

EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

AGENDA OF FEBRUARY 28, 2007

REGULAR MEETING

TO: Ted Long, Chairman, and
Members of the El Dorado County Local Agency Formation
Commission

FROM: José C. Henríquez, Executive Officer

AGENDA ITEM #8a: OTHER BUSINESS – LEGISLATION

RECOMMENDATION

Staff recommends that the Commission

1. Receive the following information regarding the new legislative session, and
2. Consider authorizing the Chairman to sign the attached letter of support for a Department of Fish and Game fee exemption whenever LAFCO files the environmental reviews for spheres of influence.

REASON FOR RECOMMENDED ACTION

To inform the Commission on the current issues circulating the Legislature at the start of the current legislative year.

BACKGROUND

New Legislation

Among others, two recently-introduced bills that affect LAFCO may have a significant impact on agency operations:

- **SB 162** – Will add "environmental justice" to the factors a LAFCO must consider in formations and boundary changes. It is sponsored by Senate Local Government committee chair Sen. Gloria Negrete McLeod. Feedback from the CALAFCO Legislative Committee has acknowledged that this will include some additional work; however a number of LAFCOs have pointed out that this might be of value for some situations, such as island annexations, or in proposals where boundaries were drawn to exclude communities that will be difficult to annex in the future. CALAFCO is pondering support of this legislation because it believes it will need the support of the Senator and her committee on future issues.

- **SB 167** – Implements the planning grants associated with Proposition 84, adopted by the voters in November 2006. Language may be added making LAFCOs eligible to seek matching grants for MSR preparation. This is of high interest to staff should the proposed language be added and the bill is ultimately signed by the governor. If adopted, these funds will assist the agency with completing the MSRs during the next 5-year cycle.

Attachment A contains a summary of proposed LAFCO legislation.

Department of Fish and Game Fees

Currently, LAFCO has to file an environmental review for all of projects, including sphere of influence adoptions and amendments. Fees to the Department of Fish and Game (F&G) must be paid with these filings, either as a lead agency under CEQA or as a responsible agency.

Effective January 1, 2007, the Department of Fish and Game significantly raised the fees for filing Notices of Determination (NOD) and eliminated the fee exemption for filing NODs on projects determined to have a “*de minimis*” effect on fish and wildlife. Under current regulations, NOD filing fees will have to be paid by the lead agency unless the project will have *no effect* on fish and wildlife. In order to qualify for a fee exemption, the Department of Fish and Game must agree that the project will have no effect and then issue a special form to the project proponent.

In most cases LAFCO acts as a responsible agency under CEQA. The lead agency (city or district) is responsible for paying the NOD filing fee and in the past, whenever an environmental filing was made as a responsible agency, your Executive Officer issued a *de minimis* filing. The logic was that any costs incurred by F&G were already offset by the fees the lead agency paid. From this point forward, LAFCO will file the NOD along with a proof of payment showing the filing fee for the same project were already paid. This should minimize agency and applicant costs.

In cases where LAFCO is the lead agency, LAFCO files the appropriate environmental review under CEQA and pays the appropriate fees. Of particular note is the case of when LAFCO files the environmental reviews for sphere of influence adoptions or amendments. Your Executive Officer has used either a CEQA general exemption or filed a Negative Declaration with a *de minimis* waiver under the logic that SOI amendments or adoptions had no impact on fish or wildlife. Under the new regulations, each time LAFCO processes an SOI adoption or amendment and it uses a Negative Declaration as the appropriate review, it will have to request that Fish and Game issue a form concurring that the project will have no impact on fish and wildlife. Otherwise, LAFCO will be paying a NOD filing fee of \$1,800.

Support is gathering in the LAFCO community for requesting that CALAFCO pursue a “blanket” NOD filing fee exemption from Fish and Game for SOI adoption and amendments. Staff recommends that the Commission authorize the chair to sign the attached letter in support of such efforts in the Legislature.

Attachments

- Attachment A: Summary of Current LAFCO Legislation
Attachment B: Draft Letter of Support Seeking A Fish and Game Fee Exemption