

# EL DORADO LAFCO

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## LOCAL AGENCY FORMATION COMMISSION

550 Main Street Suite E • Placerville, CA 95667

Phone: (530) 295-2707 • Fax: (530) 295-1208

lafco@edlafco.us • www.edlafco.us

November 7, 2011

Haven T. Bays  
2160 Campton Circle  
Gold River, CA 95670

Subject: Protest Letter Dated October 26, 2011 Regarding Grassy Run Community Services District Dissolution: Project No. 2011-04

Mr. Bays,

I am in receipt of your October 26, 2011 letter protesting Grassy Run Community Services District's (from now on referred to "GRCS D" or "the District") petition for dissolution currently being processed by El Dorado LAFCO. Your letter requested answers to several questions, some of which fall outside the purview of this agency; therefore I will limit my response to addressing only those questions that fall within LAFCO's authority to address.

First, please note that SB 135 (Kehoe) does not apply because the section you reference gives select community services districts the ability to limit access to public roads; it does not apply to roads that were never public. Being excluded from that section of the Government Code does not automatically mean the roads within the Grassy Road subdivision, or anywhere else in California, are public.

The District has the ability to petition for dissolution both under the Community Services District Law (Government code §61000 et seq.) and the Cortese-Knox-Hertzberg Act, LAFCO's principal law (Government Code §56000 et seq.). On February 24, 2011, the District stated its purpose for dissolution as, "no remaining purpose for the continuance of GRCS D continues to exist." In other words, the District should be dissolved because it has not exercised, and it can no longer exercise, its corporate powers.

As you indicate in your letter, the District has been dormant since 1997. This is due to the ongoing legal dispute between the Grassy Run subdivision homeowners and the Shingle Springs Band of Miwok Indians ("Tribe") over the status of the roads. Asserting that the roads were public roads, the Tribe sued the District. In that lawsuit, Judge David F. Levi ruled that the roads were never dedicated as public property, in deed or through the common law doctrine of implied dedication. In order to prevent any suggestion that would contradict Judge Levi's ruling, the District opted to suspend operations. The Tribe, as plaintiffs, never appealed Jude Levi's ruling and ultimately settled the matter. I attached a copy of Judge Levi's ruling to this letter for your convenience.

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Please note that suspension does not dissolve a district. Only LAFCO has the authority to dissolve the District. Since GRCSO had not applied for dissolution prior to 2011 and any attempt by LAFCO to dissolve the district would be easily vetoed by GRCSO, the District continued to exist on paper. Further, because a portion of property taxes were allocated to the District back in 1982, the County of El Dorado ("County") had no choice but to collect those funds and deposit them in the District's account within the County Treasury. To do otherwise would have been illegal.

In our estimation, the application is proper. First, GRCSO has not exercised its corporate powers in 14 years other than to pay its government insurance bill and the occasional administrative expense. None of those expenses were used to maintain roads. Because the District is not, and cannot, carry out its corporate mission, there is every reason to dissolve this District.

As you note, public funds could not be used for private purposes. The roads were found never to have been dedicated for public use; even if the District wanted to continue to provide service it could not do so on private roads. The only remaining issue is to determine how to allocate the funds the District has accumulated over this time. There is no intent, as you state in your letter, "to gift these public funds to the Homeowner's Association so they can expend these County funds to maintain their roads and put in gates within the boundaries of the Grassy Run Homeowners Association community." On Tuesday, November 8, 2011, the County Board of Supervisors will consider a contract between GRCSO and the County. In it, the two agencies have agreed how to allocate the remaining funds so that they are utilized in a manner consistent with Government Code §57463.

When the matter of dissolution is ready to be heard by the Commission, a public notice will be published in the Mountain Democrat twenty-one (21) days prior to the hearing and notices will be mailed to all landowners and voters. Should the Commission approve of the dissolution, there will be a second hearing where you will have an opportunity to file a protest. All hearings will be open to the public.

Please let me know if you have further questions.

Regards,



José C. Henríquez  
Executive Officer

cc (without attachment): Supervisor Ron Briggs, District 4  
Louis B. Green, County Counsel  
Jim Ware, Director, County Department of Transportation