation District; El Dorado County Department of Agriculture; El Dorado County Office of Education; Rescue Union School District; El Dorado Union High School District; Los Rios Community College District; El Dorado County Planning Department; El Dorado County Surveyor's Office; the Farm Bureau; and the El Dorado County Elections Department.
4. There are no registered voters in the subject territory; therefore the subject territory is considered uninhabited per Government Code §56046.
5. Amar and Mariam Ghori, Imran Aziz and Ambreen Yamin-Aziz, as owners of 100% of the assessed value of the land within the subject territory, have given their written consent to the annexation.
6. EID, as the subject agency, has not requested in writing or otherwise that LAFCO hold protest proceedings on this petition.
7. The Conducting Authority proceedings are hereby waived in accordance with Government Code §56663(c).
8. The subject territory is within the EID sphere of influence and is contiguous to the existing boundary.
9. On March 11, 2008 the Board of Supervisors approved a request to amend the General Plan to change the land use designation of the subject property from Rural Residential (RR) to Low Density Residential (LDR), and to rezone the subject territory from Exclusive Agricultural (AE) and Estate Residential Five-Acre (RE-5) to Estate Residential Five-Acre/Planned Development (RE-5/PD).

10. The subject territory is currently undeveloped land that is used for grazing cattle and horses.
11. The subject property is proposed for the development of Summer Brook, a 29-lot residential subdivision.
12. The petition is consistent with the County's 2004 General Plan.
13. The subject territory consists of one tax rate area and is currently within TRA 100-174.
14. The total assessed land value of the subject territory is \$819,085.
15. This Commission has reviewed and considered the information contained in the MND, Addendum, Initial Study and administrative record for the petition.
16. The MND and Addendum addressed, among other things, impacts to agricultural resources, hydrology and water quality, land use and planning, population and housing, public services, transportation and traffic, utilities and service systems, and recreation.
17. The MND included a Mitigation Monitoring Program that addressed measures necessary to mitigate the potentially significant effects that the project could have on the surrounding area, and identified the responsible parties and included the provisions to be followed.
18. A full and fair public hearing was held on the MND and Addendum for the annexation.
19. This Commission has considered all comments received thereon in response to the public circulation of the MND and Addendum and any and all testimony, including those received leading up to and at the time of the public hearing.
20. The County Surveyor has agreed that the submitted legal description and maps are mathematically correct.
21. The proposal is assigned the following short form designation:

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22. All subsequent proceedings in connection with this annexation shall be conducted only in compliance with the approved boundaries and conditions set forth in the attachments and any terms and conditions specified in this resolution.

23. All interested parties, including without limitation Amar and Mariam Ghori, Imran Aziz and Ambreen Yamin-Aziz, agree that LAFCO retains in perpetuity the authority to enforce, through legal action or otherwise, all of the terms and conditions of the project approval.
24. The documents and materials which constitute the record of proceedings on which these findings are based are located at 550 Main Street, Suite E, Placerville, CA 95667. The custodian of these records is the Executive Officer.
25. This proposal is denied based on the following determinations:
  - a) The proposed low density residential land use is incompatible with surrounding agricultural land uses and will have detrimental effects on the economic viability of agricultural operations in those areas.
  - b) The project would result in the diminishment of open space and agricultural resources, whose protection constitutes one of the three primary missions of local agency formation commissions.
  - c) This project will result in the loss of wetlands habitat without proper measures in place to mitigate the loss, in violation of the California Environmental Quality Act; consequently, a fair argument could be made that the proposed change of organization may result in a significant impact on the environment.
  - d) The annexation, as proposed, would create a service island within the El Dorado Irrigation District service area, resulting in a disorderly boundary, violating one of the three primary missions of local agency formation commissions. The creation of islands is discouraged by Section 3.9.4 of this Commission's Policies and Guidelines.
27. The Executive Officer is hereby authorized and directed to make the appropriate filings and notifications under the law reflecting this decision.

**PASSED AND ADOPTED** by the El Dorado Local Agency Formation Commission at a regular meeting of said Commission, held December 2, 2009 by the following vote of said Commission.

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

ATTEST:

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Interim Clerk to the Commission

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Chairperson