



COLAB SAN LUIS OBISPO COUNTY



WEEK OF SEPTEMBER 7-13, 2014

NO BOARD MEETING LAST WEEK

THIS WEEK

**PLANNING STAFF INSISTS ON GIBSON'S 2:1 WATER
OFFSET POLICY FOR PASO BASIN AND OTHER
PARTS OF COUNTY**

**IS THE EVC SUPPORTING ANTI-OIL RADICALS IN
SANTA BARBARA COUNTY?
(WHO WILL DESTROY JOBS HELD BY SLO COUNTY
RESIDENTS)**

ALERT

**SURPRISE: COUNTIES DO NOT HAVE THE
ABSOLUTE AUTHORITY TO PROHIBIT THE
EXPORTATION OF GROUNDWATER BEYOND
THEIR BOUNDARIES**

**(THEY MAY ONLY REGULATE IT - THUS A FUTURE BOARD
COULD APPROVE AN APPLICATION FOR AN OUT-OF-COUNTY
TRANSFER)**

ATTEND THE HEARING AT 1:30 PM TUESDAY



Item 3 - Monthly Drought Report for September 2014. The monthly report is pretty much a description of conditions and impacts resulting from the drought. New material includes some anecdotal data about agricultural losses. The most important data is the decline in reservoir levels. A problem is that the report does not indicate when the reservoirs will run out if there is no appreciable rain this winter. Relatedly, it does not stipulate how or if water will be provided if the reservoirs do run out.

Reservoir Levels (% of capacity):

Note: Historical averages calculated using data from the following time frame:

Nacimiento: 1959 – 2013; Lopez: 1994-2013; Salinas: 1987-2013; and Whale Rock: 1985-2013.

Reservoir	% of Capacity	Current Acre Feet Storage
Nacimiento	18%	67,425
Lopez	47%	23,378
Salinas	26%	6,286
Whale Rock	49%	19,161

Source: www.slocountywater.org County of San Luis Obispo (Updated 8/25/2014)

From an overall and long-range public policy standpoint, the drought has provided State and local officials with a golden opportunity to expand regulations, restrict development, expand government functions, and otherwise further pieces of the enviro-socialist agenda. Elected officials and bureaucrats deliberately focus the discussion on the short-term utilitarian issues of supply and conservation. There is no accompanying discussion of the broader policy implications.

The report does not indicate the status of County research into the feasibility of large-scale desalination, which will be necessary if the drought is not cyclical, but instead is a prolonged epochal systemic occurrence.

Stay Tuned For More Political Exploitation Of the Drought: On a broader front, a growing group of national academics, policy gurus, and city planners are advocating “smart decline” as a replacement/intensification for “smart growth.” An epochal California drought plays right into this (as of now) intellectual movement. Count on the drought to help convert this into a public policy initiative. What if it is determined that development of California, south of a line running from Oakland, east through Stockton, and on east through Angels Camp to Alpine County (roughly the line of State Highway 4) has been a huge historical mistake? What if the Feds and State come up with a long-range plan to amortize it out?

Without desalination, fossil fuels, nuclear energy, and more water storage facilities, you will be taxed, feed, fined, and regulated out of your water wasting, freestanding, energy hogging ranchette, and will be relocated to Detroit. After all, as a remnant of the California’s declining

middle class, you are simply a modern day Kulak anyhow.¹ Farfetched? Thirty years ago who would have imagined that global warming would become the primary driver of California land use and “development” policy and the imposition of a carbon tax?

If you run a large corporation, why wouldn't you shift ownership to, say, Montreal? They still support nuclear power, hydro-generation, mining, oil and gas development, timber harvesting, real estate development, wheat farming, etc. In addition, people in Quebec, with Gallic flair, resist their national government as a major ongoing civic duty. That ain't Sacramento, with its dead downtown in the picture below. The big buildings in the picture of Montreal (below) house companies that operate and finance such industries. By contrast, the big buildings in Sacramento house government offices, lobbyists, public pension system headquarters, and public employee union headquarters.



Montreal

Item 17 - Renewal of the Environmental Vitality Corporation's Annual contract to Conduct San Luis Obispo County's Economic Development Program, \$142,225. This item operates on two levels:

First, the contract contains the sum and substance of the County's economic development program, which is pretty meager. On the second and more problematic level, it relates to what appears to be the possible use of EVC revenues to fund radical anti-oil industry extremists in Santa Barbara County.

The scope of services from the proposed contract is reproduced below ON THE NEXT PAGE and speaks for itself.

¹ According to the political theory of [Marxism–Leninism](#) of the early 20th century, the kulaks were [class enemies](#) of the poorer peasants.^[3] [Vladimir Ilyich Lenin](#) described them as "bloodsuckers, vampires, plunderers of the people and profiteers, who fatten on famine."^{[4][5]} Marxism–Leninism had intended a revolution to liberate poor peasants and farm laborers alongside the [proletariat](#) (urban and industrial workers). In addition, the [planned economy](#) of Soviet [Bolshevism](#) required the collectivization of farms and land to allow [industrialization](#) or conversion to large-scale agricultural production. In practice, government officials violently seized kulak farms and murdered resisters;^{[3][6]} others were deported to [labor camps](#): Wikipedia Encyclopedia, September 3, 2014.

1. Scope of Work

The Scope of Work shall include tasks and activities deemed necessary by the EVC to implement economic development programs identified in the Economic Element of the County General Plan. Said tasks and activities shall be completed prior to July 1, 2015. The following quantified objectives will be employed by the County to evaluate the EVC performance under this Agreement:

- A. Acting as lead agency, assist the County by facilitating implementation and preparing updates as needed for a countywide economic strategy.
- B. Obtain matching funds in an amount at least equal to the amount of funding provided by the County (any non-county funding secured by the EVC for the countywide economic strategic plan shall be counted toward this matching funds performance objective);
- C. Convene at least one seminar on a topic related to the economic strategy that will assist and improve county businesses and the county economy.
- D. Act as a referral agency to the County, engaging cluster industry stakeholders and facilitating input on proposed policy adoption and modification actions. Topics for which such referral services will be needed by the County include but are not limited to workforce housing amendments and procedures for economic impact analyses of discretionary permit applications.
- E. Monitor opportunities for statewide action pertaining to economic initiatives such as the California Forward, California Economic Summit and the California Stewardship Network. Engage cluster industry and other community stakeholders as feasible and appropriate.

- F. Establish and maintain collaborative relationships with economic development and workforce development partners locally and in adjacent regions (Monterey, Santa Barbara, Ventura).

This appears to be a pretty anemic program.

- a. What about recruitment and retention efforts?
- b. How many new firms located into the County as a result of EVC efforts last year?
- c. How many expanded as a result of EVC efforts last year?
- d. The tech industries in San Francisco are exploding. Rents and home prices are being driven off the charts. The entire South of Market Area (SOMA) is full of construction cranes. The middle class is being driven from the City. What could SLO County do to recruit some spillover and provide alternatives?

e. What is the status of the much-ballyhooed effort to expand air service to Denver?

EVC - A Political Arm of the Left? The letter below, which appeared in the August 28, 2014 New Times, raises serious questions about the politization of the EVC. In addition to favoritism (remember the EVC is government funded), it alleges that the EVC is giving money to the **Community Environmental Center (CEC) of Santa Barbara County (SBC)**. The CEC is one of the main sponsor/endorsers of Measure P, a ballot measure developed by enviro-radicals which would effectively destroy the on-shore oil industry in Santa Barbara County and eliminate thousands of jobs. Some of these jobs are held by San Luis Obispo County residents.

Compounding the problem is that a number of San Luis Obispo-based engineering firms, environmental consultants, metal fabricators, trucking companies, and others are heavily involved in Santa Barbara County oil projects. For a San Luis Obispo-based government-funded economic development entity to fund the CEC and its Support of Measure P is outrageous.

The Board should investigate this situation in an open public hearing before proceeding with funding.

The letter is reproduced in full below:

Keep solar work fair and money in the county

The Solarize SLO program is not a good idea

BY JOHN EWAN

One morning you wake up to discover that your job is gone. You have been working for a steadily growing company with a 35-year history of providing innovative, reputable service. But, poof, your job is gone. You ask your boss, “What the—?”

Incredibly, your boss tells you this: “A government-subsidized nonprofit endorsed two of our competitors and began a substantial advertising campaign on their behalf. During that three-month period, our business evaporated. Poof. Gone, just like that.”

You would then ask, “Why did they support our competitors and not us?”

The answer, in this very real case: “Because our competitors agreed to pay the government-supported agency a 5 percent commission on every sale they generated.”

Absurd? Unfair? Yes.

But this is exactly what happened last fall when the Economic Vitality Corporation of San Luis Obispo County—a nonprofit agency that receives annual subsidies from all the cities in the county as well as the Board of Supervisors—endorsed two companies that install solar rooftop panels. In so doing, the EVC ignored a dozen other reputable installers that provide the same service. Full disclosure: The EVC did not promote my business; I declined to pay the commission.

Why these two? Because they agreed to pay the EVC a 5 percent commission for marketing their solar services. That's it; paying the marketing commission was the only requirement (aside from submitting documents for the application) for receiving the EVC's "preferred vendor" status.

During that period last fall, the EVC collected more than \$100,000 in commissions from its "preferred" installers of solar rooftop systems.

Compounding the destruction of jobs, the EVC gave 75 percent of the profit—approximately \$78,000—to an out-of-county nonprofit agency, the Community Environmental Council (CEC) of Santa Barbara, the organization that brought this marketing scheme to the EVC.

The program is called Solarize SLO. The program is inherently limited to three or fewer vendors, and this summer the EVC is going to repeat this unwarranted intrusion in the marketplace, once again choosing private-sector "winners and losers."

Poof—more lost business and more lost work. And once again the EVC will collect fees from the so-called "preferred vendors," and then once again the EVC will ship 75 percent of the money (paid by local consumers) out of county to the Santa Barbara-based CEC.

This despite the EVC's mission statement "to stimulate the economic vitality of San Luis Obispo County" and foster job creation, not job destruction.

Why has the EVC decided to partner with a Santa Barbara nonprofit to pay for a marketing campaign instead of partnering with SLO County nonprofits, such as EcoSlo or GreenBuild or the Land Conservancy? EVC officials tell me that it's to promote the solar industry. Perhaps that's true. But that could just as easily be achieved other ways and with partners based in San Luis Obispo County. Or perhaps the EVC simply likes the \$26,000 that this marketing scheme delivered to the EVC's coffers last year.

Who decided this program is worthwhile? The EVC executive director brought the idea to the 35-member Board of Directors for approval. The board includes nine elected officials representing the SLO County Board of Supervisors and the cities of SLO County. Each of those government agencies provides money to support the EVC programs.

What can you do?

If you are in the market for installing a solar system, there are at least 12 reputable solar electric contracting companies in San Luis Obispo County that do not levy the EVC marketing surcharge on their customers. Contact one of them for a competitive quote and give your savings to a local nonprofit of your choice. Then contact your elected representative and ask, "Why are you in the business of promoting some companies over others? And why do you support sending our money to Santa Barbara?"

John Ewan is the owner of Pacific Energy Company, founded in 1980. He is a former member of the San Luis Obispo City Council and of the EVC Board of Directors. He has chaired several local civic boards including the SLO Chamber of Commerce, EcoSLO, SLO GreenBuild, and the San Luis Obispo Air Pollution Control Board. Send comments to the executive editor at rmiller@newtimeslo.com.

Item 25 - Authorization to Expand Nacimiento Pipeline Leak Investigation and Repair Work Up to \$425,000 and Waive Bidding Requirements. The ongoing leak investigation has expanded to include discovery of more leaks, brittle pipe, and structural weakness. Reading between the lines, it is likely that this will ultimately be an extensive and costly problem to fix. At this point, the staff requests authority to spend up to \$ 425,000 and waive bidding for various services to expedite the matter. Actual costs paid to date are \$195,000.

Broken Projects/Cost Overruns, and Staff Turnover: Is the Board unhappy with management? There has been a fair amount of staff turnover in the last year or so. The Director of Planning and Building (who appeared to be successful) suddenly departed last year. The Library Director also left. Then the Director of Public Works abruptly announced that he was leaving to go to a much smaller agency which has had a history of staff turmoil. Was he aware of the Naci pipeline issue (for which he was ultimately responsible)? Or did he expect more major cost overruns in the Los Osos Sewer System project? Most recently it was announced that the General Services Director had gone. Her agency had been plagued by a number of cost overruns for major building construction projects (low bids far in excess of project budgets.) There was some vague innuendo in the announcement of this executive's departure that inferred problems with information technology. Is it possible that there are problems and cost overruns related to the installation of the new real property assessment and tax system software? Whatever happened to the highly touted theory of 3 years ago that SLO County was about to become the fiber-optic capitol of California, with links across the Pacific and installation of backbone systems, which would cause explosive economic development?

Four of the elected department heads (District Attorney, Auditor-Controller, Treasurer-Tax Collector, and Clerk Recorder) have retired. This may be coincidence, since all 4 were late term executives with long service and maximum or near maximum retirement benefits. In effect, they were working for \$1.39/ hour, when one imputes the difference between their monthly salary and monthly pension benefit. These directors were elected and were therefore not under the thumb of the Board.

The appointed executives, on the other hand, are at the beck and call of individual Board members. We have observed a constant daily stream of department heads, and even subordinate staffers, in and out of the Board of Supervisors' offices. If I am the Planning Director, and Board members are having direct private meetings with a number of my subordinates on various matters on a regular basis, what professional independence do the staffers really have? Are Board members giving direction? What happens if Supervisor X gives direction to one of my subordinates, with which I disagree? We have repeatedly observed Board members stating that particular issues and questions raised by the public "are unimportant because they (Board members) have met with staff in their offices" and have been satisfied.

What are the morale implications of a system that appears to be highly politicized and subject to communications outside the chain of command?

Item 35 - Options For an Ordinance Regulating the Exportation of Groundwater Outside San Luis Obispo County. 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.

Guess What! County Counsel has concluded that counties do not have the absolute power to prohibit the exportation of groundwater. They can only regulate it through a process which would be subject to appeals and ultimately a court determination beyond the control of the Board of Supervisors.

Legal Authority to Regulate

Staff's research has determined that the field of groundwater use is within the municipal police power and that state law does not wholly preclude county regulation of groundwater.ⁱ Thus, the County may enact a local ordinance regulating groundwater subject to the constitutional constraints applicable to all legislation provided that the ordinance does not conflict with the general law.ⁱⁱ More than twenty (20) counties (see Exhibit B) have adopted ordinances regulating the exportation of groundwater; however, there is no appellate case law addressing whether the specific provisions of any of these ordinances conflict with the general law.

An obvious and unanswered question is: **What part of this does state law preclude?**

In recognition of the language of Article X, Section 2 of the California Constitution ("the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they may be capable") and the common law principle allowing for the export of groundwater from a basin once the basin's reasonable overlying needs are met, none of the existing ordinances contain a flat prohibition on the exportation of groundwater but rather require a potential exporter to acquire a permit before exporting groundwater.ⁱⁱⁱ The permits range from staff-issued administrative permits to conditional use permits issued by the Planning Commission.

This does not comport with the level of protection promised by the Supervisors.

Background: The Board of Supervisors promised that it would pass an ordinance outlawing export of groundwater outside the county in an effort to assure residents that a future Paso Basin groundwater management district would not be able to enter into so-called exchanges with other entities. Exchanges involve selling and buying both real wet water and entitlements (paper water). In its simplest form, water district X might have surplus water and sell it and physically move it to district Y. A number of residents fear that a future district Board could become captured by individuals and representatives of national corporations and owners who are actually in the business of controlling and then selling water and water credits rather than farming. To allay these fears, the Board promised that it would outlaw such practices.

The hearing on Tuesday afternoon should be interesting.

Planning Commission Meeting of Thursday, September 11, 2014 (Scheduled)

Item 1 - Proposed Revisions to the Resource Management System (RMS). The RMS is a regulatory mechanism disguised as government service diagnostic and measurement tool. It basically sets up a negative self-fulfilling policy scam that postulates that the County and its subcomponent cities and special districts will never be able to provide adequate resources to support market based growth that would occur naturally if government did not interfere. The ideologically driven document then provides an excuse for the Board of Supervisors and other agencies to evermore severely curtail any economic or physical growth to forestall the potential problems, less the County descend into some physical state of dystopian urban squalor. For RMS purposes, the critical categories are defined as inadequate water supply, inadequate sanitary sewer capacity, inadequate classroom space in the k-12 public schools, traffic jams at various freeway interchanges and other roads, inadequate air quality, and insufficient parkland.



(They should have filed for their quiet title - but stack-and-pack development got all their water instead because they couldn't afford the 2:1 offset)

Every 2 years the Planning Department expends considerable tax dollars and staff time to update the RMS in order to make your life more difficult (and expensive). The Planning Commission is reviewing the updated proposals to determine if it will recommend them to the Board of Supervisors.

The Planning staff has proposed extensive new restrictive language and has added a category (Freeway Interchanges) to the proposed update. "Highlights" include:

1. The most egregious and outrageous element is a policy, which would require that any development in an area defined as having a severity Level III water problem be required to demonstrate a 2:1 offset. Remember that Supervisor Gibson proposed this in the past for the Paso

Water Basin in connection with the moratorium. The Board established a 1:1 offset. Now we see the staff trying to slip the 2:1 policy in for the whole county by burying it in the RMS (on page 22 of a 38 page document).

<p><u>III</u></p>	<p><u>Water demand equals available capacity: a water distribution system is functioning at design capacity or will be functioning at capacity before improvements can be made. The capacity of a water system is the design capacity of its component parts: storage, pipelines, pumping stations and treatment plants. [Moved from text below]</u></p>	<ol style="list-style-type: none"> 1. <u>Institute a vigorous and verifiable water conservation program. . Consider requiring replacement with low flow fixtures upon sale or remodel of properties.</u> 2. <u>Either cease issuing building permits in the affected area or establish a program of water offsets that requires a measurable and sustainable water reduction of at least 2:1 in the affected area for both domestic and agricultural water as a condition of issuing a permit.</u> 3. <u>Begin implementation of an action plan.</u>
-------------------	--	---

Consider the irony here. The City of Paso Robles can pump groundwater to its municipal heart's content. It can permit new hotels, subdivisions, commercial, and entertainment venues. But, a property owner one foot over the line in the unincorporated county, who wishes to plant an orchard, would have to purchase the ability to extinguish 2 times the amount of water he proposes to use for his orchard. If, and as proposed here, the policy is extended countywide (and the Board determines that other basins are in Level III severity), wine growers in the Edna Valley, farmers in Nipomo, and coastal orchard growers could all be subjected to this discriminatory anti-agriculture travesty.

Even more disturbing is the assault on private property rights. The value of land and particularly agricultural land is inherently dependent on the ability to obtain water. The proposed standard in the RMS not only restricts the ability of a farmer to use the water under his property, but also requires that he pay to extinguish 2x's water use somewhere else. This is in effect the arbitrary taking of the value of a property by the County without just compensation to the property owner. Thus, and beyond the practical and cost implications, the absolute disregard and failure by the Planners to understand the basic underlying issue signals a major failure of the County Government.

What if the Planning Commission and ultimately the Board supports this provision?



2. The new resource problem “metric” added this year embraces the concept that the interchanges between local streets and State Highway 101 are increasingly congested. Similar to the restrictions placed on water, the staff proposes that interchanges that reach a Level III severity of congestion (a somewhat arbitrary concept) signal the need to stop development in the surrounding areas. Of course the State highway system is not under the control of the Board of Supervisors, and the State has a \$765 billion dollar infrastructure maintenance deficit. Properties within a zone declared level of severity III in this regard might have to wait decades or forever to receive permission to develop. Again and for example, the City of Paso Robles is adding hotels, subdivisions of homes, commercial /retail, and entertainment venues even though some interchanges (especially the 101/46 East) are obviously overtaxed. In the meantime, the RMS would tell residents over the line in the unincorporated area that they are out of business.



The map below shows the SLOCOG level of service (LOS) ratings for segments of state highways. Although this data is not for the various interchanges, it does express how a rating system can be applied. No doubt a number of the interchanges are already at very low levels of service. Once the RMS is adopted, will the Board determine that development in areas served by roads/interchanges with LOS levels D, E, and F may not have any further development?

PLEASE SEE THE MAP ON THE FOLLOWING PAGE.

Map 4-1. Level of Service (LOS) on State Highways (2010)

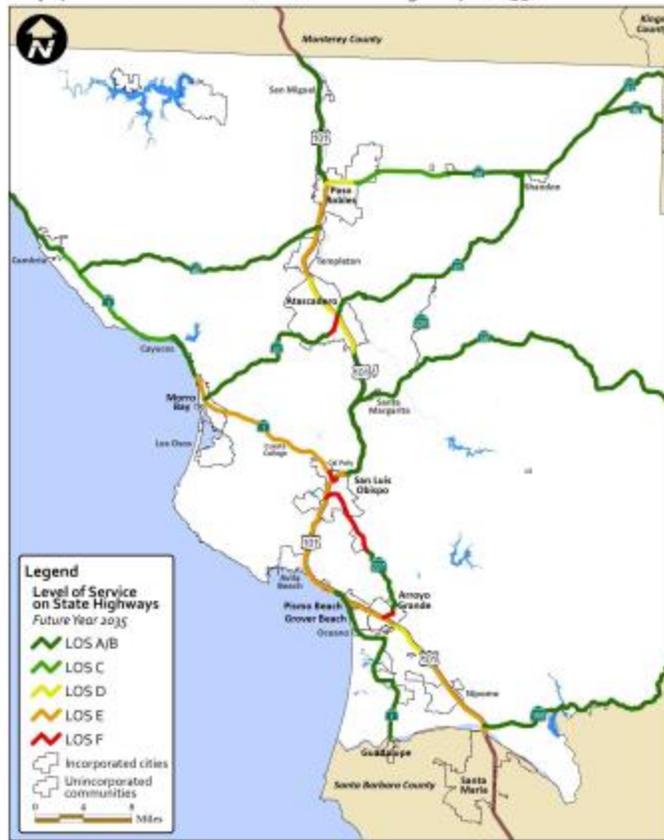


One can only imagine the byzantine, costly, and kafoozling mitigations, offsets, and concessions that will be invented to administer this one.

By 2035, SLOCOG projects that highway 46 east will have been completely upgraded, but others shown as LOS A, B, or C currently, will have become much more congested. Will development be prohibited now, in anticipation of the declining capacity relative to increased population and trips?

PLEASE SEE THE MAP ON THE NEXT PAGE.

Map 4-2. Level of Service (LOS) on State Highways (2035)

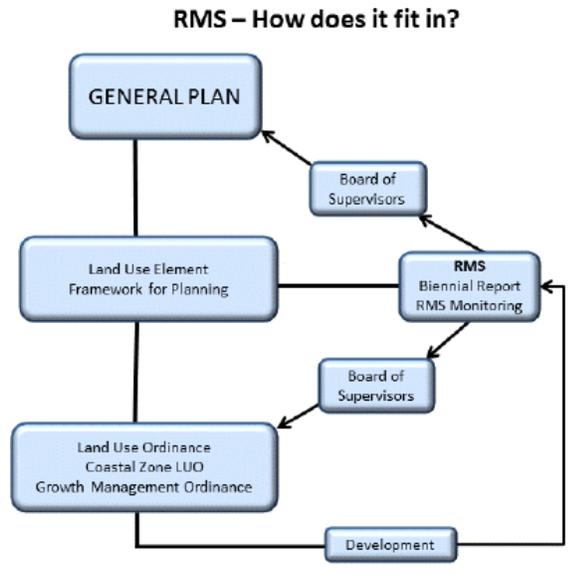


The Policy Trap: The staff report contains a number of definitions and explanations about the purpose of the RMS. Note that the text below states, “The RMS assures that services and resources are available to support new development...” Actually it does nothing of the kind. It simply describes under what conditions service and resources must be available to allow new development. One of the County’s great strategic failures is that it has no comprehensive plan, schedule, financing, or project management system to actually “assure that services and resources are available.”

A. INTRODUCTION - HOW RESOURCES AND GROWTH ARE RELATED

The General Plan, its Resource Management System (RMS), and the Land Use Ordinance (LUO) work in concert to guide decisions on future development. The General Plan’s Land Use Element (LUE) focuses development in specified communities and land use designations. The LUO sets minimum parcel sizes, density requirements and other standards for creation of new parcels and development of existing parcels. The RMS assures that services and resources are available to support the new development envisioned in and allowed by the General Plan and LUO. In that way, the RMS is essential to carrying out the General Plan’s vision.

Note that the County’s RMS logic chart is circular. It is impossible to determine how the RMS actually governs, informs, and conforms, guides or whatever it does to policy. Government loves circular charts. No one is responsible.



In another revealing statement, the RMS repeats the enviro-socialist credo of a stagnant and limited universe:

As the county enters the 21st century, the public and decision makers have become more aware of the limits of our natural resources, the cost of expanded infrastructure and its maintenance and the difficulties in finding solutions to these problems. ~~Growing public awareness and more accurate~~

What if the Board of Supervisors embraced philosophy of technological advancement, the power of the market and private investment, creativity, and abundance instead?

The full proposed RMS can be accessed at the site:

http://slocounty.granicus.com/MetaViewer.php?view_id=3&event_id=759&meta_id=286043

San Luis Obispo County Council of Governments (SLOCOG) Special Meeting of Wednesday, September 10, 2014, 8:30 AM (Scheduled)

Item B-1, 20-Year Highway Investment Priorities - Regional Transportation Plan (RTP). This report, which includes several attachments containing tables, attempts to focus the

SLOCOG Board on picking which projects to include in the RTP between 2015 and 2035. Readers may wish to consider this problem in terms of the Planning Commission item discussed above. There is not enough money under current combined local, State, and Federal formulae to fund all the needs. In fact San Luis County, its component cities, and CalTrans need several billion more in funding than is likely to be available over the RTP life.

This week's SLOCOG agenda does not contain any further discussion of the RTP chapter on smart growth and sustainable development as embedded in the Plan's Sustainable Communities Strategy. Readers may recall that this was a key element of consideration during the SLOCOG August meeting.