



## COLAB SAN LUIS OBISPO COUNTY

**WEEK OF APRIL 19-25, 2015**

### **WATER EXPORT PROHIBITION ADOPTED**

### **APCD BOARD DELAYS APPEAL DECISION**

### **PASO WATER DISTRICT LAFCO APP. RUSH JOB COATED IN AMBIGUITY & VASELINE (SEE PAGE 4)**

**Board of Supervisors Meeting of Tuesday, April 14, 2015 (Completed)**

**Item 20 - Hearing to consider an amendment to the Health and Sanitation Ordinance, Title 8 of the San Luis Obispo County Code relating to regulation of the exportation of groundwater.** The Board adopted the ordinance unanimously. The original concept was aired because some residents of the Paso Basin fear that the proposed Paso Basin Water Management District (as embodied in AB 2453) could become a conduit for the importation, mixing of native groundwater and imported water, storage, extraction, and ultimate sale of water to outside interests. To allay this fear, an export ban was proposed. In fact, as the Board of Supervisors adopted its endorsement and support for a Paso Robles Basin water management district, it made a promise to the public that it would expeditiously adopt a prohibition on the export of groundwater outside of San Luis Obispo County.

Some PRAAGS Board members (the original proponents of the Paso Water Management District) seemingly celebrated the passage of the ordinance. They condescendingly characterize fears that some district backers may plan to use the district as a water export and sales vehicle as conspiracy theories. They cite the passage of the ordinance and their support as proof that no nefarious water schemes are lurking in the background. After all, since the PRAAGS members supported the ordinance, how could they have any purpose other than to regulate the basin and eventually bring it into long-term sustainable water balance?

Of course, the basin is still under a Board imposed water and development moratorium. The County staff is working like mad to prepare General Plan amendments and zoning ordinance

amendments that would render it permanent. It would supposedly sunset when the proposed district develops a sustainability plan that is approved by the State Department of Water Resources. Staff estimates this process (see item 26 below) will take until 2022. What if the new district's sustainability plan must maintain the offset requirements and other features of the moratorium in order to pass muster with the State Department of Water Resources?

**Background:** The ordinance operates by requiring anyone who wishes to transfer more than ½ of an acre foot of water between basins within the county or out of the county to apply for a permit.

**Overall Provisions include:**

- Permits would be good for one year and would have to be renewed.
- Permits would not run with the land.
- If a permit is issued, the County will measure and monitor the water to insure compliance with the permit.
- The ordinance would have no sunset date. The original version had a 5-year sunset date.
- There would be penalties for violation.
- The incorporated cities would not be subject to the ordinance and thus could export water produced within their boundaries to another basin or outside the county. One murky area still remains and involves water produced by city wells that are in the unincorporated area outside the boundary of a city. Once it goes into the city, is it city water that is exempt from of ordinance? The City of Paso is on the record as requesting the County to defer adoption of an anti-export ordinance until it is considered part of an overall basin management plan.

**Board of Supervisors Meeting of Tuesday, April 21, 2015 (Scheduled)**

**Item 1 - Submittal of a resolution of intention to renew the San Luis Obispo County Tourism Business Improvement District (CBID) for FY 2015-16 and set May 19, 2015 as the date of the public hearing to consider any protest to the renewal of the CBID ordinance.** This is setting the redo schedule, which must be undertaken because of noticing errors earlier.

**Background:** If approved, the district would allow lodging businesses to assess themselves to raise funds to promote San Luis Obispo County tourism. It turned out that there was a noticing problem and the whole process will have to start over with a new hearing set for June. The smaller lodging businesses, such as bed and breakfasts, RV campgrounds, and single home vacation rentals, are adamantly opposed. Several business owners complained that they repeatedly have not received the required notices during various phases of the process. The staff admitted that 150 businesses were left out this time.

**Item 18 - Thirty-day update on current drought conditions and related management actions for the Board's review of the continuing need for the March 11, 2014 proclamation of local emergency pursuant to Government Code section 8630.** The new news is the Governor's 25% water reduction order. This will actually be implemented as a regulation of the

State Department of Water Resources. It is being pushed through the rule making process on an expedited basis and should take effect on or about May 6<sup>th</sup>. The proposed rule reads in part:

***Mandatory Statewide conservation to achieve 25% reduction in water use:***

2. *The State Water Resources Control Board (Water Board) shall impose restrictions to achieve a statewide 25% reduction in potable urban water usage through February 28, 2016. These restrictions will require water suppliers to California's cities and towns to reduce usage as compared to the amount used in 2013. These restrictions should consider the relative per capita water usage of each water suppliers' service area, and require that those areas with high per capita use achieve proportionally greater reductions than those with low use. The California Public Utilities Commission is requested to take similar action with respect to investor-owned utilities providing water services.*
5. *The Water Board shall impose restrictions to require that commercial, industrial, and institutional properties, such as campuses, golf courses, and cemeteries, immediately implement water efficiency measures to reduce potable water usage in an amount consistent with the reduction targets mandated by Directive 2 of this Executive Order.*
6. *The Water Board shall prohibit irrigation with potable water of ornamental turf on public street medians.*
7. *The Water Board shall prohibit irrigation with potable water outside of newly constructed homes and buildings that is not delivered by drip or microspray systems.*
8. *The Water Board shall direct urban water suppliers to develop rate structures and other pricing mechanisms, including but not limited to surcharges, fees, and penalties, to maximize water conservation consistent with statewide water restrictions. The Water Board is directed to adopt emergency regulations, as it deems necessary, pursuant to Water Code section 1058.5 to implement this directive. The Water Board is further directed to work with state agencies and water suppliers to identify mechanisms that would encourage and facilitate the adoption of rate structures and other pricing mechanisms that promote water conservation. The California Public Utilities Commission is requested to take similar action with respect to investor-owned utilities providing water services.*
9. *The Water Board shall require urban water suppliers to provide monthly information on water usage, conservation, and enforcement on a permanent basis.*

The actual proposed rule and tiers can be found at the link:

[http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/drought/emergency\\_mandatory\\_regulations.shtml](http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/emergency_mandatory_regulations.shtml)

**Item 19 - Hearing to consider an ordinance amending Title 6 (Business Licenses and Regulations) of the County Code to provide consistency, clarity, and ease of reference for County residents and those agencies that have regulatory authority for County Business**

**Licenses.** This is not a rate increase but a restructuring and simplification of ordinances controlling the processing and collecting of various types of business licenses.

It would appear that some new classes of business are being added to those which are required to have a license.

A summary of the provisions can be seen at the link:

<http://agenda.slocounty.ca.gov/agenda/sanluisobispo/4555/MI9BdHRhY2ggQV9TdWJzdGFudG12ZSBDaGFuZ2VzIFBERmEucGRm/12/n/42720.doc>

If you have any type of County business license, please check and let us know if you see any problem.

### **Matters After 1:30 PM -- PASO ROBLES WATER DISTRICT LAFCO APPLICATION**

**Item 26 - Discussion and approval of the Resolution of Application and Plan for Services for the proposed Paso Robles Basin Water District and file a Notice of Exemption per Public Resources Code Section 21000 et seq.**

**STAFF RECOMMENDED ACTIONS:**

**It is recommended that the Board, acting as the Board of Supervisors of the San Luis Obispo County Flood Control and Water Conservation District (Flood Control District):**

- 1. Review and approve the Local Agency Formation Commission (LAFCO) application material for the Paso Robles Basin Water District (Water District) formation, including the Resolution of Application;**
- 2. Direct staff to submit the application material to LAFCO and work with LAFCO staff on holding a LAFCO hearing(s); and**
- 3. Direct the Clerk to file a CEQA Notice of Exemption per Public Resources Code Section 21000 et seq.**

Per prior Board direction, the staff has prepared an application to the Local Agency Formation Commission (LAFCO) for the creation of the AB 2453 Paso Basin Water Management District. The Board of Supervisors is to determine whether it will submit the application as presented, modify it and submit it, or reject it. The LAFCO Board consists of 2 members of the Board of Supervisors, 2 elected representatives of the cities in the County, 2 board members of special districts in the County, and a citizen representative selected by the other members. They are collectively called the commissioners. LAFCO's job is to review the application and determine if it meets various requirements the State's Cortese-Knox Act, which regulates local government formation matters. The LAFCO may approve the application as submitted, modify it and approve it, or reject it. LAFCO may also add conditions to any approval. If LAFCO approves the district formation, it must be submitted to a vote of the property owners living within the proposed boundary. Fifty percent plus 1 of the voters who actually vote must approve the final LAFCO structure for it to become activated. Our discussion here is organized into 4 sections, including A) Is There a Benefit by Creating the District? B) Process Issue Problems, C) Financial Issues, and D) Powers and Functions of the District.

## **A. Is there a Benefit by Creating the District?**

### **1. Local Control?**

Proponents and Supervisors Gibson, Hill, and Mecham list “local control” as the overarching public benefit and primary justification for the creation of the new government entity. A number of questions arise concerning the actual operational meaning of local control in this situation:

**a. How independent will the district really be given various limitations place on it legislatively?** The staff report states:

*AB 2453 authorizes the Water District, if formed, to exercise a broad range of powers, subject to review and approval by LAFCO in accordance with Cortese-Knox and obtaining consent from the County, Flood Control District, or other local agency(s) before engaging in any activities normally and historically undertaken by those agencies.*

What if a future Board of Supervisors does not give consent or imposes conditions? Where is the guarantee of local control here?

**b. What About Land Use Authority?** The County will, of course, retain land use authority over the area included in the proposed district. Currently that area is under a land use and water moratorium. Per Board direction the staff is preparing General Plan and land use ordinance amendments which would render that moratorium permanent. Even if those provisions sunset after the completion and approval of a groundwater sustainability plan in some future year (perhaps 2022), what independence and local control does the board of the water management district actually have in these matters? What’s to stop a future Board from re-imposing the moratorium? What’s to stop a future Board of Supervisors from imposing even more severe restrictions, such as a 2:1 water offset requirement or subjecting homeowners to moratorium restrictions when they apply for minor improvements such as an extra bathroom?

**c. Local Control by Whom and to What Ends?** The fact that the new district is designed to have a board of directors elected from various classes of ownership of people living in or near the district is given as proof of local control in contradistinction to control by the Board of Supervisors. Much effort was expended by proponents to demonstrate that no one faction by ownership class (amount of acreage owned) could get control of the district board. This discussion was a distraction. The real issues include: 1) what is the likelihood that some combination of 5 directors will include maintenance of the moratorium as a key element of the district’s future groundwater sustainability plan (GSP)? 2) Since all the powers included in AB 2453 are recommended to be operationalized in the LAFCO approval (and most of those powers are regulatory in nature), what is the likelihood that some combination of 5 directors will adopt ordinances implementing them? 3) Since the approval of fees, assessments, and taxes are based on Prop 218 land ownership vote, the 2 representatives of 30-40 largest landowners will control the budget.

### **2. Ending the Moratorium?**

What is the proponents’ general long-range plan for ending the moratorium and opening up development of existing residential parcels and small ranchette type parcels? In order to have conceived of the district, the proponents must have considered this major issue. For that matter and for those Supervisors who support district formation, what is their general proposal for the

district to eliminate the moratorium? What would be the general time frame for implementing their proposal?

On the other hand, what if it is impossible to ever end the moratorium in terms of complying with SB 1168? Or what if the Board of Supervisors or the district proponents have no intention of ever lifting the moratorium? If the moratorium is to be permanent (which appears to more and more be the case), why is the district even necessary? If future Ag. expansion and residential expansion are essentially over, what would be the purpose of the district? After all, with no new development, the County could easily eliminate the current 2,500 acre feet per year overdraft and be immediately compliant with SB 1168.

### **3. Does the District Benefit Residential and Small Ranchette Owners?**

Most of the owners in the unincorporated area of the basin live in single-family homes on small lots or ranchettes. They account for a very small portion of the water drawn from the basin. Should these properties be exempt from district regulations and assessments since they are not a substantial contributor to any existing or impending overdraft? What about exempting properties of 40 acres or under?

## **B. Process Issue Problems:**

### **1. The Moratorium:**

The County adoption of the so-called Paso Basin Urgency ordinance water and development moratorium contaminated the whole process and confused the issue. Prior to its precipitous adoption to the moratorium the Board had been talking about ways in which to assist residents suffering from the drought fueled problem of some wells going dry (the number has never been shown to be statistically significant). In August 2013, the Board abandoned this course and imposed a 2-year plus 2-month ban on drilling new wells (including agricultural expansion and new homes). At that time the moratorium was termed a “time out” to ascertain the seriousness of the problem and both short- and long-term remedies.

Significantly, the proponents of the new water district PRAAGS went on record as supporting the moratorium.

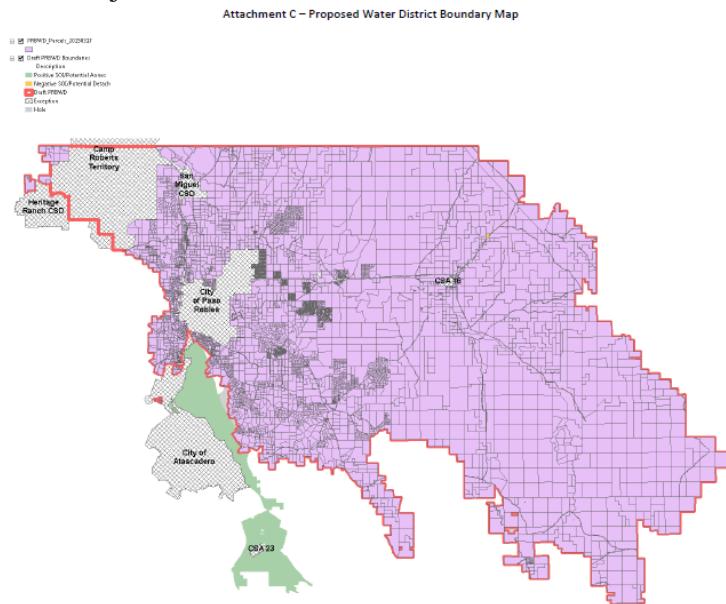
### **2. The Moratorium Is Essentially Permanent:**

At this point, the Board of Supervisors water issues majority (Gibson, Hill, Mecham/ GHM<sup>3</sup>) are proposing that the 2-year/2-month moratorium be extended until the new district is in place and has received approval from State Water Resources Water Control Board (DWR) for an SB 1168 compliant basin-wide groundwater sustainability plan (GSP). The problem is that the Plan must be developed by a groundwater sustainability agency (GSA) which has authority over the entire basin or by a group of agencies which develop a comprehensive GSP, perhaps through a joint powers agreement. Since the City of Paso Robles, the City of Atascadero, the Templeton Community Service District, the San Miguel Community Service District, and, potentially, certain community water systems refuse to subject themselves to the proposed district, the process could become very time consuming. The Board letter confirms the complexity and potential time delay here:

*More specifically, the SWRCB may designate a high or medium-priority basin as a probationary basin unless one of the following has occurred on or before June 30, 2017: (a) a local agency has elected to be a GSA that intends to develop a GSP for the entire basin; (b) a collection of local agencies has formed a GSA or prepared agreements to develop one or more GSPs that will collectively serve as a GSP for the entire basin; (c) a local agency has submitted an alternative that has been approved or is pending approval by DWR.5 In addition, the SWRCB may designate a high- or medium-priority basin as a probationary basin unless one of the following has occurred on or before January 31, 2022: (a) a GSA has adopted a GSP for the entire basin; (b) a collection of local agencies has adopted GSPs that collectively serve the entire basin; (c) DWR has approved an alternative.6*

The Atascadero Mutual Water Company is reportedly already preparing its own groundwater sustainability plan independent of everyone else.

The boundary map shows all the entities that will not be included in the district, will not be subject to the moratorium, and will be happily pumping ground water while most of the basin residents are subject to the moratorium.



### 3. The Plan is Unfair:

As noted above, large sections of the basin are not included in the proposed district. Will the entities governing these “excused” areas agree to a moratorium in the future as part of a truly basin-wide sustainability plan? The areas in purple are within the proposed district. The others plan to be excluded.

### 4. County As Applicant Is Huge Conflict:

As we have pointed out in the past, the midnight legislative addition of the provision in AB 1453, which allowed the County to front for the proponents as applicant for the district, is a nasty conflict in several ways. First of all, Gibson and Mecham are both LAFCO Commissioners. They will be reviewing and approving their own plan. Where is the integrity in such a process? They constitute 30% of the vote on the matter itself as well as the LAFCO Executive Director's salary and other conditions of employment. The director will be preparing the LAFCO analysis and recommendation. If you know that two of your bosses have just approved the very request on which you are making recommendations, how independent are you likely to be? Similarly, the

County is advancing \$350,000 to finance the application and related actions. Would the Board of Supervisors do this for an application by the people of Templeton or Nipomo to become cities?

Staffers have suggested that having the County function as applicant has precedent. They cite the formation of a lighting district some years ago. The problem is the formation of the proposed Paso Basin Water Management District is not a small and limited technical matter. Given its listed powers, it will have profound impacts on thousands of citizens and property owners over a vast 400,000 acre area. There is substantial controversy and divided opinion. The fact that a 3-Board member majority is ramrodding the issue and has dedicated a senior staffer to proselytize for district formation does not inspire confidence.

### **5. No Proponent Petition:**

By allowing the County to be the applicant before LAFCO, the district proponents were able to avoid the normal legal democratic process of circulating a petition and obtaining sufficient signatures to demonstrate that there is enough support for a new district to justify the time and expense of preparing and processing an application. By the time the voters ultimately decide, the County will have spent \$350,000. Instead, 3 members of the Board of Supervisors preempted the public and made the determination for them. As noted above, 2 of the 3 same Board of Supervisors members (Gibson and Mecham) will be “independently” reviewing the application as members of LAFCO.

### **6. Polling:**

Since the initial vote to determine if the district is to be operationalized is a vote of all the property owners, why not stop and conduct a poll to determine if there is substantial support prior to expending more money on processing the application and conducting a complex election? The 5 County Supervisors as members of SLOCOG have voted to authorize several polls related to the potential of a ½ cent sales tax for roads and transportation. Given the severe community division of the district issue, why not conduct a quick poll.

These process conflicts may doom the proposed district in the minds of the basin’s general voters, even if analysis shows that some revised version of the district to be a valuable tool for management of the basin. The blatant disrespect for those with questions or those who proposed alternatives, such as Supervisor Arnold, the hundreds of quiet title adjudication signatories and other citizens have and continue to leave a nasty taste. Could this be a foretaste of the tone and operational character of the new district?

## **C. Financial Issues:**

### **1. Funding Mechanism and Costs Not Sufficiently Developed:**

During the January 27, 2015 Board Meeting, a portion of the staff report on the LAFCO application process stated:

*When staff returns to your Board with the completed LAFCO application, a detailed budget and cost estimate (e.g. per parcel or per well user) will be known and discussed.*

The staff has returned and only has the vaguest notion of what the financial impact of the proposed district will be. In fact it has not developed a real allocation model for the different land uses and their impact on water use.

*It is important to reiterate that this report is for discussion purposes only and not the final allocation of costs. Depending on the funding mechanism used, a more refined allocation of costs will still need to occur. For example this model levies \$2 per acre equally to all land use categories, and certain categories – such as Graze and Vacant Rural - may not justify the full allocation. A reduction in their allocation would increase the cost to other land use categories.*

So the Board will be submitting an application to LAFCO which does not contain a complete financial plan.

Accordingly, the Board will be approving an application which will defer the decisions to LAFCO, which effectively eliminates 3 of the 5 Board members from the decision. “Perfect!”

*The work effort to fully refine the allocation model of a potential levy will take place during the Proposition 218 proceedings and be consistent with legal requirements*

In effect the Board is flying blind.

## **2. Budget:**

A \$1 million per year budget (for the next 5 years) for 2 staffers and various consultants is presented. The budget provides no services other than the preparation of a groundwater sustainability plan and coordination with abutting entities plan. In other words, the district will tax the basin property owners \$5 million for a service which the County could already provide. The staff has provided a separate budget that indicates that it would cost the County the same \$5 million to perform the same work. It seems impossible, given all the data, major reports, and analyses that have been prepared over recent years, as well as plans already in effect, that a new \$5 million on top of everything else is required.

The budget as presented is a line item budget, and thus there is no way to tell what the actual tasks and products that cost \$5 million over 5 years actually cover.

Most astonishingly, the only things which the \$5million provides are the preparation of the GSP and district operational overhead. The write-up is clear:

*Services related to SGMA compliance, such as the development of a GSP, can be provided by the District immediately upon formation. The proposed budget, which will have had a successful Proposition 218 proceeding, only provides for enough funding to operate the District and fund the GSP. Any improvements, programs or projects deemed necessary by the GSP in order to sustainably manage the Paso Basin will need their own funding revenue source, which will be subject to the requirements of Proposition 218.*

Future improvements to collect, move, recharge, store, or otherwise improve the water situation will be additional costs. The application makes no attempt to estimate what these might be at

different levels and what the assessments would be. It appears that the district will provide no substantive services until after 2020 or 2022.

*Any such improvements related to groundwater sustainability are not anticipated to be imposed until after the development of the GSP. Under the SGMA, the final GSP must be submitted to DWR by either 2020 or 2022. The date that will be required for the Paso Basin has yet to be determined. Therefore, any such improvements will most likely not be undertaken until at least 2020, and as discussed above, these improvements, programs or projects will be unknown until the GSP is developed*

As County application project manager and advocate John Diodati blithely told the San Luis Obispo Tribune:

*“the decision right now is who should manage the basin, not how to manage the basin,”*

### **A \$5 MILLION DECISION PLUS THE \$350,000 TO PROCESS THE ISSUE AND WHATEVER ELSE HAS BEEN SPENT.**

#### **3. Regulatory Program Costs:**

It is clear from the powers and functions included in AB 2453 that one of the main roles of the district will be to promulgate, inspect, and enforce ordinances and regulations which it develops. There is no attempt to estimate these costs and their impact on the property assessments.

This whole presentation avoids the real financial issues and is tantamount to lubricating the district application process with Vaseline in order to secure adoption with as little friction as possible.

#### **D. Powers and Functions of the District:**

As we have in pointed out in the past, the powers allocated to the district are formidable. The problem is that the Board of Supervisors has never held an open discussion of them and stated whether it actually wished to impose them on the residents of the district. The application should not go forward to LAFCO unless this takes place. As the Board letter states:

*The LAFCO application requests activation of all available powers consistent with the limitations already contained within AB 2453.*

*The District will initially participate in a GSA for the Paso Basin or enter into an agreement(s) to fund and develop one or more GSPs for the Paso Basin. The GSP(s) will be used as the planning document for groundwater management in the Paso Basin. Any improvements, programs or projects (water conservation, water supply projects, etc.) recommended in the GSP adopted by the District will be considered by the District board for implementation. It is uncertain what these improvements, programs or projects may be at this time. The initial service provided by the District can be generalized as compliance with the Sustainable Groundwater Management Act (SGMA).*

Again other than running its overhead and preparing a “planning document for groundwater management in the Paso Basin,” there will be no other services for 5 years.

The tables on the following pages summarize some of the key provisions which will be included in the districts powers and functions. The Board of Supervisors needs to go through these one by one to see if they agree before telling LAFCO that they do.

Powers and Functions – Paso Robles Basin Water District

AB 2453/Code/Power	Description	Possible Other Agency
<b>Chapter 3: Groundwater Management Authority</b>		
<b>37921. Adopt Ordinances</b>	The Board of Directors may adopt ordinances for the purpose of regulating, conserving, managing, and controlling the use and extraction of groundwater within the District boundaries.	<b>COUNTY</b>
<b>37922. Authority to fine.</b>	Any person who intentionally violates any provision of this act or any district ordinance shall be guilty of an infraction and may be required to pay a fine to the district not to exceed five hundred dollars (\$500).	
<b>37923. Liable civilly.</b>	Any person who negligently or intentionally violates any provision of this act or any district ordinance may also be liable civilly to the district for a sum not to exceed one thousand dollars (\$1,000) per day for each day of violation, in addition to any other penalties that may be prescribed by law.	
<b>37924-25. Petition Superior Court</b>	For failure to comply with the act District may petition the court for relief. May request relief by the courts with regard to money owed, may take legal action to preserve groundwater basin.	
<b>37926. Contract with County</b>	District may contract with the County, the Flood Control District or other local district for staff and services.	
<b>37927. Authority to exclude any operator who extracts less than a set minimum.</b>	The district may exclude from any of the requirements of this act, or the operation of any ordinance, any operator who extracts less than a minimum amount of groundwater as specified by ordinance adopted by the board.	
<b>37928. Collect data and conduct technical and other investigations.</b>	The district may collect data and conduct technical and other investigations deemed necessary in order to carry out the provisions of this act. All hydrological investigations and studies carried out by or on behalf of the district shall be conducted by or under the supervision of licensed engineers or other persons qualified in groundwater geology or hydrology.	<b>FCWCD, COUNTY, CSA 16, PASO, TCSD</b>
<b>37929. District may receive reports</b>	District may prepare annually or receive reports on groundwater and supplemental water supplies and conditions in area.	
<b>37930. Recommend and encourage wastewater reuse.</b>	The district may recommend and encourage wastewater reuse and other water development projects, if those projects will enhance and contribute to the responsible management of groundwater resources.	<b>COUNTY, PASO, TCSD</b>
<b>37930. Recommend and encourage wastewater reuse.</b>	The district may recommend and encourage wastewater reuse and other water development projects, if those projects will enhance and contribute to the responsible management of groundwater resources, as part of its annual plan for implementation of groundwater management objectives.	<b>COUNTY, PASO, TCSD</b>
<b>37931. Additional powers as provided in Part 2.75 (commencing with Section 10750) of Division 6. (Groundwater Management under the</b>	In addition to the powers identified here, the district shall have the authority afforded to local agencies as provided in Part 2.75 (commencing with Section 10750) of Division 6 as that part may be amended, consistent with the requirements and limitations of applicable law.	<b>FCWCD, CSA 16, PASO</b>

Section 37931 above incorporates a vast array of other powers from Division 6 of the State Water Code by reference. These have not been explicated and are not summarized in this Board item. How can the Board give direction without having them explicated and discussed in public?

AB 2453/Code/Power	Description	Agency
Water Code)		
<b>Chapter 4: Groundwater Management Plans</b>		
<b>37940. (a) Develop a groundwater management plan.</b>	Develop, adopt, and implement a groundwater management plan to control extractions from the Paso Robles Groundwater Basin aquifers with the objective of balancing water supply and demand in the region.	FCWCD, PASO, TCSD
<b>37940. (b) groundwater management plan may address storage and projected extractions.</b>	The groundwater management plan may also include and address the following: (1) Existing groundwater storage. (2) Long-term recoverable storage, including an estimate of non-recoverable storage. (3) The expected adverse effects of projected extractions.	FCWCD, PASO, TCSD
<b>37941. Distinct zones or regions.</b>	The groundwater management plan may establish distinct zones or regions based on the geology of the basin, land use, water use, the location of extraction facilities, or other concerns as determined by the board.	
<b>37942. Policy for the issuance of new well permits, consider a ban on new irrigated acreage or new municipal water system wells. The district may include a contingency plan.</b>	The groundwater management plan may include a policy for the issuance of new well permits that takes into consideration the location of proposed wells and area of use, projected extractions from the wells, and the effect of the extractions on existing users and on storage. In developing the management plan, the district may consider a ban on new irrigated acreage or new municipal water system wells. The district may include a contingency plan to deal with seawater intrusion, basin contamination, or other risks that could impair the ability to rely on the basin for groundwater.	COUNTY, PASO, TCSD
<b>Chapter 5: Groundwater Management</b>		
<b>37950. (a) Require conservation practices and measures.</b>	Require conservation practices and measures within the affected portion of its territory.	FCWCD, COUNTY, CSA 16, PASO, TCSD
<b>37950. (b) Control groundwater extractions.</b>	Control groundwater extractions by regulating, limiting, or suspending extractions from extraction facilities, the construction of new extraction facilities, the enlarging of existing extraction facilities, and the reactivation of abandoned extraction facilities.	
<b>37950. (c) Commence and prosecute legal actions.</b>	Commence and prosecute legal actions to enjoin unreasonable uses or methods of use of water within the district or outside the territory of the district to the extent those uses or methods of use adversely affect the groundwater supply within the district.	FCWCD, COUNTY, CSA 16, PASO, TCSD, SMCSD
<b>37950. (d) Impose spacing requirements on new extraction facility.</b>	Impose spacing requirements on new extraction facility construction to minimize well interference.	
<b>37950. (e) Impose reasonable operating regulations.</b>	Impose reasonable operating regulations on extraction facilities to minimize well interference, including requiring pumpers to operate on a rotation basis.	
<b>37950. (f) Require extraction facilities to be registered.</b>	Require extraction facilities to be registered with the district within 30 days of notice being given to the operator of the extraction facility.	COUNTY, PASO, TCSD
<b>37950. (g) Provide the</b>	Require that the operator of a registered extraction	COUNTY, PASO,

<b>AB 2453/Code/Power</b>	<b>Description</b>	<b>Possible Other Agency</b>
district annually with information regarding the extraction facility.	facility provide the district annually with the following information regarding the extraction facility: (1) The name and address of the operator of the extraction facility. (2) The name and address of the owner of the land upon which the extraction facility is located. (3) A description of the equipment associated with the extraction facility. (4) The location of the water extraction facility.	TCSD
<b>37950. (h) Require waterflow measuring devices.</b>	Require extraction facilities to be equipped with waterflow measuring devices installed and calibrated by the district or, at the district's option, by the extraction facility operator.	
<b>37951 Waterflow measuring device shall be used as the basis for computing the water extraction.</b>	When an extraction facility is equipped with a waterflow measuring device, the record of extraction, as disclosed by the waterflow measuring device, may, at the election of the board, be presumed to be accurate, and shall be used as the basis for computing the water extraction of the extraction facility in completing the groundwater extraction statement.	
<b>37952 By ordinance, require proof of the accuracy of the waterflow measuring device.</b>	The district may, by ordinance, require proof of the accuracy of the waterflow measuring device from the operator and may, absent adequate proof of accuracy, order the operator, at the operator's sole cost, to have the waterflow measuring device calibrated in a manner acceptable to the district. If the district has probable cause to believe that the extraction of groundwater from any extraction facility is in excess of the amount reported in groundwater extraction statements, or if no statements are filed covering an extraction facility, the district may investigate the extraction of water from each extraction facility.	
<b>37953 By ordinance, establish reasonable methods to be used in computing the amount of water extracted.</b>	The board may, by ordinance, establish reasonable methods to be used in computing the amount of water extracted by extraction facilities.	
<b>37954 By ordinance, require semiannually, or more frequently a groundwater extraction statement.</b>	The district may, by ordinance, require the operator of each extraction facility to file semiannually, or more frequently, with the district, a groundwater extraction statement that contains, but is not limited to, the following information: (1) Total extraction in acre-feet of water from the extraction facility for the preceding groundwater extraction statement period. (2) The static groundwater level for the extraction facility. (3) A description of the location of the extraction facility. (4) The crop types or other uses and the acreage served by the extraction facility. (5) The method of measuring or computing groundwater extraction. (6) Other information deemed reasonable and necessary by the board to meet the purposes of this act.	
<b>37955 By ordinance, each</b>	If required by ordinance, each groundwater extraction	

<b>AB 2453/Code/Power</b>	<b>Description</b>	<b>Possible Other Agency</b>
groundwater extraction statement shall be verified by a written declaration. After January 1, 2015, shall give written notice of any abandoned facility.	statement shall be verified by a written declaration under penalty of perjury that the information contained in the statement is true and correct. The operator of an extraction facility that has been permanently abandoned after January 1, 2015, shall give written notice of the abandonment to the district.	
<b>Chapter 6 Groundwater Extraction Charges</b>		
<b>37960.</b> Levy groundwater extraction charges, including volumetric charges.	The district may, by ordinance, levy groundwater extraction charges, including volumetric charges intended to provide an incentive for reduced water use, on the extraction of groundwater from all water extraction facilities within the territory of the district for the purposes of paying the costs of initiating, carrying on, and completing any of the powers, purposes, and groundwater management activities described in this act. Any groundwater extraction charges shall be uniform for groundwater extraction within the territory of the district.	
<b>37961</b> Groundwater management activities are of equal benefit to all operators.	The Legislature hereby finds and determines that the groundwater management activities of the district are of equal benefit to all operators of groundwater extraction facilities within the territory of the district.	<b>FCWCD, COUNTY</b>
<b>37962</b> Collect interest at the rate of 11/2 percent each month on the delinquent extraction charges.	If any operator of any extraction facility fails to pay a groundwater extraction charge when due, the district may charge and collect interest at the rate of 11/2 percent each month on the delinquent amount of the groundwater extraction charge. In addition, the district may exercise any of the provisions of Sections 75630 to 75633, inclusive, for the purpose of collecting delinquent groundwater extraction charges.	
<b>37963</b> All moneys collected pursuant to this act shall be available for expenditure to carry out its groundwater management functions.	All moneys collected by the district pursuant to this act shall be available for expenditure by the district to carry out its groundwater management functions pursuant to this act.	
<b>37964</b> By ordinance, establish an operator's extraction allocation for each groundwater extraction facility located within the district. The district may, by ordinance, impose upon the operator of any groundwater extraction facility located within the district, extraction surcharges, including volumetric surcharges intended to provide an incentive for reduced water use, for extractions in excess of his or her extraction allocation and late penalties for nonpayment of	The district may, by ordinance, establish an operator's extraction allocation for each groundwater extraction facility located within the district. The district may, by ordinance, impose upon the operator of any groundwater extraction facility located within the district, extraction surcharges, including volumetric surcharges intended to provide an incentive for reduced water use, for extractions in excess of his or her extraction allocation and late penalties for nonpayment of	

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AB 2453/Code/Power	Description	Possible Other Agency
<ul style="list-style-type: none"> <li>the extraction allocation.</li> <li>• Are not intended to generate tax revenues or proceeds from regulatory licenses, user charges, or user fees.</li> <li>• Are not special taxes.</li> </ul>	(b) The extraction surcharges are intended to discourage the use of groundwater beyond the extraction allocation. They are not intended to generate tax revenues or proceeds from regulatory licenses, user charges, or user fees. Consequently, they are not special taxes for purposes of Section 4 of Article XIII A of the California Constitution or proceeds of taxes for purposes of Section 8 of Article XIII B of the California Constitution.	
<b>37966</b> Maximum extraction surcharge of (\$200) per acre-foot. District may increase the maximum amount to achieve safe yield.	The maximum amount of the extraction surcharge shall be two hundred dollars (\$200) per acre-foot of groundwater extracted in excess of the extraction allocation, except that the district may increase the maximum amount of the extraction surcharge to an amount that is necessary to achieve safe yield.	
<b>37967</b> Collect a late penalty at the rate of 11/2 percent each month on the delinquent extraction surcharge.	If an operator of a groundwater extraction facility fails to pay the extraction surcharge when due, the district shall charge and collect a late penalty at the rate of 11/2 percent each month, or portion thereof, on the delinquent amount of the extraction surcharge.	
<b>37968</b> May bring a court action against an operator of a groundwater extraction facility for the collection of any delinquent extraction surcharge.	The district may bring a cause of action, in any court having jurisdiction, against an operator of a groundwater extraction facility for the collection of any delinquent extraction surcharge, and Article 5 (commencing with Section 75630) of Chapter 3 of Part 9 of Division 21 applies to those actions.	
<b>37969</b> May order that an extraction surcharge or late penalty be a personal obligation of the operator or an assessment against the property and the lien attaches upon recordation in the office of the county recorder.	In addition to any other authority, the district may order that an extraction surcharge or late penalty be a personal obligation of the operator or an assessment against the property on which the extraction facility is located. The assessment constitutes a lien upon the property, and the lien attaches upon recordation in the office of the county recorder. The assessment may be collected at the same time and in the same manner as ordinary ad valorem taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for those taxes. All laws applicable to the levy, collection, and enforcement of ad valorem taxes shall be applicable to an assessment, except that, if any real property to which the lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon prior to the date on which the first installment of the taxes would become delinquent, the lien that would otherwise be imposed by this section shall not attach to the real property and an assessment relating to the property shall be transferred to the unsecured roll for collection.	

**Special Air Pollution Control District (APCD) Meeting of Thursday, April 16, 2015  
(Completed)**

**Item 1 - Conference with District Counsel Concerning Pending Litigation - Friends of Oceano Dunes v. San Luis Obispo County Air Pollution Control District.** The APCD Board was sequestered in closed session for over 2.5 hours. In the end they determined to seek clarification from the Appeals Court about certain points of the decision. Since we were not in the closed session, we are not sure what this means or what impact it has on the normal 30 day

deadline to file a notice of appeal with the California State Supreme Court. COLAB and 11 other speakers requested the APCD Board to reject its staff recommendation to file an appeal. At some point the issue will be back.

**Background:** The Second Appellate District Court found that the APCD *exceeded its authority in adopting rule 1001 of Regulation X, Fugitive Dust Emission Standards Limitation and Prohibitions (Rule 1001), which requires that the California Department of Parks and Recreation obtain an air emissions permit to operate the Oceano Dunes States Vehicular Recreation Area. The trial court found that Health and Safety Code section 42300 subdivision (a) authorized District to impose a permit system to regulate sand and dust emissions caused by off-road recreational vehicles using the state park.*

The issue hinged on the APCD's devious sleight of hand, in which it tried to claim that a State Park is a pollution source equivalent to a diesel engine, factory, or quarry. These are collectively called "contrivances" in the statute, which authorizes air pollution control districts to require permits that set emissions standards.