

EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

AGENDA OF MARCH 3, 2021

SPECIAL MEETING

TO: Tim Palmer, Chair, and
Members of the El Dorado County Local Agency Formation
Commission

FROM: José C. Henríquez, Executive Officer

AGENDA ITEM #7: Pacileo Out-of-Agency Service Agreement with EID

LAFCO Project No. 2021-01

PROPONENTS: El Dorado Irrigation District
Richard and Virginia Pacileo, Landowners

DESCRIPTION OF PROJECT

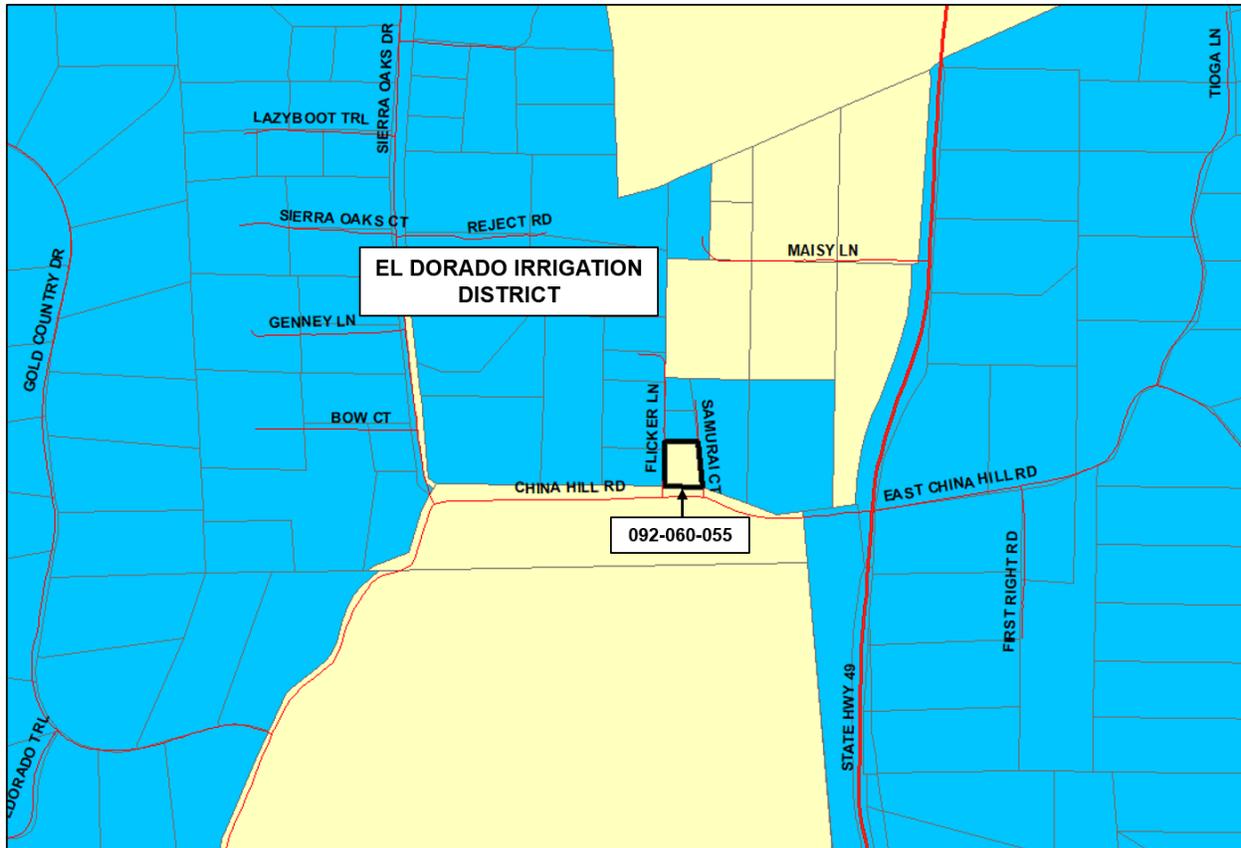
The El Dorado Irrigation District (EID) has submitted an application for LAFCO approval of an Out-of-Agency Service Agreement (OASA) with landowners Richard and Virginia Pacileo, in order to extend water service to their residential parcel, in anticipation of annexation into EID within one year. The 0.83-acre residential parcel (APN 092-060-055, 5290 China Hill Road, El Dorado) has a failed well and is unable to drill a new well in compliance with El Dorado County well ordinances. The owners have requested emergency out-of-District water service while they go through the annexation process with El Dorado LAFCO.

RECOMMENDATION

Staff recommends that the Commission approve EID's OASA with the landowners of APN 092-060-055, in order to extend water service to the residential parcel until annexation can be completed. The extension of service can be authorized under Government Code Section 56133(c), in response to "an existing or pending threat to the health or safety of the public or residents of the affected territory."

LOCATION

APN 092-060-055 is located at 5290 China Hill Road, approximately one quarter mile west of the intersection with State Highway 49, south of Pleasant Valley Road, in the El Dorado area.



REASON FOR RECOMMENDED ACTION

On January 25, 2021, the EID Board approved entering into an OASA for the existing residence at APN 092-060-055 due to documented health and safety concerns, and authorized the General Manager or designee to apply for LAFCO approval of the OASA. That same day, EID submitted the OASA application (Attachment A) to LAFCO staff for Commission approval, as required by Government Code §56133(a).

BACKGROUND

On June 25, 1971, the landowners of APN 092-060-055, along with other neighboring landowners, entered into the “Olives Extension Agreement” with EID, that extended a water main to serve numerous adjacent parcels at the landowners’ expense. The owners of APN 092-060-055, Richard and Virginia Pacileo, were parties to the agreement and paid a portion of the cost of the water main extension. Per the agreement, the subject parcel received a Facility Capacity Charge (FCC) credit for one equivalent dwelling unit (EDU) of water service. The parcel was required to annex into EID’s service area in order to receive service. However, the parcel did not pursue annexation into the District’s service area and the water service was never installed.

The parcel is currently served by a private well, which has recently failed. The well failed in December 2020 and the owners contracted with a licensed well contractor, Triangle Well Drilling, for repair work. Triangle Well Drilling determined that the existing well pump was stuck in the bottom of the well casing, rendering the well unusable (Attachment B).

Due to the proximity of power lines, sewer leach fields and other improvements on the property, the El Dorado County Environmental Management Department determined it is not feasible to drill a new well on the parcel in compliance with the El Dorado County Well Ordinance (Attachment C). The property owners have since been hauling in water and, due to health and safety concerns, have requested emergency out-of-District water service from EID while they pursue annexation.

Out-of-Agency Service Agreements

Among other things, Government Code §56133 prohibits local agencies from extending services outside of their boundaries. However, GC§56133(a) also states that “A city or district may provide new or extended services by contract or agreement outside of its jurisdictional boundaries only if it first requests and receives written approval” from LAFCO. Further, GC§56133(c) provides that, “...the commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries and outside its sphere of influence to respond to an existing or pending threat to the health or safety of the public or residents of the affected territory...” provided certain requirements are met (Attachment D). In LAFCO staff’s estimation, all requirements under 56133(c) are met.

Per the terms of the OASA (Attachment E), water service will be provided at a rate of 1.5 times the otherwise applicable current rates, only to the extent, and only so long as, EID determines this “service is necessary to ensure public health and safety and an adequate water supply for the Property while the owner pursues annexation to the District through LAFCO.” Water provided by EID is limited by a single ¾” meter and by the amount that is sufficient to serve a single residential dwelling and associated domestic water use on the 0.83-acre property. The agreement requires the owner to complete the annexation process within one year or risk termination of service, at the sole discretion of EID. The landowners are also responsible for paying for any infrastructure that will be needed to extend service to their home, and for all EID fees associated with the OASA, including LAFCO fees. The OASA is a contract between EID and the landowners, enforcement of these provisions is up to EID. As noted earlier, while LAFCO is not a party to this agreement, LAFCO approval is required per Government Code §56133.

The 0.83-acre parcel is designated Medium Density Residential (MSR) and zoned One-acre Residential (R1A). The parcel contains an existing single-family residence and is already developed to the density allowed by current zoning.¹ In LAFCO staff’s estimation, sufficient safeguards have been put in place as part of the agreement to ensure that an expansion of services beyond the landowner’s current residence does not happen.

Separate LAFCO Actions

Commission approval of the OASA and Commission approval of the annexation are two separate and independent actions. Approval of the OASA does not automatically approve the annexation, nor does it compel the Commission to approve the annexation; both of these actions are discretionary and will be considered on their own merits by the Commission. Government Code §56133 allows LAFCO to approve this OASA between

¹ R1A zoning does not permit a secondary dwelling unit, but it does allow for a guest house (600 square-feet, temporary sleeping quarters, no separate electric meter or kitchen, laundry, or cooking facilities).

EID and the landowners solely and exclusively as a temporary solution for the emergency provision of water service, until the landowners can complete annexation.

As noted earlier, the OASA stipulates that the landowners will complete the annexation process within one year of the effective date of the agreement. LAFCO staff expects that the landowners will submit a landowner petition for annexation within a timely manner after approval of the OASA, and the annexation proposal will be considered by the Commission sometime before the early spring of 2022. At that time, the Commission will have the authority to approve, deny, or conditionally approve the annexation. The applicant is aware that there should be no expectation that approval of the OASA translates to an automatic approval of the project. EID also recognizes that there are two separate discretionary actions involved since the OASA contract states services will be shut off if the annexation petition fails at LAFCO or is abandoned by the applicant.

Environmental Review

The installation of a new water service line connection to an existing water main would be required to facilitate water delivery. All work associated with the installation of a new water service connection would be located within previously excavated or disturbed areas on a developed single-family residential lot.

As lead agency for the OASA under the California Environmental Quality Act (CEQA), EID determined that providing out-of-District water service for the existing single-family residence falls within a Class 3 CEQA Categorical Exemption for installation of a new service line to an existing water main (CEQA Guidelines §15303(d) and EID Guidelines for Implementing CEQA §15303(a)). The project does not trigger any exceptions to this exemption (see CEQA Guidelines §15300.2). EID prepared a Notice of Exemption (NOE) from CEQA and filed the exemption with the El Dorado County Recorder-Clerk's office upon Board approval of the project, and posted the NOE for public review on the District's website (Attachment F).

CEQA Guidelines §15303 reads, in part:

15303. Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include but are not limited to:

(d) Water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction.

As a responsible agency, LAFCO staff reviewed the submitted materials and, upon further analysis, agree with EID's determination that the project qualifies for a Class 3 categorical exemption, under CEQA Guidelines §15303, subsection (d). LAFCO has also prepared a Notice of Exemption for this project (Attachment G), which will be filed with the El Dorado County Recorder-Clerk's office upon Commission approval of the project.

ATTACHMENTS

- Attachment A: EID OASA Application & Map
- Attachment B: Triangle Well Drilling Well Report
- Attachment C: El Dorado County Environmental Management Letter
- Attachment D: Government Code §56133
- Attachment E: EID-Pacileo Out-of-Agency Service Agreement
- Attachment F: EID Notice of Exemption
- Attachment G: LAFCO Notice of Exemption