

## **Grassy Run Community Services District**

### Agency Profile

Grassy Run Community Services District is located halfway between the communities of Shingle Springs and Diamond Springs, north of Highway 50. In late 1982 or early 1983, the Grassy Run Homeowner's Association elected to create a special district with the sole purpose of repair, maintenance and improvement of the Grassy Run roads; however, District functions have been suspended since 1997 because of a legal dispute with the Shingle Springs Band of Miwok Indians, whose tribal land is adjacent and to the west of the CSD.

Litigation between the District and the tribe is still pending. The District may consider dissolution at a future time, depending on the outcome of this litigation. In the interim, all costs and expenditures incurred in connection with the repair, maintenance and improvements of the Grassy Run roads are being made by the Homeowner's Association, and not the District. The District is still collecting its share of the property taxes. The District used to have a special tax levied on its residents, but the Auditor has stopped collecting these funds. It is unknown whether the District itself is collecting them.

Numerous legal issues exist with Grassy Run CSD's "state of suspension." The first relates to the collection of property tax funds and the potential continuation of the special tax. These monies are public funds to be utilized for public purposes. If these public funds are turned over to the Homeowner's Association and expended by said entity to maintain the roads, the situation may constitute a gift of public funds.

The second issue is that under the tenets of Senate Bill 135 (Kehoe, 2005), the Community Services District Law re-write, the District's authority to provide road services should be determined to be a "latent" power. Since road maintenance is the only service the District is authorized to provide, and that power is "latent," then the logical conclusion is for the District to be dissolved. Further supporting that conclusion is that the District's suspension of services is not a legal state for it to be under. According to the Auditor's Office, earlier in the decade the District Board of Directors provided to the Auditor a resolution stating the District was suspended, but that action was never brought before LAFCO, nor has the CSD petitioned for dissolution.

The third issue is on the legal state of the roads. Even though Judge David Levi determined that the Grassy Run roads are private, clarification is needed on whether those were ever dedicated to a public entity. Judge Levi's ruling led Grassy Run CSD's Board's decision to suspend the agency. However, if the roads were dedicated, Judge Levi's ruling may not stand if challenged. In addition, SB 135 codified which roads may be considered private roads maintained by a public entity (refer to the Final Streets and Highway Services Municipal Services Review section on Cameron Estates CSD) and Grassy Run CSD's roads were not part of that bill.

### *Land Use Character*

The District is composed of approximately 89 parcels, most of them developed consistent with their land use designation of low density residential.

### *Level of Service*

The District's road maintenance functions have been suspended since 1997. SB 135, among other things, mandated the designation of a community services district's powers as active or latent by January 1, 2006. Specifically, the bill defined and clarified "latent powers" as any service that an existing CSD is currently authorized to perform but LAFCO has determined, through its municipal services review process, is not being performed prior to January 1, 2006. Since the District has not exercised its road maintenance services, its powers should be designated as "latent" and the District should be dissolved.

### Commission's Policies and Guidelines

LAFCO Policy 4.4 requires the Commission to review the following topics before making sphere of influence determinations. The Commission's recent review of road and road maintenance services addressed these requirements as noted below. All citations are from the Final Streets and Highway Services Municipal Services Review, adopted by the Commission in October 24, 2007.

#### **1. *Service capacity, level and types of services currently provided by the agency, and areas where these services are provided***

The Grassy Run CSD's Board of Directors voted in 1997 to suspend maintenance of the District's roadways. The District has conducted no business whatsoever after that point. All costs and expenditures incurred in connection with the repair, maintenance and improvements of the Grassy Run roads are being made by the Grassy Run Homeowner's Association, and not the District. As a private non-profit entity, LAFCO has no jurisdiction to review and analyze the Association's costs, capacity and levels of service.

#### **2. *Financial capabilities and costs of service***

According to the Auditor's Office, Grassy Run CSD's property tax increment is 10%. The District is still collecting its share of the property taxes. In addition, the CSD's residents approved a special tax to supplement the agency's property tax revenues; however, the Auditor's Office stopped collecting those funds when the District suspended operations. It is unknown whether the District continues to collect the special tax funds.

#### **3. *Topographic factors and areas of social and economic interdependencies***

The terrain is generally hilly with moderate slopes. There are no areas of social or economic interdependence. The Grassy Run subdivision is a conglomerate of low density residential parcels that have little to do, if any, with the Tribal neighbors to the west.

**4. Existing and planned land uses, land use plans and policies, consistency with county and city general plans, and projected growth in the affected area**

The Grassy Run subdivision is developed as low density residential, consistent with the County General Plan designation. Most residents utilize well water and septic systems, although the area is within the El Dorado Irrigation District's service boundaries.

**5. Potential effects on agricultural and open space lands**

Present land uses within and surrounding the District include low density residential uses. Present and planned land uses within and around the District are anticipated to remain the same as current land uses. The exception is the adjacent Tribal land parcel to the west and their proposed building of a casino would be incongruent with surrounding land uses. However, the Tribal land is outside of Grassy Run CSD and outside of County or LAFCO jurisdiction.

The provision of road maintenance services, whether by a public or private entity, does not induce urban growth or the premature conversion of agricultural land to urban uses. No impacts to agriculture can be ascertained from the potential dissolution of the District.

**6. A description of the services that will be provided to any areas which may be added to the sphere and the timing and method for funding expansion of facilities or services**

Little to no services is being provided by a public entity in the area. Since Grassy Run CSD has chosen to be in a state of suspension, the District should have a zero sphere of influence, the first step towards dissolution.

**7. An analysis of the effects of a proposed sphere of influence on other agencies and their service capabilities:**

No immediate effects of dissolution would be experienced by other public entities or by residents. Upon dissolution, road maintenance would continue to be provided by the Grassy Run Homeowner's Association.

**DETERMINATIONS**

In determining the sphere of influence for each local agency, Government Code §56425(e) requires the Commission to consider and prepare a written statement of determinations with respect to four factors. Staff recommends the following determinations for amending the sphere for Grassy Run CSD:

**1. The present and planned land uses in the area, including agricultural and open space lands.**

Present land uses within the District are primarily rural residential. Planned land uses are anticipated to remain the same as current land uses.

**2. *The present and probable need for public facilities and services in the area.***

Present needs for public facilities and services are currently being met by a private provider, the Grassy Run Homeowner's Association. Probable needs for public facilities and services are not currently anticipated to vary from present needs, as future demands are expected to remain the same. The Grassy Run Homeowner's Association is expected to remain the roadway service provider.

**3. *The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.***

The District does not provide any services it has been authorized to provide.

**4. *The existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency.***

Social or economic communities of interest, if any, in the area do not extend beyond the subdivision and the Grassy Run Homeowner's Association. A nearby community of interest includes the Tribal land and the communities of El Dorado, Diamond Springs, Rescue, and Shingle Springs.

Based upon the information contained in this document, it is recommended that the Grassy Run CSD Sphere of Influence be updated so that the District has a zero sphere of influence, the first step towards dissolution, as shown in the map attached to Resolution L-2007-35.