



# Resource Management Agency

## COUNTY OF TULARE AGENDA ITEM

### BOARD OF SUPERVISORS

LARRY MICARI  
District One

PETE VANDER POEL  
District Two

AMY SHUKLIAN  
District Three

EDDIE VALERO  
District Four

DENNIS TOWNSEND  
District Five

**AGENDA DATE:** September 10, 2024

Public Hearing Required	Yes
Scheduled Public Hearing w/Clerk	Yes
Published Notice Required	Yes
Advertised Published Notice	Yes
Meet & Confer Required	N/A
Budget Transfer (Aud 308) attached	N/A
Personnel Resolution attached	N/A
Agreement(s) attached	N/A

CONTACT PERSON: Celeste Perez PHONE: (559) 624-7010

**SUBJECT:** Resolution of Application for the divestiture from the East Orosi Community Services District into the Orosi Public Utility District

### **REQUEST(S):**

That the Board of Supervisors:

1. Hold a Public Hearing at 9:30 a.m. or soon thereafter.
2. Approve the Resolution of Application for the divestiture from the East Orosi Community Services District of the power to provide domestic water service and annexation of part of the territory of the East Orosi Community Services District into the Orosi Public Utility District.
3. Authorize the Chair of the Board to sign the Local Agency Formation Commission Questionnaire.

### **SUMMARY:**

The East Orosi Community Services District (EOCSD) is an independent special district operating outside the direct authority of the County of Tulare. EOCSD has both domestic water and sewer powers, serves an area located east of the community of Orosi and containing approximately 50 acres in size, with a population of around 932 residents. For several years, the EOCSD has been plagued with deficiencies in both potable water delivery and sewer system operation and maintenance. These deficiencies led to a lack of safe and reliable drinking water for East Orosi residents. The State Water Resources Control Board (SWRCB), Division of Drinking Water, is responsible for regulating and overseeing the EOCSD's water system.

The SWRCB found that the EOCSD is unable to effectively manage their domestic water supply system and failed to provide safe drinking water due to high nitrate levels and managerial issues. The SWRCB issued Compliance Orders No. 03\_24\_20R\_002

**SUBJECT:** Resolution of Application for the divestiture from the East Oroshi Community Services District into the Oroshi Public Utility District

**DATE:** September 10, 2024

(October 27, 2020) and No. 24\_E1\_22R\_004 (January 24, 2023) initiating Mandatory Consolidation of the water system with the Oroshi Public Utility District (OPUD).

On October 21, 2022, the State Water Resources Control Board issued Compliance Order No. 24-E1-22R-001, appointing Tulare County Resource Management Agency (Administrator) as the full-scope administrator for the East Oroshi Public Water System, effective November 1, 2022. EOCSD continues to provide sewer services to the East Oroshi community.

On November 1, 2022, the County entered into Tulare County Agreement Number 30913, Administrator Grant Agreement. This appointment and agreement give the County full administrative, technical, operational, legal, financial and managerial control of the EOCSD public water system. This includes negotiations on behalf of the EOCSD with OPUD for voluntary consolidation in accordance with the SWRCB's Mandatory Consolidation Orders.

On October 17, 2023, your Board approved Resolution 2023-0973 authorizing an expedited Financial Assistance Application for the EOCSD OPUD consolidation construction project. The expedited process is accomplished by streamlining funding for the construction project which provides an additional water supply and physical connection between the two water systems.

On June 3, 2024, your Board executed Tulare County Agreement Number 31697 an agreement with the SWRCB for the construction of the East Oroshi Community Services District Water Supply and Infrastructure Project. This agreement is for the construction of the infrastructure that will provide a physical connection and water supply to the Oroshi PUD. According to the SWRCB-approved schedule, construction should be completed by March of 2026. To meet the schedule, the construction project should go out to bid this summer. However, the SWRCB has made bidding contingent on the execution of the consolidation agreement between EOCSD and OPUD.

The County has been negotiating with OPUD on a consolidation agreement for more than a year to satisfy the Mandatory Consolidation Orders. Progress on the agreement has been slow, and thus the County is seeking to utilize the LAFCo process to facilitate the annexation process in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. By approving the LAFCo application, your Board will initiate the annexation process.

Utilizing the LAFCo process to inform and structure the consolidation voluntary agreement streamlines and expedites the consolidation. A LAFCo process will also provide a transparent consolidation experience for the residents served by EOCSD. By becoming a part of OPUD, the EOCSD residents will be able to run for open OPUD Board of Directors positions and allow for self-governance. Prior to the SWRCB's authority to mandate consolidations, LAFCo was and remains the authority for annexations, extra territorial service, and divestiture of powers. LAFCo has a long history with and experience authorizing consolidations and will include a much more thorough process than the SWRCB's Mandatory Consolidation process. LAFCo will consider items of

**SUBJECT:** Resolution of Application for the divestiture from the East Orosi Community Services District into the Orosi Public Utility District

**DATE:** September 10, 2024

concern such as governance, fees, and property transfers between the Districts, as well as a number of other factors.

The LAFCo application and process would include conditions for when the divestiture of powers and annexation go into effect. The goal is to accomplish the divestiture and annexation without burdening the OPUD with the EOCSD's existing challenges. These conditions include completion of the drinking water construction project, passage of a Prop 218 fee setting process to ensure OPUD is collecting sufficient rates from the East Orosi territory to cover the costs of providing drinking water to the EOCSD parcels, and transfer of assets from EOCSD to OPUD, amongst other items. The process includes LAFCo action followed by a protest hearing for residents of EOCSD to voice any objection to being annexed into OPUD. Staff does not anticipate that East Orosi residents will protest the proposed annexation and divestiture of water powers. To the contrary, many residents have expressed a desire to be fully annexed into OPUD for both water and wastewater services.

The Tulare County LAFCo requires an Indemnification Agreement to be included in with the application submission. Your Board approved the Indemnification Agreement on June 4, 2024. On February 6, 2024, your Board adopted Resolution Number 2024-0118 certifying the Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program Guidelines for the East Orosi Community Services District Water Supply and Infrastructure Project as complete and adequate and in compliance with the California Environmental Quality Act (CEQA) and the State California Environmental Quality Act. The document identifies consolidation and annexation as potential outcomes. Thus, the already certified CEQA documentation is sufficient for this action.

On June 4, 2024, your Board held a Public Hearing to initiate LAFCo Proceedings to annex the East Orosi Community Services District water powers into the Orosi Public Utility District. At the time of the Public Hearing, staff was advised to use the Board of Supervisor's standard noticing procedures. This notice is a 14-day notice. Staff noticed the Public Hearing via the Sun Gazette and certified mailings within a 20-day window. On July 8, 2024, staff was notified by LAFCo that the County's application was incomplete because the Divestiture of Power portion of the proposal requires a 21-day public hearing notice by the County pursuant to Government Code section 56824.12(c)(1). In July, staff re-noticed today's public hearing to satisfy the 21-day public hearing requirement. However, those notices did not reference the appropriate Government Code section for the divestiture of EOCSD's power to provide water service. Therefore, a third round of noticing went out prior to August 15, 2024.

While only the Divestiture of Power portion is subject to the 21-day noticing, out of an abundance of caution staff re-noticed the full action via the Sun Gazette and certified mail.

**FISCAL IMPACT/FINANCING:**

The LAFCo Application fees in the amount of \$5,276 was paid out of the 001-012 Miscellaneous Admin budget. The County executed Tulare County Agreement Number 31697 with the State Water Resources Control Board for the East Orosi Water Supply

**SUBJECT:** Resolution of Application for the divestiture from the East Oroshi Community Services District into the Oroshi Public Utility District

**DATE:** September 10, 2024

and Infrastructure Project and will seek reimbursement through that agreement. There is no anticipated additional net County cost to the General Fund.

**LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:**

The County's Strategic Plan includes an initiative to provide for the safety and security of the public which includes the goal of providing an adequate and safe water supply.

**ADMINISTRATIVE SIGN-OFF:**

**/s/ Sherman Dix**

---

Sherman Dix, CPA  
Assistant Director – Fiscal Services

**/s/ Reed Schenke**

---

Reed Schenke, P.E.  
Director

Cc: County Administrative Office

Attachment A - Authorizing Resolution  
Attachment B - LAFCo Application/Questionnaire  
Attachment C - Hearing Notice