

# SHASTA LAFCO

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## **Report to the Shasta Local Agency Formation Commission**

**From: Jan Lopez, Executive Officer**

**Meeting Date: August 7, 2014**  
**Agenda Item #: 8.a.**  
**Subject: Conducting Authority Hearing**  
**#2013-04 Deschutes Reorganization – Protest Hearing (Action)**

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### **Background**

On December 18, 2013 an application was received from the City of Anderson to annex certain territory (see attached map) on the east side of Interstate 5 into the City. The matter was reviewed by staff and a letter requesting additional information submitted on January 19, 2014. Two meetings with project proponents were held to address that request. Because two or more actions were involved, the project name was changed to “Deschutes Reorganization”.

Initially it was unclear whether the application was a petition of a landowner or the City; this was cleared when the City, who assumed Lead Agency status when preparing a CEQA Negative Declaration for rezoning the subject territory prior to annexation, subsequently submitted a resolution of application.

Two outstanding issues remained to be resolved: (1) an understanding about the provision of fire protection services and (2) the completion of the Property Tax Exchange (PTE) negotiations by all affected agencies.

### Fire Protection

The City of Anderson does not provide fire protection services. The Anderson Fire Protection District, established in 1889, has provided fire protection and emergency services to the town area of Anderson and outlying areas for over 125 years. After the City was incorporated in 1956, the District continued to provide these services within the City as well as within their service area outside City limits. After incorporation, when the City determined to annex territory it was also annexed into the Anderson Fire Protection District.

With this proposal, however, the petitioners chose to exclude Anderson FPD from the annexation process, expecting it could be annexed to that District in the future some time, at the District’s cost. Because of this position the AFD was also not included in the initial property tax exchange discussions that occurred in the summer of 2013 between the City and County of Shasta. Anderson FPD protested that this was a significant change from the historical practices of assuring District services were provided when territory was newly annexed into the City.

The project territory is within the established Sphere of Influence of the Anderson Fire Protection District (approved July 11, 2013), and until annexed to the City of Anderson is provided fire protection services by CSA #1 – Shasta County Fire.

Project proponents believed they could continue to receive fire and emergency services to the area proposed for this reorganization from CSA #1-Shasta County Fire after the proceedings were completed. However, the Shasta County Ordinance for fire services states that the county provides fire services to the unincorporated areas of the county.

When a Certificate of Completion is filed by LAFCO with the County Recorder, the subject territory would become part of an incorporated city. Although Shasta County Fire, as a department of the County of Shasta, could contract with the City should it desire to do so, it would have to be after the proceedings were finalized, as an action separate from this LAFCO decision.

The Commission ultimately determined that the reorganization would also include annexation of the subject territory into the Anderson FPD, that Cottonwood FPD would retain coverage of the parcels it currently served, and that all parties would complete the property tax exchange process as required by law.

#### Property Tax Exchange

The City of Anderson and County of Shasta met in 2013, determining agreeable terms for this process. In November 2013 the City of Anderson adopted a resolution to that effect. At the May 1, 2014, LAFCO hearing it was learned from Shasta County Counsel that, although the Board of Supervisors adopted a report outlining the agreement terms, they did not in fact adopt a resolution in support of it. California Revenue & Taxation Code 99 et seq. provides that, although preliminary negotiations can be initiated any time, an application must be submitted to LAFCO before formal property tax transfer negotiations can start.

The Commission determined that their approval would include the following actions:

- a. Annexation of the affected territory into the City of Anderson;
- b. Annexation of the affected territory located within the existing sphere of influence of the Anderson Fire Protection District into that District;
- c. Concurrent detachment of the affected territory from CSA #15 - Lighting; and
- d. Concurrent detachment of the affected territory from CSA #1 – Shasta County Fire.

The Commission then determined to approve #2013-04 Deschutes Reorganization with the following conditions:

- (4) Subject to the terms and conditions hereinafter specified, this proposal, #2013-04 – Deschutes Reorganization, is hereby approved as follows:

- a. The proposal is assigned the following short-term designation: "2013-04 Deschutes Reorganization".
- b. All tax exchange prerequisites, as specified in the applicable statutes, shall be met before a certificate of completion may be filed for the subject reorganization.
- c. The affected territory is uninhabited, does not have 100% consent of all landowners, and therefore pursuant to Government Code Section 57000 *et seq.* the Executive Officer is directed to schedule a conducting authority hearing before the Commission. No election will be required unless protests exceeds 25%.
- d. The Executive Officer is directed to file the CEQA Notice of Determination and Notice of Completion with the Shasta County Recorder, and file the recorded documents with the California State Board of Equalization to complete this Reorganization without further hearing or consideration by the Commission.
- e. Pursuant to Government Code Section 57001, a certificate of completion for the subject reorganization shall be filed with the Shasta County Recorder's Office by August 7, 2014. Absent that, or unless the Commission authorizes an extension of time prior to the expiration of the year, the proceedings shall be deemed abandoned.

All conditions of approval were to be met by August 7, 2014, and the approval filed with the County Recorder, unless an extension of time were granted by the Commission.

In accordance with condition (4) b., LAFCO staff received adopted resolutions from the City of Anderson and the County of Shasta. A resolution from the Anderson Fire Protection District has yet to be submitted.

### **Discussion**

It has been informally suggested that some additional time may work toward resolve any remaining conflicts regarding the property tax exchange issues.

### **Conducting Authority Hearing**

The present matter before the Commission is called a Conducting Authority Hearing. (G.C. 57000 *et seq.*) It occurs after a project is approved, but before it is finalized. This hearing presents affected landowners within the subject territory an opportunity to protest finalizing the project without an election.

A protest hearing does not include a challenge as to the merits of a project. That hearing occurred on May 1, 2014. This hearing is solely intended to calculate if there is sufficient protest to require the approval be given by the voters within the territory. When more than 50% protest is received, the Commission is required to terminate the reorganization.

The Conducting Authority proceedings require presentation to the Commission of a summary of the resolution determinations that will be presented for approval. (G.C. 57075)

Summary of Proposed Resolution of Conducting Authority: 2013-04 Deschutes Reorganization

- The territory is uninhabited. (*fewer than 12 registered voters living in the area*)
- All conditions of the May 1, 2014 approval for this project have been met.
- The finding of the Commission after evaluation of affected landowners' written protests submitted and not withdrawn, determining:
  - Terminate proceedings if a majority protest exists in accordance with Section 57078; (in the case of uninhabited territory, landowners owning 50 percent or more of the assessed value of the land within the territory.
  - Order the change of organization or reorganization if written protests have been filed and not withdrawn by owners of land who own less than 50 percent of the total assessed value of land within the affected territory.

No written protests of landowners within the subject territory have been received, or submitted and withdrawn, as of the close of business August 1, 2014. It is possible that some may be presented at the present hearing.

**Conclusions and Recommendations**

The Commission is requested to consider taking following actions as outlined in the agenda for this hearing:

- 1) LAFCO #2013-04 – Deschutes Reorganization - Protest Hearing  
(Action)
  - i. Consider Executive Officer staff report with summary of proposed resolution making determinations;
  - ii. Open Conducting Authority (CA) hearing; and
  - iii. Consider taking one of the following actions:
    - a) Continue CA hearing and authorize an extension time for completion of reorganization proceedings to October 4, 2014, or another date certain; OR
    - b) Close the CA hearing when insufficient protest exists, and approve a resolution with determinations without an election; OR
    - c) Close the CA hearing when sufficient protest exists and adopt a resolution with determinations, ordering an election.

