

EL DORADO LAFCO
LOCAL AGENCY FORMATION COMMISSION

AMENDED
RESOLUTION NUMBER L-2012-12
Shingle Springs Rancheria Reorganization to the
El Dorado Irrigation District (EID)
LAFCO Project No. 2012-04

WHEREAS, on July 23, 2012, the El Dorado Irrigation District (“EID”) adopted District Resolution 2012-015 (“petition”) requesting the concurrent detachment and re-annexation (*hereinafter referred to as the “Reorganization”*) of APN 319-100-37, commonly known as the Shingle Springs Rancheria; and

WHEREAS, on July 27, 2012, EID submitted the reorganization petition to LAFCO; and

WHEREAS, the reorganization ~~petition proposal (hereinafter referred to as the “Reorganization”)~~ was assigned LAFCO Project No. 2012-04 and is referred to as the “Shingle Springs Rancheria Reorganization to the El Dorado Irrigation District”; and

WHEREAS, the Reorganization consists of approximately 159.25 acres, shown in “Exhibit A” (hereinafter referred to as the “subject territory”); and

WHEREAS, the subject territory is owned by the Federal Department of the Interior’s Bureau of Indian Affairs and is land held in trust for the Shingle Springs Band of Miwok Indians; and

WHEREAS, the petition requests the Reorganization of the subject territory within the EID service area to provide services to the affected territory reflecting current land use and development conditions, consistent with the 2008 MOU between EID and the Shingle Springs Band of Miwok Indians; and

WHEREAS, the petition is in conformance with Government Code §56650 et seq.; 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 EID on September 11, 2012, and by the County of El Dorado (“the County”) on September 25, 2012; and

WHEREAS, on August 10, 2012, Chairman Nicholas Fonseca, on behalf of the Shingle Springs Band of Miwok Indians’ Tribal Council, submitted a letter in support of the Reorganization; and

WHEREAS, on August 21, 2012, Carmen Facio, Acting Regional Director of the Bureau of Indian Affairs Pacific Regional Office, which is the legal landowner of the subject territory, submitted a letter in support of the Reorganization; and

WHEREAS, pursuant to Government Code §56857(a) the informational hearing proceedings were not required; and

WHEREAS, EID, as lead agency pursuant to the California Environmental Quality Act ("CEQA", Pub. Resources Code, §21000 et seq.) prepared a draft environmental impact report ("Draft EIR") analyzing the potential environmental impacts of the proposed Reorganization; and

WHEREAS, the Draft EIR was prepared and circulated pursuant to CEQA and the State CEQA Guidelines for public review and comment; and

WHEREAS, following the public review and comment periods, a final environmental impact report ("Final EIR") was prepared incorporating and responding to the comments received on the Draft EIR, and EID responded to all of the significant environmental issues raised during the environmental review process; and

WHEREAS, EID, by Resolution No. 2012-007, certified the Final EIR and adopted environmental findings; and

WHEREAS, based on the Initial Study and the analysis contained in the Final EIR, all impacts of the proposed Reorganization were found to be less than significant; and

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

WHEREAS, the Executive Officer has examined the petition, certified that it is adequate and has accepted the petition for filing on November 6, 2012; and

WHEREAS, the Executive Officer set a public hearing for December 5, 2012 for consideration of the petition and the EIR 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 and the EIR 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 December 5, 2012 meeting during which the petition was considered; and

WHEREAS, on December 5, 2012, 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, EIR, 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 EIR 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: Shingle Springs Band of Miwok Indians; Bureau of Indian Affairs, Pacific Regional Office, Central California Division; Shingle Springs Gaming Authority; El Dorado County Fire Protection District; Diamond Springs-El Dorado Fire Protection District; El Dorado County CSAs 7, 9, 9 Mother Lode Recreation Tax, 10 and 10 Zone H; El Dorado County Emergency Services Authority; El Dorado Irrigation District; El Dorado County Water Agency; El Dorado County Resource Conservation District; El Dorado County Department of Agriculture; El Dorado County Chief Administrative Office; El Dorado County Office of Education; Mother Lode 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; El Dorado County Elections Department; El Dorado County Sheriff's Department; and the Farm Bureau.
4. There are no registered voters in the subject territory; therefore, the subject territory is considered uninhabited per Government Code §56046.

5. The United States Department of the Interior, Bureau of Indian Affairs (BIA) is owner of 100% of the assessed value of the land within the subject territory, held in trust for the Shingle Springs Band of Miwok Indians.
6. The BIA has given written consent to the reorganization.
7. EID, as the subject agency, has not requested in writing or otherwise that LAFCO hold protest proceedings on this petition.
8. The Conducting Authority proceedings are hereby waived in accordance with Government Code §56663(c).
9. The subject territory is sovereign land, held in trust for the Shingle Springs Band of Miwok Indians, which is not subject to zoning and land use designations of the 2004 County General Plan.
10. The subject territory is currently developed land with approximately 40 homes, a library, church, tribal center, community center, **a medical clinic**, a residential fire department and Red Hawk Casino. The 278,000 square foot casino facility has 2,000 slot machines, 75 table games, six restaurants, four bars, and 3,000 lighted and covered parking spaces.
11. Prior to 1987, the Shingle Springs Band of Miwok Indians (Tribe), at the time operating under the name of the Sacramento Verona Band of Homeless Indians, acquired water for the Rancheria residents from EID at out-of-district rates.
12. In 1987, the Tribe and EID entered into an Annexation Agreement to bring the Rancheria into EID's service area, subject to approval by LAFCO.
13. In 1988, the Tribe initiated an annexation petition with LAFCO, which LAFCO subsequently approved, but conditioned its approval by restricting the amount of water EID could provide to the Rancheria for residential and accessory uses only, and limited the amount to what was necessary to serve a community of no more than 40 residential lots.
14. LAFCO and EID have subsequently concluded that the water use restrictions imposed by LAFCO in 1988 are no longer necessary or appropriate, that there are legitimate questions about the validity of the 1988 annexation, and that the proper procedure for removing the restrictions and authorizing EID to serve the Rancheria would be the concurrent detachment and annexation comprising the Reorganization, which will have the effect of vacating the entire 1988 annexation and its conditions.
15. The subject territory consists of a single tax rate area and is currently within TRA 078-100.

16. APN 319-100-37 is an inactive, non-taxable parcel with an assessed value of \$0.00.
17. The subject territory is within the EID sphere of influence.
18. The Reorganization will result in a decrease in water supply available for the buildout of regional housing needs determined by the Sacramento Area Council of Governments. The reorganization will not, however, have a significant foreseeable effect on the ability of the County to adequately accommodate its fair share of those needs.
19. Upon completion of the approval proceedings, EID shall provide water service to the subject territory, at levels consistent with the 2008 MOU or any subsequent legal and binding agreement between EID and the Tribe.
20. EID has planned for the provision of water to the subject territory, and the MOU for services between the Tribe and EID will presumably cover the cost of services to the Rancheria. According to the MOU, the Tribe purchases water at the regular District Retail Rate, which may be amended as necessary.
21. The petition meets the intent, policies, and priorities of this Commission, and the laws and policies within its jurisdiction and authority, including but not limited to the El Dorado LAFCO Policies and Guidelines.
22. This Commission has reviewed and considered the information contained in the EIR, Initial Study and administrative record for the petition.
23. This Commission finds that the EIR and Initial Study contain a complete, accurate and objective reporting of the environmental impacts associated with the reorganization and reflect the independent judgment of the Commission.
24. This Commission further finds that the EIR and Initial Study have been completed in compliance with CEQA, the State CEQA Guidelines and the Commission's Local CEQA Guidelines as detailed in the El Dorado LAFCO Policies and Guidelines.
25. A full and fair public hearing was held on the EIR for the reorganization.
26. This Commission has considered all comments received thereon in response to the public circulation of the EIR, and said EIR is hereby approved and adopted as the EIR for the petition.
27. The EIR 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.

28. EID, in accordance with the California Environmental Quality Act (CEQA) ultimately determined that all impacts of the proposed Reorganization were found to be less than significant.
29. This Commission hereby finds on the basis of its review of the Initial Study and comments on the EIR, and all other written and oral evidence presented to the Commission, there is no substantial evidence in the administrative record to support a fair argument that the proposed change of organization may result in a significant impact on the environment. This Commission further finds that the reorganization will not cause any significant environmental impacts.
30. EID's EIR for the Shingle Springs Reorganization to EID is hereby accepted as the appropriate environmental document for this petition in accordance with CEQA.
31. The County Surveyor has agreed that the submitted legal description and maps are mathematically correct.
32. The Reorganization will not result in negative impacts to the cost and adequacy of services otherwise provided in the area and it is in the best interests of the affected area and the total organization of local government agencies.
33. The area proposed for Reorganization represents an orderly, logical and justifiable reorganization of the EID boundaries.
34. The proposal is assigned the following short form designation:

Shingle Springs Rancheria Reorganization to the El Dorado Irrigation District
LAFCO Project No. 2012-04
35. The Shingle Springs Rancheria Reorganization to the El Dorado Irrigation District is hereby approved, subject to the following conditions:
 - (a) The subject territory shall be liable for any authorized or existing taxes, fees, service charges, assessments and any bonded indebtedness of EID.
 - (b) In consideration of the approval of the El Dorado Irrigation District's petition for the Reorganization, the El Dorado Irrigation District shall agree to defend, indemnify, hold harmless and release the El Dorado Local Agency Formation Commission, its agents, officers, attorney and employees from any claim, action or proceeding brought against them or any of them, the purpose of which is to attack, set aside, void, condition, challenge or annul the approval of the Reorganization or adoption of the environmental document which accompanies it. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney fees, or

expert witness fees that may be asserted by any person or entity, including the applicant, arising out of, related to or in connection with the approval of this application, whether or not there is concurrent passive negligence of the part of the El Dorado Local Agency Formation Commission or its agents, officers, attorney or employees. The El Dorado Irrigation District shall execute an agreement, in a form satisfactory to the Commission's legal counsel, reflecting its obligations under this paragraph.

- (c) The Certificate of Completion shall be issued and recorded subsequent to final payment of all LAFCO, State Board of Equalization and County fees, costs and charges associated with the project and necessary to complete the required filings and transmittals.
 - (d) Proponents shall complete all map and legal description requirements for final recording and filing, including documents required by the State Board of Equalization, within 180 days of December 5, 2012.
 - (e) The Certificate of Completion shall be issued and recorded subsequent to the fixing and establishment of any necessary right of use of water by El Dorado Irrigation District in the subject territory (§56886j). Nothing in this condition shall operate or be interpreted to modify priorities of use, or right of use, to water, or capacity rights in any public improvements or facilities that have been fixed and established by a court or an order of the State Water Resources Control Board.
 - (f) ***The Applicant and the Real Party in Interest shall negotiate and execute an agreement specifying the terms and conditions of the Applicant's provision of water to the Shingle Springs Rancheria by May 1, 2013. The District shall forward a copy of the final executed agreement to the Executive Officer prior to the recordation of the Certificate of Completion.***
36. All subsequent proceedings in connection with this Reorganization 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.
37. The Executive Officer is hereby authorized and directed to file with the Clerk of the County of El Dorado, a Notice of Determination for the Reorganization, pursuant to Title 14 California Code of Regulations §15075.
38. The effective date shall be the five (5) working days after recordation by the County Recorder of the Executive Officer's Certificate of Completion, which shall be prepared and recorded after the conditions set forth above are met.

39. Upon and after the effective date of said reorganization, the affected territory, all inhabitants within such territory, and all persons entitled to vote by reasons of residing or owning land within the territory:
- (a) Shall be subject to the jurisdiction of EID, hereafter referred to as “the District”;
 - (b) Shall have the same rights and duties as if the affected territory has been a part of the District upon their original formation;
 - (c) Shall be liable for the payment of any authorized or existing taxes, fees, assessments and any bonded indebtedness of the District, including amounts which shall become due on account of any outstanding or then authorized but thereafter issued obligations of the District;
 - (d) Shall be subject to the collection of all taxes, assessments, service charges, rentals or rates as may be necessary to provide for such services;
 - (e) Shall be subject to all of the rules, regulations and ordinances of the District as now existing or hereafter amended.
50. All interested parties, including without limitation the El Dorado Irrigation District, 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.
51. 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.

PASSED AND ADOPTED by the El Dorado Local Agency Formation Commission at a regular meeting of said Commission, held December 5, 2012 by the following vote of said Commission.

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

Interim Clerk to the Commission

Chairperson