



COLAB SAN LUIS OBISPO COUNTY

WEEK OF DECEMBER 14-20, 2014

BOARD TO ADOPT 5% RAISE FOR ITSELF

**TRIGGERS FOR SO. COAST WATER RATIONING
PROPOSED**

**SNEAKY ZONING ORDINANCE CHANGES TO BE
SLIPPED THROUGH**

**LAS PILITAS QUARRY HEARING CONTINUED TO
THURSDAY JANUARY 8, 2015**

**San Luis Obispo County Board of Supervisors Meeting of Tuesday, December 9, 2014
(Completed)**

Item 17 - Hearing to consider a resolution for approval of an Addendum to the Final Environmental Impact Report and for revisions to Conditions of Approval “92,” “27.rrrr” and “28.rrrr” for the Santa Margarita Ranch Agricultural Residential Cluster Subdivision in order to comply with the Peremptory Writ of Mandate issued by the San Luis Obispo County Superior Court in North County Watch, et al. v. County of San Luis Obispo, et al. (Case No. CV098031). The Board voted 4/1 (Gibson dissenting) to approve the new, more stringent air quality mitigations and higher payment to the Air Pollution Control District (APCD) on the Santa Margarita Ranch residential subdivision project. The project permit, which was originally approved by the Board in 2008, was challenged in Court by the environmental group North County Watch (led by Susan Harvey, who is currently one of the advocates of the Paso Water Basin shutdown). Last week’s Board action involved holding a hearing and approving an amended Environmental Impact Report related to more strict air quality mitigation measures (including a higher mitigation exaction fee resulting from the court decision). Gibson felt that the mitigation measures were not meaningful. There was considerable discussion about whether the fee actually covered the mitigations. The issue revolved around the severity of ozone precursors

(gases that lead to the generation of ozone in the atmosphere) and what should be done to lower the amount generated year in and year out over the life of the development (109 single family houses).

The real takeaways from the issue and discussion include:

a. The environmental left hates the project because it creates new development on heretofore ranch land and is physically separated from the Village of Santa Margarita. Gibson called the project “rural sprawl” and stated, “it is not consistent with our General Plan” and “it is inconsistent with our Clean Air Plan.”

b. Gibson, Hill, and Ray don’t like the project. It is antithetical to smart growth.

c. The ozone issue was raised (along with others) in an attempt to scuttle the project.

d. Apparently fireplace smoke is an ozone precursor. The developers already agreed to not include fireplaces but instead use wood stoves designed to reduce the smoke. It turns out more and more jurisdictions are banning fireplaces. Would you buy a high-end home in a rural setting without a fireplace? The APCD is anti-fireplace.

e. Are barbeque fires next?

f. If the judge approves the new air mitigation exaction and list of actions, this part of the lawsuit will be settled.

g. There is still an issue of the Fairy Shrimp, which come to life in wet years in vernal pools. The problem is that the number of shrimp and the impact of the project on them cannot be ascertained yet. A requirement is that the assessment must take place during a year in which the County receives a minimum of 80% of its average annual rainfall.

**San Luis Obispo County Board of Supervisors Meeting of Tuesday, December 16, 2014
(Scheduled)**

Item 4 - Monthly Drought Report. There is nothing new here. The County staff report insists that there are wells going dry. They still have no numbers. The write-up boilerplate states:

The number of dry groundwater wells, small streams, springs, and creeks are increasing as the drought continues. The County continues to receive calls from individuals who are experiencing problems with their domestic wells; however, determining how many wells have gone dry is proving to be challenging.

Reservoir Update

Reservoir	Date	Water Elevation (ft)	Spillway Elevation (ft)	Storage (acre-feet)	Capacity (%)
Nacimiento Reservoir	December 3, 2014	715.0	737.75 - 800.0 (regulation intake)	59,050	16%
	December 3, 2013	729.4		90,600	24%
Lopez Reservoir	December 3, 2014	482.2	522.7	20,763	40%
	December 3, 2013	496.4		20,853	50%
Salinas Reservoir (Santa Margarita Lake)	December 3, 2014	1,250.7	1300.7	4,028	20%
	December 3, 2013	1,275.3		9,021	41%
Whale Rock Reservoir	December 3, 2014	172.9	210.3	17,744	46%
	December 3, 2013	182.4		23,473	65%
Twitchell Reservoir	December 3, 2014	524.7	651.5	57	0.03%
	December 19, 2013	532.1		475	0.24%

Note 1: Historically, Twitchell Reservoir elevation gauge does not report values below 520 ft. Twitchell Reservoir was designed for protection from flood and drought. Excess rain runoff is stored in the reservoir protecting the valley from flood, then water is released as quickly as possible while still allowing it to recharge the groundwater basin.
Note 2: In May 2014, the Whale Rock Commission adopted a new Bathymetric Study and Volumetric Analysis with new lake capacity and spillway elevation values. These new values are reflected in this report.

Item 18 - Public Bidding: Hearing to consider approval of ordinances to amend the County Code Title 2, Chapter 2.36 (Purchasing Agent) and adding Chapter 2.37 (Informal Bidding) of the County Code to increase the contracting authority of the County Purchasing Agent and delegating authority to the County Purchasing Agent to issue notices inviting informal bids for public projects and to award contracts let by the informal bidding procedures as set forth in the California Uniform Public Construction Cost Accounting Act. The link for this item was dead, and thus it was not possible to access the detail. We will monitor at the meeting.

Item 20 - Hearing on proposed ordinance amending Section 2.48.095 of the County Ordinance Code regarding compensation increases for the Board of Supervisors. Hearing date set for December 16, 2014. The current annual salary for the Board members is \$82,014.40. The increase of 5.0% will result in an annual salary of approximately \$86,115.12, effective February 15, 2015.

The item omits stating the total compensation costs when benefits are included. These are estimated to cost around 30% of pay. Thus the fully loaded cost is around \$111,919. The adopting resolution confirms the benefits:

All employee benefits available to general management/department head employees shall be available to the Board of Supervisors.

The Board letter, by way of justifying the increase, states in part:

*The attached ordinance proposes to raise the Board of Supervisors' salary by a total of 5.00%. That adjustment includes a return of the 2.4% pay cut adopted by the Board of Supervisors in FY 2009-10, a 2.3% increase equal to that approved by the Board of Supervisors on November 25, 2014 for other unrepresented employees for FY 2013-14, and an additional 0.3% increase applied to address job classes determined to be significantly under market also approved by the Board of Supervisors on November 25, 2014 for unrepresented employees. **The total 5.00% increase brings the Board of Supervisors members' salary closer to the market** in the same incremental way the County has approached compensation increases with other employee groups.*

What market?

The ordinance contains a new provision to enable future raises on a regular basis. It states:

Board of Supervisors' wages shall be reviewed against data collected in a manner similar to the manner used to determine prevailing wage for recognized employee organizations. The county's Human Resources Director shall report to the Board of Supervisors on the findings reached and recommend any necessary modification to salary. The report and/or recommendation shall include consideration of the county's current financial condition and any other considerations important in the determination of wage setting.

Please see the article from the latest COLAB Monthly Newsletter for a more in-depth discussion of the underlying issues and choices which the Board is avoiding and doesn't want you to consider:

http://www.colabslo.org/newsletter/COLAB_SLO_NOVEMBER_2014_NEWSLETTER.pdf

Item 25 - Submittal of a resolution adopting certain policies and procedures set forth in the Low Reservoir Response Plan (LRRP) for San Luis Obispo County Flood Control and Water Conservation District Zone 3, Authorizing the Director of Public Works to implement the LRRP; and finding that the project is exempt from Section 21000 et seq. of the California Public Resources Code (CEQA). This sets triggers for the reduction in water distribution from Lopez Lake as the level declines due to the drought. As noted in the chart in agenda Item 4 (above) the lake is at 42% of its capacity. Once it declines to 35%, a progressive series of reductions to municipalities are phased in as it drops per the chart below. Communities subject to the reductions include:

Avila Beach Community Services District

City of Arroyo Grande

City of Pismo Beach

County of San Luis Obispo (CSA12)

Oceano Community Services District

City of Grover Beach

You would think these cities and the County would develop a joint feasibility project on desalination.

LOPEZ RESERVOIR WATER DELIVERY REDUCTION SCENARIO		
% Available Storage	Total Storage in Acre Feet	Percent Delivery Reduction
35	20,000	0% No deliveries above contract entitlements
24	15,000	10% Delivery reduction
13	10,000	20% Delivery reduction
2	5,000	35% Delivery reduction
0	4,000	100% NO WATER DELIVERIES

Similarly, reduction triggers for downstream non-municipal releases impacting agriculture are listed below:

LOPEZ RESERVOIR DOWNSTREAM RELEASE REDUCTIONS		
Total Storage in Acre Feet	Downstream Release Reduction	Downstream Releases (Acre Feet)
20,000	9.5%	3,800
15,000	9.5%	3,800
10,000	75.6%	1,026
5,000	92.9%	300
4,000	100%	0

It is not clear from the write-up, and given the current rate of use, when the trigger points are likely to occur.

Item 28 - Sneaky Zoning Ordinance Amendments Cast As Minor Clean-ups -- But We Aren't So Sure. The item title refers to the proposed changes as minor cleanups, but when you read them, they do not seem so minor

Changes in the Resource Management System (Attachments 1.b and 1.c): There are updates in the Resource Management System (RMS) for both the inland and coastal zoning ordinances.

What are the changes? The documents are the “clean” final versions. This item would be continued until the changes are made explicit.

For example the text states:

The six resources/services addressed by the RMS are:

- Water Supply and Systems
- Wastewater Treatment
- Schools
- Roads and Freeway Interchanges
- Air Quality
- Parks

Freeway interchange capacity is a new metric which could be used to scuttle projects. Who knew? Your nearby freeway interchange is determined by staff to have inadequate capacity. The Board certifies it as Level Of Service III. You can't do your project until 2049.

What changes have they included in the level of severity definitions themselves?

Backdoor Attack on the Ag. Cluster Subdivision Ordinance? (Attachment 1.e)

*Level of Severity III (LOS III) for water supply. In communities with a certified Level of Severity III (LOS III) for water supply, whenever the use of inclusionary density bonus units allowed by this ordinance will cause a development project to exceed the residential density otherwise allowed by County ordinances, then prior to project approval, the decision-making body shall find substantial evidence to support a conclusion that the estimated non-agricultural water demand of the density bonus units will not exceed the estimated non-agricultural water demand of the project without the density bonus units. **NOTE: This one looks like a sneaky way to begin to undermine the provisions of the Agriculture Cluster subdivision Ordinance. If they sabotage the density bonus provisions, they may make the ability to build cluster homes financially infeasible.***

And then:

SECTION 5: Sections 22.52.040.A, 22.52.090.E.3, 22.52.150.A.1, 22.52.150.A.2, and 22.52.150.A.3 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, are hereby amended to replace instances of “the 1997 Uniform Building Code Appendix Chapter 33” with “Title 19 of the County Code.”

a. What is the purpose of this one? What changes?

And more disturbingly:

Testing. The Director may also require that the applicant pay for testing to be performed by an independent, approved testing laboratory and that the civil engineer issue an opinion to ensure compliance with this ordinance, permit conditions, and/or accordance with the provisions of

Title 19 of the County Code. The Building Official shall inspect or provide for adequate inspection of the project by appropriate professionals at the various stages of work and at any more frequent intervals necessary to determine that adequate control is being exercised by the professional consultants.

- a. What is the problem that they are trying to “solve” here?
- b. What will the fees be for this one?
- c. This whole item should be continued and a side-by-side comparison of the changes prepared to enable the public and impacted industries to understand. What’s the rush? Do they want to push this through before Supervisor Elect Compton arrives?

**San Luis Obispo County Planning Commission Meeting of Thursday, December 11, 2014
(Completed)**

Item 2 - Hearing to consider a request by LAS PILITAS RESOURCES LLC for a Conditional Use Permit and Reclamation Plan to allow mining and the phased reclamation of 41 acres on an approximately 234 acre site. The Planning Commission spent most of the day hearing public comment. There were 80 speaker slips. Because of an approaching storm, the large number of speakers and the need for substantial deliberation, the Commission determined to continue the hearing to Thursday January 8, 2015. Those individuals whose speaker slips were not called may speak on the 8th.

Most opponents reside in the area of the proposed surface mine or within or near the unincorporated village of Santa Margarita.

Background: The Planning and Building Department, in a 64-page staff report, recommended that the Planning Commission deny the project.

The key reason for the staff recommendation for project denial is that large trucks transporting the gravel must transit the village of Santa Margarita on State Highway 58. It is estimated by the County staff that there may be 273 truck trips per day, which will pass through the residential neighborhood on the northeast corner of the village, cross the railroad, and then turn left onto the highway. (The applicant disputes this number). The highway then passes through the commercial section of Santa Margarita on its way to highway 101. The Planning staff, Santa Margarita residents, and project opponents cite the heavy traffic, noise, and contention with bicyclists as problems.

Significant policy and legal questions:

- a. If local governments can prohibit a permitted land use (the Las Pilitas land is zoned for mining) because vehicles using a State highway will pass through an adjacent community, are they not usurping the State sovereignty for operation of that highway system?
- b. What is the purpose of a State highway, if not for commerce?

The staff also recommended against the project because it will be visible from highway 58 and therefore will be harmful to aesthetics.

Surface Mining and Reclamation – Section 22.36.040E. cannot be met because the project will result in significant and unavoidable impacts to aesthetic and visual resources which cannot be mitigated. The slopes of the proposed mining area and mining equipment would be visible from SR 58 and would be inconsistent with the rural visual character of the area. The project is located in a transition zone between the semi-rural upper Salinas River Valley (the Santa Margarita area) and the rural and steeply sloped oak woodland and chaparral covered hillsides adjacent to the Salinas River corridor which is highly scenic. The projects excavated slopes associated with

The Planning Commission spent most of the day hearing public comment. There were 80 speaker slips. About 60% of the speakers were opposed to the project and 40% in support. In a 64 page report, the staff recommended denial of the project. Most opponents reside in the area of the proposed surface mine or within or near the unincorporated village of Santa Margarita.

The full report can be seen at the site:

http://slocounty.granicus.com/MetaViewer.php?view_id=3&event_id=762&meta_id=292663

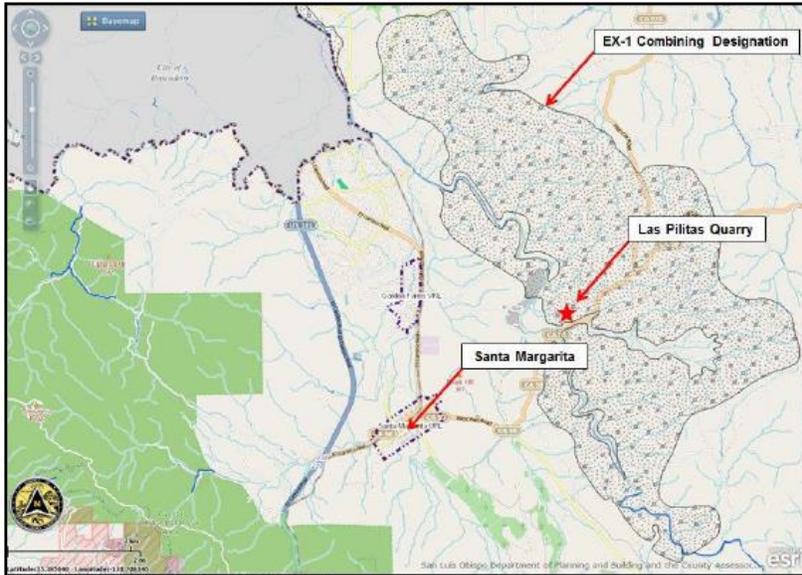


Figure 1 - Project Location Map with EX1 Overlay

B. Project Location – The proposed quarry / surface mine is located approximately three miles northeast of the community of Santa Margarita on the north side of State Route 58, immediately east of the Salinas River. The project site is located at 6660 Calf Canyon Highway (SR 58) which is approximately 234 acres in size (APN 070-141-070 and 071). The project site is located within, but near the western boundary of the Extractive Resource Area (EX1) combining designation (refer to Figure 1).