

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
EXECUTIVE OFFICER'S REPORT

July 14, 2010 (Agenda)

July 14, 2010  
Agenda Item 6

<u>LAFCO 10-04</u>	Mirant Delta LLC Annexation to County Service Area (CSA) L-100 (MS09-0011)
<u>PROPONENT</u>	John Chillemi – landowner/petitioner
<u>ACREAGE &amp; LOCATION</u>	Approximately 113.6± acres located at 3201 Wilbur Avenue in the unincorporated Antioch area (APN 051-031-017)
<u>PURPOSE</u>	Participate in the countywide street lighting and maintenance program, and to comply with a County condition of approval.
<u>SYNOPSIS</u>	

This is a proposal to annex territory into CSA L-100. A condition of approval of the land use permit requires annexation to CSA L-100, which provides street lighting services in the unincorporated area. The site is within the District's sphere of influence and inside the County Urban Limit Line.

PROPOSAL INFORMATION:

1. Land Use, Planning and Zoning - Present and Future:

The property proposed for annexation is currently used for industrial purposes (i.e., generation of electricity). The applicant applied to the County to subdivide the property into two parcels. As a condition of the County's approval of the minor subdivision, the applicant is required to annex to CSA L-100.

The General Plan is Heavy Industrial and a portion of Open Space, and is zoned Heavy Industrial. The surrounding land uses include heavy industrial to the east, west and south; and the San Joaquin River to the north. The proposed uses are consistent with the County zoning and land use designations.

It should be noted that the property proposed for annexation to CSA L-100 is also included in another pending boundary change proposal. In August 2007, the City of Antioch submitted to LAFCO the PG&E Reorganization: Annexations to the City of Antioch and Delta Diablo Sanitation District. This application is currently pending receipt of the property tax transfer between the County and City, along with several other items. The property tax exchange negotiations have been protracted. We understand that the parties are working to resolve the tax sharing and other issues of mutual concern. The City is aware of the proposed annexation to CSA L-100.

2. Topography, Natural Features and Drainage Basins:

The property proposed for annexation is essentially flat, with topographical relief limited to slope faces along the shoreline, and around buildings, tanks and other developed features. The site is at the northern edge of the Diablo Range within the northern Coast Ranges physiographic province. The ridge and valley topographic character of the Coast Ranges province is predominantly controlled by the structural grain of the underlying geographic units and subsequent erosion.

3. Population:

The project will result in no increase in population.

4. Governmental Services and Controls - Need, Cost, Adequacy and Availability:

The plan for providing services within the affected territory, as required by Government Code §56653, is on file. The level and range of services will be similar to those provided by CSA L-100 to developed properties currently within its boundaries.

Maintenance and operations costs will be funded by CSA L-100 property taxes and assessments (parcel tax) levied by the affected properties. The property is expected to pay a special assessment of approximately \$75 per year (industrial rate).

5. Assessed Value, Tax Rates and Indebtedness:

The area is within tax rate area 53004. According to the County Assessor, the property is assessed by the State Board of Equalization and has an unsecured value of \$1,257,494 (2009-10 roll). Overall tax rates will not be changed by the annexation.

6. Environmental Impact of the Proposal:

In May 2010, Contra Costa County, as Lead Agency, released an Initial Study and Mitigated Negative Declaration for the underlying land use project. The County Planning Commission is expected to adopt the document on July 12, 2010. LAFCO staff has reviewed and commented on the document; a copy of this document is available for review in the LAFCO office.

The LAFCO Environmental Coordinator reviewed the proposed LAFCO project to determine whether there was a potential for any adverse environmental impacts. It can be seen with certainty that the LAFCO action will have no significant impacts. For this reason, the General Rule Exemption from the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) is recommended.

7. Landowner Consent and Registered Voters:

The property owners have given written consent to the boundary change. The annexing agency consents to the waiver of conducting authority proceedings. The territory is uninhabited, as there are fewer than 12 registered voters.

8. Boundaries and Lines of Assessment:

There are no conflicts with lines of assessment or ownership. A map to implement this change has been approved by the County Surveyor.

ALTERNATIVES FOR COMMISSION ACTION:

After consideration of this report and any testimony or additional materials that are submitted the Commission should consider taking one of the following options:

**Option 1**      Approve the annexation as submitted.

- A.      Determine that the project is exempt from the California Environmental Quality Act (CEQA).
- B.      Adopt this report and approve the proposal, to be known as the Mirant Delta LLC Annexation to County Service Area L-100, subject to the following terms and conditions:
  - 1.      Determine that the territory being annexed shall be liable for any authorized or existing taxes, assessments and charges comparable to properties presently within the annexing agency.
  - 2.      That the applicant has delivered an executed indemnification agreement providing for the applicant to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
- C.      Find: 1) the subject territory is uninhabited, 2) all affected landowners have consented to the annexation and 3) the annexing agency has consented to the waiver of conducting authority proceedings.
- D.      Waive conducting authority proceedings and direct the staff to complete the proceeding.

**Option 2**      Adopt this report and DENY the proposal.

**Option 3**      If the Commission needs more information, CONTINUE this matter to a future meeting.

RECOMMENDED ACTION:

Approve Option 1.

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LOU ANN TEXEIRA  
EXECUTIVE OFFICER  
LOCAL AGENCY FORMATION COMMISSION

RESOLUTION NO. 10-04

RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
MAKING DETERMINATIONS AND APPROVING THE  
**MIRANT DELTA LLC ANNEXATION TO COUNTY SERVICE AREA L-100**

WHEREAS, the above-referenced proposal has been filed with the Executive Officer of the Contra Costa Local Agency Formation Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act (Section 56000 et seq. of the Government Code); and

WHEREAS, at the time and in the manner required by law the Executive Officer has given notice of the Commission's consideration of the proposal; and

WHEREAS, the Commission heard, discussed and considered all oral and written testimony related to the proposal including, but not limited to, the Executive Officer's report and recommendation, the environmental document or determination, Spheres of Influence and applicable General and Specific Plans; and

WHEREAS, information satisfactory to the Commission has been presented that no affected landowners/registered voters object to the proposed annexation; and

WHEREAS, the annexing agency has consented to waiving the conducting authority proceedings; and

WHEREAS, the Local Agency Formation Commission determines the proposal to be in the best interests of the affected area and the total organization of local governmental agencies within Contra Costa County;

NOW, THEREFORE, the Contra Costa Local Agency Formation Commission DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

1. The Commission determines the project is categorically exempt pursuant to California Environmental Quality Act Guidelines, Section 15061(b)(3).
2. Said annexation is hereby approved.
3. The subject proposal is assigned the distinctive short-form designation:  
  
MIRANT DELTA LLC ANNEXATION TO COUNTY SERVICE AREA L-100
4. Said territory is found to be uninhabited.
5. The boundaries of the affected territory are found to be definite and certain as approved and set forth in Exhibit A, attached hereto and made a part hereof.
6. The subject territory shall be liable for any authorized or existing taxes, charges and assessments comparable to properties within the annexing agency.

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7. The applicant delivered an executed indemnification agreement between the applicant and Contra Costa LAFCO providing for the applicant to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
8. Satisfactory proof having been given that no affected landowners/registered voters oppose the annexation, and that the annexing agency has given written consent to the waiver of conducting authority proceedings, said conducting authority proceedings are hereby waived.
9. All subsequent proceedings in connection with this annexation shall be conducted only in compliance with the approved boundaries set forth in the attachments and any terms and conditions specified in this resolution.

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PASSED AND ADOPTED THIS 14<sup>th</sup> day of July 2010, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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MARTIN MCNAIR, CHAIR, CONTRA COSTA LAFCO

*I hereby certify that this is a correct copy of a resolution passed and adopted by this Commission on the date stated.*

Dated: July 14, 2010

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Lou Ann Texeira, Executive Officer

# LAFCO No. 10-04: Mirant Delta, LLC Annexation to CSA L-100 (MS09-0011)

