

COLAB SAN LUIS OBISPO COUNTY

WEEK OF APRIL 27-MAY 3, 2014

**“DUNES DUST IS IMPACT OF THE ENVIRONMENT ON PROJECTS - NOT PROJECTS ON THE ENVIRONMENT”
(BOARD SAYS THEREFORE CEQA DOES NOT APPLY)**

NO BOARD MEETING ON APRIL 29, 2014

PANGA BOAT DEBATE REVEALS BUDGET DOCUMENT FLAWS

SAVE MAY 5-6, 2014

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

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

Item 20 - \$191,000 Contract with Carollo Engineering to Assist the County, Cities, and Special Districts to Prepare a Grant Application to the State for Drought Management Projects. The Board accepted staff’s recommendations for both the “emergency” no bid award and giving more work to Carollo. The staff stated that it was necessary to accept this procedure because there was not sufficient time to follow the normal bid procedures and to finish the work in time to meet State application deadlines. No one batted an eyelash.

The question arises, why didn’t they start working on the project earlier? What if they did not have a drought emergency declaration to cover their failure to receive bids, pick a consultant, work on the grant applications, and meet the deadline?

Item 28 - Grant Authorization (\$493,000) to Purchase a Defender Class Response Boat and Related Equipment to Interdict Panga Smuggler Boats. The Board approved the authorization for the Sheriff to apply for the grant. But, Board members conducted a long discussion about the practicality and need for the boat and concomitant program. This hesitancy was, in part, stimulated by the presence of a marine salvage vendor in the audience who told the Board that his company could perform the salvage portion of the operations (pulling the boats off the beach and rocks) much more cost effectively and safely than the Sheriff's department. The Board groped for questions and finally realized that the Department has a marine services program with a number of watercraft, expert divers, boatmen (including former Coastguard personnel), and permanent staffing (with a budget).

Once they realized they already had such a program, they began to ask for a report on its costs, staffing, and outcomes (the latter meaning performance – for x hundreds of thousands of dollars of expenditure what do we get?). Of course the Sheriff will be most pleased to return with a PowerPoint and statistics about the program. In the meantime the Board members noted that they trust the Sheriff's professional judgment and approved the application submittal.

The Board was no match for the trim and fit immaculately tailored Sheriff with 4 shining gold stars on each shoulder, black semi-automatic pistol on his hip, and possessed of ready statistics about all the arrested panga boat sailor-smugglers he has incarcerated in the County Jail.

More important than the ritualistic drama, this episode again reveals the opportunity for improvement of the structure of the County Budget. A quick review of the Sheriff's portion shows that there is a total cost \$62.6 million and 392.5 employees. This is broken down into 4 operational groups as illustrated below: Administration, Field Operations, Support Services, and Court/Civil. The narrative provides some explanation of the programs within each group. For example, within Field Operations, we are told, there is Patrol, Crime Prevention, a Special Operations unit that focuses on narcotics and gangs, a Detective Division, a Crime Lab, etc. – all things you would expect. But what are the budgets for each of these units, how much staff is assigned, and, most importantly, what are the measures of their success? Since the budget presents data at the Department level only (year-over-year comparative expenditures, staffing data, and service level/performance data), it is impossible for the Board or the public to gauge the appropriateness of funding levels, service levels, and cost benefits. They must rely on the opinion of the very executives who are running the programs and requesting resources and thus have no real independent way to gauge effectiveness, other than anecdotally.

Just where does the Marine Unit fit into all of this?

A Note on Methodology: Separately from the issue of budgeting at a sufficient level of programmatic detail, we noted that the content of the performance measures could use some rigor. For example:

The budget does provide ten performance measures for the Sheriff's Department, but these are listed at random and are not tied to the actual programs and costs. For example, the key outcome measure states that the County has a **crime rate** that is 60% lower than 5 comparable counties. But how do the activities of the Sheriff's Department relate to this presumed outcome? What about the city police departments? (Or is the data solely for the unincorporated area - which would not make sense since the Sheriff operates the jail for everyone). What about the

demographics of the counties? For example, jurisdictions with higher proportions of males in the 13-23 year age group tend to have the highest crime rates. What about the proportion of people who are economically disadvantaged?

In terms of using data for policy-making, if the Board doubled the resources for the Detective Division, would clearance rates (the number of crimes solved and the perpetrators arrested) drop proportionally? On the other hand, the clearance rates are reported as percentages without ordinate numbers that express the actual numbers of crimes committed and cleared. A high percentage (say 80% of rapes are cleared) could be good if there is a substantial workload. On the other hand if there are only a few, is 80% that good?

The notes state in part:

The violent crimes, property and arson crimes reported for San Luis Obispo and comparable counties are: Marin 861; Monterey 1,487; Placer 2,247; San Luis Obispo 1,564; Santa Barbara 1,794 and Santa Cruz 2,663.

But this isn't even the crime rate (usually expressed as the number of Part I serious crimes per 1000 population). It's simply a list of the (presumably) total of Part I crimes for each county. If one calculates the actual crimes per 1000 population Marin has 3.4; Monterey 3.5; Placer, 6.31 Santa Barbara 4.2, Santa Cruz, 10.5; and San Luis Obispo 5.8. Using this more accurate accounting, SLO County has the 3rd highest crime rate of the 5 comparison counties.

The County's Adopted Fiscal Year 2013-14 Budget at page C-104 is illustrative of the structural problems inherent in the presentation.

It should be noted that these limitations have nothing to do per se with the Sheriff's Department or services, but are an example that pertains to the structure of the presentation of the entire budget document.

Illustration From page C-104 of the Budget Document:

SERVICE PROGRAMS Fiscal Year 2012-13

The Sheriff-Coroner has a total expenditure level of \$62,612,284 and a total staffing level of 392.50 FTE to provide the following services.

Administration

Administration provides executive management, which develops policies and directs, coordinates and controls the functions of the Sheriff's Office. Administration Division includes Fiscal Services, which includes accounting, preparation of the annual budget, quarterly reporting, monthly fiscal monitoring, as well as Automation Services, which maintains the Sheriff's Office information systems, and provides automation support and statistical information to all divisions within the Sheriff's Office. Total Expenditures: \$7,798,280 Total Staffing (FTE): 14.00

Field Operations

Field Operations includes: The Patrol Division, which responds to emergencies, crimes in progress, and disasters; preserves the peace, responds to citizen's requests for assistance, and prevents criminal activity; the Crime Prevention Unit, which coordinates a countywide crime

prevention program designed to educate the residents of the County in security, precautions and prevention techniques; the Auxiliary Unit, which searches for missing persons, conducts high visibility patrols and assists in disasters; the Special Operations Unit, which conducts investigations involving illegal drug possession and sales, unlawful activity associated with criminal street gangs countywide, and augments Patrol in addressing special problems within communities; the Detective Division, which investigates criminal activities and prepares for prosecutions where indicated; the Cal ID Program, which manages the Sheriff's participation in the statewide automated fingerprint system; the Crime Lab, which provides (continued on next page.)

forensic services; and the Coroners Unit, which investigates and determines the circumstances, manner, and cause of all violent deaths within the county. Total Expenditures: \$25,286,517 Total Staffing (FTE): 160.00

Support Services

Support Services organizes the recruitment of all Sheriff's personnel, coordinates personnel investigations and civil litigation, coordinates training and continuing education, maintains the Property/Evidence area and coordinates and manages capital improvement projects. Support Services also includes Records and Warrants, which processes, stores, and maintains the Sheriff's Office criminal records and warrants, receives and processes permit applications, coordinates extraditions, fingerprints applicants, and registers all sex, drug, and arson offenders residing within the Sheriff's Office jurisdiction. Total Expenditures: \$1,864,608 Total Staffing (FTE): 15.00

Custody/Civil

Custody/Civil includes: The Custody Division, which operates the County Jail and provides custodial care, vocational training, rehabilitative services, booking, food services, and inmate work assignments, alternate forms of incarceration, operation of the court holding facilities and transportation of jail inmates to and from court; and the Civil Division, which receives and serves all civil processes and notices, including summons, complaints, attachments, garnishments, and subpoenas, as well as providing bailiff services to the Courts. Total Expenditures: \$27,662,879 Total Staffing (FTE): 203.50

Background: The staff report summarized the problem:

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.

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 Board voted unanimously to deny the appeal. They found that "the ambient dunes dust is not enough of a problem sufficient to justify

prevention of more development and more people moving into the area. The parcels in question are outside the most severe dust zone. “Moreover, the California Environmental Quality Act (CEQA) assesses impact of projects on the environment, **NOT** the impact of the environment on the project.” So saith the Board.

Does this mean that they would allow homes to be constructed below a large landslide zone (an example of a potential impact of the environment on a project)?

This decision and the accompanying rationale will come back to bite the Board and Air Pollution Control District (APCD) in the future when they try to restrict or shut down dunes off-road vehicle riding.



Recent Deadly Oregon Landslide

Background: The appellant, Integrity SLO (the pro dunes OTV riding advocate Kevin Rice), sought to overturn the approval of additional homes at the Cypress Ridge Planned Community in Nipomo. The appeal was 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.

The Heart of the Issue: In essence, the County maintained 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 PM_{2.5} 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.*

Board of Supervisors Meeting On Tuesday, April 29, 2014 (Not Scheduled)

April 29th is a 5th Tuesday. The Board does not normally meet on a 5th Tuesday.

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*