
**FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)
EXECUTIVE OFFICER'S REPORT**

AGENDA ITEM No. 7

DATE: **September 11, 2013**

TO: **Local Agency Formation Commission**

FROM: **David E. Fey, Executive Officer**

SUBJECT: **Conducting Authority Proceedings: Consider Adoption: City of Kingsburg "Guardian-Sun Maid Reorganization."** Proposed annexation of 118.68 acres to the Selma-Kingsburg-Fowler County Sanitation District (SKF) for the territory located between Golden State Boulevard and State Route 99 north of the existing City of Kingsburg City Limits. The proposal will also include the annexation of 430.84 acres to the City of Kingsburg and detachment from the Fresno County Fire Protection District, the Kings River Conservation District, and the Consolidated Irrigation District for territory located south of east Mountain View Avenue, west of south Bethel Avenue, and east of State Route 99. At the request of Fresno County, the boundary includes the industrialized area and the area between Golden State and State Highway 99 **(LAFCo File No. RO-12-7)**.

RECOMMENDATION:

Direct staff to determine the value of valid protests received and not withdrawn and report these results to the Commission within the time prescribed by State law. If feasible, report these results at this hearing.

BACKGROUND AND SUMMARY:

- This protest hearing is being conducted pursuant to the California Government Code commencing with Section 57000 which requires LAFCo to carry out Conducting Authority Proceedings.
- At its July 17, 2013 meeting, the Commission conditionally approved the "Guardian-Sun Maid Reorganization" by adopting No.RO-12-7A, attached to this Report as Exhibit "A". This protest hearing is required because not all landowners had formally consented to the annexation prior to the Commission's action.
- The approved annexation consists of the annexation of 430.84 acres to the City of Kingsburg and 118.68 acres to the Selma-Kingsburg-Fowler County Sanitation District and detachment of 430.84 acres from the Fresno County Fire Protection District, the Kings River Conservation District, and the Consolidated Irrigation District for territory located south of east Mountain View Avenue, west of south Bethel Avenue, and east of State Route 99.
- At today's hearing prior to consideration of protests the Commission's resolution making determinations will be summarized. The Commission will then hear and receive any oral or written protests, objections, or evidence made, presented, or filed.

- All property owners in the affected territory were sent written notice of this hearing; instructions on how to protest; and an official protest form (see Exhibit “B”). At this writing, staff has not received any official written protests.
- At any time prior to the conclusion of this hearing any landowner within the affected territory may file a written protest against the annexation.
- Should insufficient valid protests be received and not withdrawn, the Commission’s determination to conditionally approve the reorganization stands.¹

CONDUCTING AUTHORITY PROCEEDINGS:

Executive Officer’s Summary:

The following is a summary of the Commission’s Resolution making determinations, which must be presented at the hearing prior to the Commission’s consideration of any protest(s).

- At its July 17, 2013 meeting, having considered all relevant factors and heard all interested parties wishing to speak regarding the proposal, the Commission determined that the environmental effects of the project as shown in the California Environmental Quality Act (CEQA) documents submitted by the Lead Agency were legally adequate pursuant to the CEQA Guidelines and that the proposed annexation was consistent with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and LAFCo Policies, Standards and Procedures.
- The Commission, therefore, approved the proposed annexation subject to conditions as contained within the adopted Fresno LAFCo Commission Resolution.
- Having determined that the affected territory is uninhabited but that not all landowners in the territory consented to the annexation in writing, the Commission directed staff to set a protest hearing pursuant to the requirements of California Government Code Section 57000.

Public Testimony:

Prior to making its determination for this proposal the Commission must hear and receive any oral or written protests, objections, or evidence made, presented, or filed. The Chairman may call for any final protests to be filed or withdrawn prior to closing the public hearing. The annexation will be terminated if written protests filed with the Executive Officer (and not withdrawn) are sufficient to overturn the Commission’s action. Protest procedures for uninhabited annexations are outlined below.

Commission Action:

In the case of an “uninhabited” proposal for an annexation to a city, the Commission is required to make a finding regarding the value of written protests filed and not withdrawn, and take one of the following actions not more than 30 days after the conclusion of the hearing:¹

- (1) Terminate proceedings if a majority protest exists. A majority protest is deemed to exist and

¹ Not longer than 30 days following this hearing in accordance with Government Code Sections 56100, 57075, and 57078.

the proposed reorganization shall be abandoned if the Commission finds that written protests filed and not withdrawn prior to the conclusion of the hearing represent landowners owning 50 percent or more of the assessed value of the land within the territory (Government Code Section 57078a).

- (2) 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.

Annexation Ordered:

The change of organization (reorganization) will be ordered if the number of protests filed with the LAFCo Executive Officer (and not withdrawn) falls below the threshold numbers stated above.

Calculating the Value of Protests Received:

At the close of the public hearing, staff may be directed to determine the value of valid protests received and not withdrawn. Should substantial valid protests be received and not withdrawn, staff may be directed to determine the value of all protests and issue written results to the Commission within 30 days. The reorganization will stand as approved if the number of protests filed with LAFCo (and not withdrawn) falls below the thresholds described above.

EXHIBIT A

RESOLUTION NO. RO-12-7A

**FRESNO LOCAL AGENCY FORMATION COMMISSION
FRESNO COUNTY, CALIFORNIA**

In the Matter of:

LAFCo Determination

**A REQUEST BY THE CITY OF KINGSBURG
FOR APPROVAL OF THE "GUARDIAN-
SUN MAID REORGANIZATION"**

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)

**APPROVED "GUARDIAN-SUN MAID
REORGANIZATION" WITH
CONDITIONS**

WHEREAS, preliminary proceedings were initiated by the City of Kingsburg to annex 430.84 acres to the City of Kingsburg and 118.68 acres to the Selma-Kingsburg-Fowler County Sanitation District and detach 430.84 acres from the Fresno County Fire Protection District, the Kings River Conservation District, and the Consolidated Irrigation District for territory located south of east Mountain View Avenue, west of south Bethel Avenue, and east of State Route 99, as shown within Exhibit "A", attached hereto and by this reference incorporated herein (the "Proposal"); and

WHEREAS, the Executive Officer issued a Certificate of Filing for the Proposal on March 19, 2013 and set it for hearing on the 10th day of April, 2013, at the hour of 1:30 p.m.; and

WHEREAS, notice of said hearing was provided as required by state law, including Government Code section 56658; and

WHEREAS, the Executive Officer reviewed the Proposal and prepared a report to this Commission, said report having been mailed at least five days before the public hearing; and

WHEREAS, at the April 10, 2013 hearing the Executive Officer reported that new and additional information regarding the Proposal had been received by the Commission after the staff reports were mailed to the Commission and requested additional time to analyze the information for presentation to the Commission; and

WHEREAS, this Commission continued the Proposal to a date uncertain to allow more time for staff's analysis and negotiations between the City of Kingsburg and the Fresno County Fire Protection District on a new Fire Transition Agreement (as defined below); and

WHEREAS, consistent with said continuance, the Proposal was set for hearing on July 17, 2013, at the hour of 1:30 p.m. and notice of said hearing was given as required by state law, including Government Code section 56658; and

WHEREAS, on the date of the hearing, the City of Kingsburg and the Fresno County Fire Protection District advised the Commission they were finalizing an agreement, applicable to the affected territory contained in the Proposal, which was intended to comply with Commission Policy and Procedure section 102-04-041, a draft copy of which was provided to the Commission in the staff report (the "Fire Transition Agreement"); and

WHEREAS, that certain Master Property Tax Transfer Agreement dated January 31, 2006, has been adopted by the City of Kingsburg and the County of Fresno, the responsible local agencies for the exchange of property tax revenue for this jurisdictional change; and

WHEREAS, the County of Fresno submitted a letter to this Commission, dated October 18, 2012, stating that the County has determined that the Proposal is consistent with the Master Property Tax Transfer Agreement; and

WHEREAS, the Executive Officer reviewed said application and prepared a report to this Commission, including a recommendation for approval of the Proposal with certain conditions, said report having been mailed at least five days before said hearing and was duly considered by this Commission pursuant to state law and Commission Policies and Procedures; and

WHEREAS, this Commission reviewed and considered the information in the Initial Study, Mitigated Negative Declaration, and addendum to the Mitigated Negative Declaration (collectively the "CEQA Documents") prepared by the Lead Agency, City of Kingsburg, which was included in the Executive Officer's report to this Commission; and

WHEREAS, this Commission considered all relevant factors and evidence and heard all interested parties wishing to speak about the Proposal.

NOW, THEREFORE, BE IT RESOLVED that the Fresno Local Agency Formation Commission does HEREBY STATE, FIND, RESOLVE, DETERMINE, AND ORDER as follows:

Section #1. Acting as Responsible Agency pursuant to California Environmental Quality Act (CEQA) and its Guidelines, this Commission finds that prior to approving the Proposal the environmental effects of the Proposal as shown in the CEQA Documents prepared, adopted, and submitted by the Lead Agency were reviewed and considered by the Commission, and the Commission determined the CEQA Documents to be legally adequate pursuant to CEQA Guidelines Section 15096.

Section #2. This Commission finds that the Proposal is consistent with LAFCo Policies, Standards and Procedures Section 210 - Standards for Annexation to Cities and Urban Service Districts (01-10) and the Cortese-Knox-Hertzberg Local Governmental Reorganization Act of 2000.

Section #3. This Commission assigns the distinctive short form designation "Guardian-Sun Maid Reorganization" and approves the Proposal subject to the following conditions of approval:

- A. Applicant shall execute an indemnification agreement with the Commission reasonably acceptable to the LAFCo Executive Officer and legal counsel, agreeing to defend, indemnify, and hold harmless the Commission from and against any claims, actions (including those filed by any state or governmental agency), costs, or damages arising out of or in connection with the Commission's actions related to this matter;

- B. *The City of Kingsburg shall submit to the Executive Officer verification that a Right-to-Farm Covenant is required and will be made a part of future development approvals as a legal covenant to be recorded with final tract maps and site plans approved by the City for the affected territory;*
- C. *Ownership of land permitting, the Proposal shall include the full existing right-of-way width of adjacent roadways with the exception that only the southern half-width right-of-way for Mountain View Avenue shall be annexed.*

Prior to the recordation of the Proposal, the City of Kingsburg shall provide to the Executive Officer a copy of the fully-executed Transition Agreement in substantial conformance with the agreement contained in the draft staff report.

Section #4. This Commission finds and determines pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 that:

- A. The territory subject to the Proposal is uninhabited.
- B. Not all landowners have consented to the Proposal.

Section #5. This Commission directs staff to conduct protest proceedings pursuant to the requirements of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 57000 et seq.).

Section #6. This Commission's actions approving this Proposal shall expire one year from the date of this Resolution unless all proceedings are complete, including compliance with all conditions of approval and the issuance of a Certificate of Completion by the Executive Officer.

Section #7. The Executive Officer is hereby authorized and directed to mail certified copies of this Resolution as provided in Government Code Section 56882 and to file, as appropriate, in the office of the Fresno County Clerk all environmental documents, if any, pertaining to the approval of this Proposal, as required by State law.

* * * * *


ADOPTED THIS 17th DAY OF JULY, 2013, BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS LOPEZ, PEREA, LARSON, SANTOYO, SILVA
NOES: NONE
ABSENT: NONE

**STATE OF CALIFORNIA)
COUNTY OF FRESNO)**

CERTIFICATION

I, David E. Fey, Executive Officer of the Fresno Local Agency Formation Commission (LAFCo), Fresno County, State of California, hereby certify that the foregoing resolution was adopted by the Commission at a regular meeting held on the 17th day of July, 2013.







David E. Fey, AICP, Executive Officer
Fresno Local Agency Formation Commission

Exhibit "A"



Legend

-  Sphere of Influence
-  City Limits
-  City Annexation
-  District Annexation

City of Kingsburg "Guardian-Sun Maid Reorganization"
LAFCo File No. RO-12-7

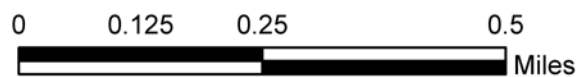


EXHIBIT B

FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCO) NOTICE OF PROTEST HEARING

PLEASE BE ADVISED THAT A PROTEST HEARING will be held by the Fresno Local Agency Formation Commission (LAFCo) **on Wednesday, September 11, 2013, at 1:30 p.m., or as soon thereafter as possible**, in Room 301, Hall of Records, Tulare and "M" Streets, in downtown Fresno concerning the following:

City of Kingsburg "Guardian-Sun Maid Reorganization." Proposed annexation of 118.68 acres to the Selma-Kingsburg-Fowler County Sanitation District (SKF) for the territory located between Golden State Boulevard and State Route 99 north of the existing City of Kingsburg City Limits. The proposal will also include the annexation of 430.84 acres to the City of Kingsburg and detachment from the Fresno County Fire Protection District, the Kings River Conservation District, and the Consolidated Irrigation District for territory located south of east Mountain View Avenue, west of south Bethel Avenue, and east of State Route 99. At the request of Fresno County, the boundary includes the industrialized area and the area between Golden State and State Highway 99 **(LAFCo File No. RO-12-7)**.

The subject territory has been pre-zoned by the City as Heavy Industrial, Light Industrial, and Highway Commercial. The entire area is located within the City of Kingsburg's existing Sphere of Influence along the north City limits and is generally bounded by Mountain View Avenue on the north, Bethel Avenue on the east, and State Route 99 along the south and west. The proposed annexation area is also bisected by Golden State Boulevard and the Union Pacific Railroad that runs parallel to State Route 99.

HOW TO FILE A PROTEST: Owners of land within the boundaries of the affected territory may file written protests in opposition to the proposed annexation. Protests may either be mailed or delivered to Fresno LAFCo, 2607 Fresno Street, Suite B, Fresno, CA 93721, or presented to the Commission before the end of the protest hearing. You need not attend the hearing to file a protest, but each protest form must state that you are a landowner and must include your name, mailing address and street address (if different) or an Assessor Parcel Number (APN) identifying the location of your property within the affected territory. Written protests must be filed and received no later than at the conclusion of the hearing to be considered valid. Each protest filed will be counted separately. An Official LAFCo Protest Form is attached if you wish to file a protest. This form may be copied. The results of protests received will be determined within 30 days following the hearing in accordance with California Government Code Sections 57075 and 57078.

EFFECT OF PROTEST: In the case of uninhabited territory (**like yours**), proceedings will be terminated if the Commission finds that valid written protests filed and not withdrawn prior to the conclusion of the Protest Hearing represent landowners owning 50 percent or more of the assessed value of the land within the affected territory. Otherwise, annexation of your property to the City of Fresno will occur.

The staff report for this item will be available five days before the hearing on our Website at www.fresnolafco.org, or for additional information, contact the Commission Office at 2607 Street, Suite B, Fresno, CA 93721. Please direct any questions or comments to David E. Fey, AICP, LAFCo Executive Officer at (559) 495-0604 or e-mail Mr. Fey at dfey@co.fresno.ca.us

DAVID E. FEY, AICP, EXECUTIVE OFFICER

DATED: **August 19, 2013, LAFCo File No.: RO-12-7**

**OFFICIAL LAFCo PROTEST FORM
CITY OF KINGSBURG "GUARDIAN-SUN MAID REORGANIZATION"**

Each of the undersigned is the landowner of the property located within the proposal area described below. The undersigned hereby protests the proposed "Guardian-Sun Maid Reorganization" as provided for in Section 57051 of the California Government Code.

NAME OF PROPOSAL: "GUARDIAN-SUN MAID REORGANIZATION" RO-12-7

☐ Land
Owner

Date _____ **Name** _____
(Please type or print)

Full Legal Signature _____

Address _____
Number Street City or town

Description of affected property if not at above address _____
Assessor's Parcel Number if known

Address or other description

NAME OF PROPOSAL: "GUARDIAN-SUN MAID REORGANIZATION" RO-12-7

☐ Land
Owner

Date _____ **Name** _____
(Please type or print)

Full Legal Signature _____

Address _____
Number Street City or town

Description of affected property if not at above address _____
Assessor's Parcel Number if known

Address or other description

NAME OF PROPOSAL: "GUARDIAN-SUN MAID REORGANIZATION" RO-12-7

☐ Land
Owner

Date _____ **Name** _____
(Please type or print)

Full Legal Signature _____

Address _____
Number Street City or town

Description of affected property if not at above address _____
Assessor's Parcel Number if known

Address or other description

PLEASE NOTE - This official protest form must be utilized to submit a valid protest. The use of any other form will invalidate your protest. It is understood that for landowner protests involving a parcel with more than one owner listed on the County's Assessment Roll, only the signer's proportionate share of the value of the property will be credited in the protest.