

COLAB SAN LUIS OBISPO COUNTY

WEEK OF APRIL 20-26, 2014

SEWER SLUDGE ORDINANCE LAPSES CAROLLO ENGINEERS GET MORE COUNTY WORK DUNES DUST NOT SO MUCH OF A PROBLEM

SAVE MAY 5-6, 2014

**State Water Resources Control Board (SWRC) Expert Panel Meetings On
May 5-6, 2014**

No Board of Supervisors Meeting on Tuesday, April 15, 2014 (Not Scheduled)

There was no meeting scheduled for April 15th. It was the Christian Holy Week and the Jewish Passover, but they gave no reason on the agenda website.

Board of Supervisors Meeting of Tuesday, April 22, 2014 (Scheduled)

Item 2 - Sewer Sludge Ordinance Re-establishment. This item is a set hearing for the re-establishment of the County's ordinance limiting the amount of bio-solids that can be spread on fields. The County has been operating under an interim ordinance, which it extends each year. This year the Health Department forgot to renew the ordinance and it expired. Thus the County will have to pass an ordinance de novo. Year after year the Board has postponed the adoption of a permanent ordinance because it would cost \$200,000 to conduct the required Environmental Impact Report. The write-up states in part:

Due to unforeseen delays, the Health Agency did not return to your Board with an item to set the hearing to extend the existing Land Application of Treated Sewage Sludge/Biosolids interim ordinance to March 2017, and thus the interim ordinance expired on March 9, 2014. Staff is now returning to your Board with a recommendation to adopt the revisions to Chapter 8.13 of the County Code to continue the provisions and restrictions that were put in place in the Land Application of Treated Sewage Sludge/Biosolids interim ordinance.

A Question: If adoption of a permanent ordinance requires an EIR and the prior interim ordinance expired, why is it that the adoption of a new ordinance does not require an EIR? This is not the renewal of the interim ordinance. It expired. The write-up narrative states that the Board can pass it without an EIR because it “does not have an adverse effect on the environment.”

The original interim ordinance was sent to the Environmental Division of the Planning Department for California Environmental Quality Act (CEQA) review. The CEQA review process was completed where it was determined that the ordinance could not have a significant adverse effect on the environment and a Negative Declaration was issued. The department will use the Negative Declaration (No. ED03-149) issued for the original interim ordinance as the environmental document for this biosolids interim ordinance.

This seems like a contradiction. An interim ordinance does not have an environmental impact but a permanent ordinance requires a \$200,000 EIR?

The hearing on the replacement ordinance is to be set for May 6, 2014.

Did they miss the train?

Item 20 - \$191,000 Contract With Carollo Engineering to Assist the County, Cities, and Special Districts Prepare a Grant Application to the State For Drought Management Projects. Under state guidelines the proposed projects must:

Provide immediate regional drought preparedness;

- Increase local water supply reliability and delivery of safe drinking water;*
- Assist water suppliers and regions to implement conservation programs and measures that are not locally cost-effective; and/ or*
- Reduce water quality conflicts or ecosystem conflicts created by the drought.*

Since these phrases are abstract, it would be helpful to have some examples of the kinds of projects which could be requested.

The Board letter states in part:

On March 11, 2014, your Board adopted a resolution proclaiming a local emergency due to drought conditions in San Luis Obispo County. Having a local emergency proclamation in place allows the county to respond more promptly to immediate needs and to quickly obtain necessary expertise to apply for this expedited grant funding available for drought relief. Therefore, staff recommends approving the attached contract with Carollo Engineers to develop the application for multiple projects consistent with IRWM processes and grant guidelines.

It would appear that previously adopted Declaration of a Local State of Emergency is being used to waive bid procedures in this case and to award the contract to Carollo. Carollo seems to have received and continues to receive substantial County contracts. The Board should ask for a list of the contracts, the amounts, and purposes by year for each of the last 5 years.

Carollo is a large national multi-faceted civil engineering firm focused on water with offices throughout the nation. The website indicates that the headquarters are in Seattle. For whatever reason the CEO is based in Walnut Creek, CA.

Item 26 - Presentation of the 2013 Annual Crop Report. County agricultural production reached \$960.7 million in 2013, of which \$220 million is attributable to wine grapes and \$210 million to strawberries.

COMPARISON OF VALUATION OF MAJOR GROUPS DURING THE PAST TEN YEARS						
YEAR	ANIMAL	FIELD	NURSERY	FRUIT & NUT	VEGETABLE	TOTAL
2004	59,620,000	15,342,100	101,156,000	195,712,000	167,606,000	539,436,100
2005	58,380,000	18,055,000	100,697,000	243,604,000	172,896,000	593,632,000
2006	64,244,000	17,477,000	108,066,000	236,491,000	204,336,000	630,614,000
2007	60,078,000	15,462,000	107,674,000	235,135,000	219,746,000	638,095,000
2008	53,848,000	17,790,000	101,845,000	229,661,000	199,778,000	602,922,000
2009	55,375,000	15,178,000	93,759,000	271,474,000	187,309,000	623,095,000
2010	57,139,000	18,545,000	94,708,000	365,750,000	176,666,000	712,808,000
2011	71,479,000	22,929,000	96,454,000	366,570,000	174,981,000	732,413,000
2012	73,857,000	24,612,000	95,155,000	463,296,000 *	204,900,000	861,820,000 *
2013	100,865,000	16,365,000	97,651,000	507,933,000	237,896,000	960,710,000

* Revised

Item 28 - Grant Authorization (\$493,000) to Purchase a Defender Class Response Boat and Related Equipment to Interdict Panga Smuggler Boats. There is a growing incidence of drug smuggling along the coast from Mexico by panga boats. The report states in part:

In the last two years numerous open bow fishing vessels commonly known as “panga boats” have been detected landing drugs on the coastlines of Ventura, Santa Barbara and San Luis Obispo Counties. Between May 24, 2012 and February 2014 there were twelve documented maritime smuggling incidents in San Luis Obispo County. Of these twelve incidents, eleven resulted in the recovery of “panga boats.” Of those vessels recovered, nine were in excess of 30 feet in length with a payload capacity of up to three tons.

Four of the maritime smuggling incidents in San Luis Obispo County resulted in a total of 62 arrests for drug smuggling and the seizure by Sheriff’s Deputies of approximately 10,400 lbs. of marijuana, with an approximate street value of \$8.8million. Almost all of the suspects arrested are from the Los Angeles area and some are believed to be Los Angeles area gang members. The last known landing was on February 23, 2014. This boat was a slightly different boat compared to the others. This boat did not have the typical cargo storage area and evidence at the scene indicated that this boat was used to smuggle people. Unfortunately, none of the occupants were located and it is not known if these people were merely undocumented aliens or more serious criminal offenders.

The shift in these border smuggling techniques has caused significant impacts for San Luis Obispo County. In addition to the illegal narcotics and the unknown identities of the people being introduced to the United States, the detection, cost and recovery efforts continue to be problematic.

Because San Luis Obispo has approximately 100 miles of coast that is mainly unpopulated, the detection of these boats is difficult. Many times the Sheriff's Office only becomes aware of a boat after it has already landed on shore. In some cases routine patrol has detected unusual vehicle traffic, which has led to the detection and arrest. Once a boat has landed, it becomes the Sheriff's Office responsibility. The Sheriff's Office has been able to receive some assistance from the Coast Guard and Homeland Security Investigations/Immigration Customs Investigations, however this has been limited .



Defender Class Response Boat

They Can Light 'Em' With the Deck Gun.



Intercepting a Panga

Item 31 - Hearing to consider an appeal by Integrity SLO of the Planning Commission's approval of a cluster subdivision of two existing 20.78 and 40.02 acre parcels resulting in twenty-one parcels of one acre each for the purpose of sale and/or development and two open space parcels of 21.2 and 14.6 acres. The appellant, Integrity SLO (the pro dunes OTV riding advocate t Kevin Rice), seeks to overturn the approval of additional homes at the Cypress Ridge Planned community in Nipomo. The appeal is based on Rice's analysis that the County staff, APCD staff, and Planning Commission did not adequately consider the impact on the future residents of dunes dust and, in particular, PM₁₀ silica .Note: Rice also includes many issues related to the impact of the project separate from dunes dust.

What Happened: After the February 27th meeting when the Planning Commission approved the project, we noted our surprise, and that of others (including the Planning Commissioners), that dunes dust was not considered a problem for this project

We reported: *The Commission approved an application for 30 new homes at Cypress Ridge in Nipomo. As noted in the Background section below, we were astonished that neither the County staff nor the APCD had anything to say about the issue of ambient dunes dust which existing Cypress Ridge residents have been complaining about at APCD hearings and Board of Supervisors meetings. It turned out that the Planning Commissioners were also surprised and asked a number of questions. Grover Beach Mayor Debbie Peterson, who has been criticized for her support of all-terrain vehicles (ATV's) on the dunes, showed up and commented on the irony of the situation.*

APCD Dunes Dust Scam Confirmed: *County staff begged off saying that the APCD only commented on the dust issues related to the actual proposed housing development. County staff stated that "the APCD did not determine that there should be a need for a determination on silica dust. It does not rise to the level of a potential health hazard." The Planning Commissioners wondered out loud if the sales contracts for the houses should contain a warning about the dust.*

Background: A number of current Cypress Ridge residents have been complaining to the Air Pollution Control District (APCD) and Board of Supervisors about dunes dust (PM10) blowing from the northwest into their yards and homes. Significantly, there is not one scintilla of data within the environmental information presented by the Planning and Building staff or the APCD with respect to this project related to the dunes dust issue. There is nothing in the record indicating that it was even studied. Instead, the entire record concerns mitigation of dust, greenhouse gases, and fireplace smoke that will be generated by the 30 new houses. If there is a real problem, how can the County and APCD place future residents in harm's way? In fact, there is no man made dunes dust problem, and the County and APCD know better than to tie up the applicant on this issue. They don't want another lawsuit where they have to defend their false data under oath in a Courtroom.

The County and APCD Hoisted With Their Own Petard.¹ In an ironic and tactical counter play, Rice uses the appeal process to place the Board of Supervisors (and ultimately the APCD) between a rock and a hard place. On the one hand the Board will want to deny the appeal, chastise Rice, and avoid the risk of losing a lawsuit to the developer. (There is nothing intrinsically wrong with the proposed project). On the other hand Rice's detailed appeal lists over 20 causes for upholding the appeal and denying the project. To counter these, the Planning staff has prepared a very detailed list of reasons why dunes dust (and other dust) is not a problem to vitiate Rice's facts. The dilemma is that if the Board denies the appeal utilizing the staff analysis, it will be undermining the whole scheme of dunes dust regulation (and future potential accumulative impact arguments related to multiple dust sources) which its majority and a majority of the APCD have been seeking to impose.

¹ The word remains in modern usage in the phrase *hoist with one's own petard*, which means "to be harmed by one's own plan to harm someone else" or "to fall into one's own trap," implying that one could be lifted up (hoist, or blown upward) by one's own bomb.

The Heart of the Issue: In essence, the County says that the problem is already being resolved and thus the addition of new residents who are likely to be subjected to the problem is OK. One section of the County staff report states:

Issue 19. The appellant states the proposed project adds sensitive receptors to an area impacted and in non-attainment for PM10 and PM2.5 where the source is alleged to originate from Off-Highway Vehicle (OHV) use at Oceano Dunes State Vehicular Recreation Area (ODSVRA). The appellant states that since the passage of APCD Board Rule 1001, OSDVRA is under legal attack which could affect access to the state park and that this conflict should be considered a significant impact until the legal issues have been resolved.

Staff Response: *The entire San Luis Obispo County is designated non-attainment of the state PM10 standard. The APCD has been investigating elevated particulate levels on the Nipomo Mesa for the past decade. Studies performed by the APCD in the area have shown the source of the elevated particulate matter pollution to be windblown dust from the open sand areas of the Oceano Dunes State Vehicular Recreation Area, and that emissions are increased by off-road vehicle activity. The APCD approach to attainment of the PM10 standard is via APCD particulate matter rules and regulations. Rule 1001 specifically applies to blowing dust from coastal dunes. Rule 1001 was developed and implemented as a result of the studies in the Nipomo Mesa area as a means to mitigate the blowing dust impacts. The litigation filed by Friends of Oceano Dunes against the APCD challenging Rule 1001 has been resolved with a comprehensive proposed Consent Decree, mediated by the California Air Resources Board, which provides for immediate enforcement of Rule 1001 and mitigation measures to reduce PM10. The consent decree addresses dispute addresses a special master and a dispute resolution process. Recently, the APCD and California State Parks jointly signed a “consent decree” agreement to preserve much of Rule 1001. That decree is included within the materials for this hearing. See response to Finding E (Issue 23) regarding the Mesa Alliance litigation.*

But the litigation settlement and continued analysis under Rule 1001 do not settle the issue. They merely provide for a path to determine if the dust is actually generated by OTV riding and to test mitigation measures. By denying the appeal and permitting the new homes, the Board is tacitly admitting that everything is OK. At the same time they are basically telling the complaining residents in Cypress Ridge and Trilogy that the problem is so insignificant that it's prudent to approve new residences in the same area.

In the future if they try to terminate OTV riding or further restrict it, the appeal denial will be powerful evidence that they never believed there to be a problem in the first place.

Planning Commission Meeting of Thursday, April 24, 2014 (Cancelled)

The meeting has been cancelled. The next meeting is scheduled for Thursday, May 8, 2014.

SAVE MAY 5-6, 2014

State Water Resources Control Board (SWRC) Expert Panel Meetings of May 5-6, 2014 (Scheduled in SLO)

It would appear that the SWRC is considering adding even further regulations related to irrigation water that percolates back into the ground or runs off fields. To this end an “expert panel” is convening at several locations around the State to take “invited” testimony. On May 5th-6th, the Panel will convene in SLO. It is not clear from the notice below who has been invited. In addition to COLAB, Agricultural organizations and concerned individuals should monitor this one.

Expert Panel Public Meeting #1

Monday May 5, 2014 – 9:00 AM (Convene Panel and Invited Testimony)
Tuesday May 6, 2014 – 8:30 AM (Invited Testimony and Public Comment)

Locations different for each day:

May 5: Irrigation and Training Research Center
California Polytechnic State University, SLO
1 Grand Ave, Building 08A, Room 022
San Luis Obispo, CA 93405
May 6: The Monday Club
1815 Monterey Street
San Luis Obispo, CA 93401

Expert Panel

Recommendation 14 of the State Water Board’s report to the Legislature was to convene a panel of experts to assess existing agricultural nitrate control programs and develop recommendations, as needed, to ensure that ongoing efforts are protective of groundwater supply quality. The State Water Board has contracted with the Irrigation Training and Research Center (ITRC), a center established within the BioResource and Agricultural Engineering Department of the California Polytechnic State University, San Luis Obispo to assemble the expert panel of up to 10 persons. Composition of the panel will be posted on the ITRC website at <http://www.itrc.org/001/swrcb.htm>.

Role of Expert Panel

The role of Expert Panel Members is as follows:

- *Review the Water Boards’ Irrigated Lands Regulatory Program.*
- *Evaluate ongoing agricultural control measures that address nitrate in groundwater and surface water.*
- *Evaluate and address other risks to water quality posed by agricultural practices.*
- *Address questions posed by the State Water Board in its order regarding the petitions of the Central Coast Water Board.*
- *Address questions developed by an Advisory Committee, other agencies and the public as approved by the State Water Board.*
- *Propose new agricultural control measures, if necessary.*
- *Hold meetings with the Advisory Committee as necessary.*

- *Conduct three public meetings to take public comment.*
 - *Prepare Final Report on findings and summary of project discoveries and recommendations.*
- Meeting Agendas*

Panel Director: Dr. Stuart Styles
State Water Board: Darrin Polhemus

The Expert Panel consists of eight (8) members from varying backgrounds:

- 1. Dr. Charles Burt (Panel Chairman) – Irrigation Specialist/Ag Engineer*
- 2. Dr. Robert Hutmacher – Soil Scientist*
- 3. Till Angerman – Hydrogeologist*
- 4. Bill Brush – Certified Crop Advisor*
- 5. Daniel Munk – UC Cooperative Extension*
- 6. James duBois – Grower, Central Coast Region*
- 7. Mark McKean – Grower, Central Valley Region*
- 8. Dr. Lowell Zelinski – Agronomist*