



COLAB SAN LUIS OBISPO COUNTY

WEEK OF NOVEMBER 15-21, 2015

**STAFF RECOMMENDS NO ANNUAL
INCREASE FOR HOUSING IN LIEU TAX
(CONSTRUCTION STARTS TOO SOFT)**

**PLANNING COMMISSION APPROVES
PRICE CANYON OIL WELL PERMIT
(CAREFUL AND WELL CONSIDERED DECISION)
(AND 5/0 TOO)**

**BOS SENDS PASO BASIN DISTRICT TO
VOTERS AND LAND OWNERS
(INCLUDES TAX SWITCH SLEIGHT OF HAND)**

**BOS TO HAND OUT HOME AND
BUSINESS ENERGY IMPROVEMENT
FRANCHISES
(LOAN PAYMENTS GO ON YOUR PROPERTY
TAX BILL)**



COLAB
San Luis Obispo County

7th
ANNUAL



DINNER & FUNDRAISER

SAVE THE DATE

Friday, March 11th
Alex Madonna Expo Center

details coming soon...

**One of the Biggest Parties
in San Luis Obispo County**
You Won't Want to Miss It!

COLAB San Luis Obispo County
805-548-0340 colabslo@gmail.com

Board of Supervisors Meeting of Tuesday, November 10, 2015 (Completed)

Item 1 - Introduction and Set Hearing for November 24, 2015 for Model Water Efficient Landscape Ordinance (MWELo). The purpose of this item is to set a hearing for November 24th (the same date as the County's proposed 2016 fee hike adoption) for the purpose of adopting a new State 24-page landscape water regulation into the County building code. The requirements are strict, invasive, and costly. As noted, the actual hearing and the Board vote will be on the 24th. We presented the item here as an early alert.

A number of speakers requested the Board to stop this for now and asked why the Board did not diagnose it during its preparation in Sacramento. Why was it not considered in Legislative Program updates during the year? Where were the County's Sacramento lobbyists? COLAB requested that the Planning staff develop a matrix outlining the key provisions as well as potential costs and fees of the dense 24-page regulation prior to the November 24th hearing.

PASO BASIN ELECTIONS MANEUVERINGS

**IN ITEMS 7, 8, AND 9 BELOW, THE BOARD AUTHORIZED 3 ELECTIONS
NECESSARY FOR CREATION OF THE PASO ROBLES BASIN AB 2453 WATER
MANAGEMENT AUTHORITY**

Summary: The Board approved all 3 items on split votes. In brief:

1. Item 7 set the vote to create a new taxing zone congruent with the boundaries set by the Local Agency Formation Commission for the proposed AB 2453 Paso Basin Water Management Authority. This action enables the County to use the new tax to prepare a State Ground Water Management Act (SGMA) groundwater sustainability plan (GSP) in the event that the vote to approve the formation of the district fails but the vote for the new tax is approved. The item was approved 3/2 with Arnold and Compton dissenting.
2. Item 8 set the vote pursuant to Proposition 218 for the voters within the boundaries of the proposed district to decide if they wish to tax themselves to fund the district. The only function to be performed by the district during its first 5 years of operation would be to prepare the GSP. The County projects that this will cost \$1 million per year each year for 5 years. The item was approved 4/1 with Arnold dissenting. A sub-provision of Item 8 was an authorization for the County staff to write to the State Water Resources Control Board and request cost estimates on what fees the State would levy on the County should the County and other jurisdictions overlying the basin not meet SGMA deadlines. The vote was approved 3/2 with Compton and Arnold dissenting.

As we pointed out previously, proponents of the district, County staff, and the Board water majority concocted a false zero-sum "choice" which dictates that if the district fails to be approved, the County claims it must have a new \$1 million per year for each of 5 years in order to prepare the GSP. It is then postured that if it (the County) doesn't have this new money, the State will then automatically step in and, of necessity, will prepare the plan at some huge cost. The staff actually recommended that the board send a letter to the State Water Resources Department and request the cost numbers for the state to prepare the plan. This constitutes actual electioneering by the Board, because it says: you either have to do it our way or the State will come and manage the basin in ways you don't like and at some huge cost. This is nonsense. A new and reformed Board of Supervisors could explore a variety of options and costs.

Moreover, the State is never going to step in, because Monterey County (which also overlies the basin) and Paso Robles are never going to let them. Monterey County or any City or CSD could apply to be the GSA for the whole Basin, and they probably gladly would if the County declined to step up. SGMA says that a local agency can extend beyond its boundaries for purposes of being a GSA for the whole basin (Water Code Section 10723). Therefore, in order for the state to step in, at least 6 other agencies would have to step out of the way first.

3. Item 9 contained the Board authorization to set both the election for approval or rejection of formation of the district and a separate election for election of the district's initial board of directors. The setting of these elections was approved 4/1 with Arnold dissenting.

Background: The actions contained in the agenda items 8 and 9 were procedural steps required as a result of the Local Agency Formation Commission LAFCO approval of the proposed Paso Basin water management authority. Although they are required and the Board is required to adopt them, there were important choices about how they are worded and whether the Board would remain neutral or whether Hill, Mechem, and Gibson would officially endorse them as the Board majority on this issue. Item 7 was discretionary and did not need to be adopted at this time but was approved because 3 members of the Board support the trick contained therein.

The vote to approve Item 7 effectively implemented the sleight of hand funding provision which the Board water majority slipped into its LAFCO application at the last minute. Readers will remember that the provision hedged the County's bets Vis a Vis whether the AB 2453 water district would be approved by the voters. It provided that in the event that the Prop 218 funding vote is approved but that the district formation vote fails, the County flood control district could use the funding intended for the district (almost \$1 million per year for 5 years) to fund itself for preparation of the State required groundwater sustainability plan (GSP). If, on the other hand, the new water district is approved by the voters, the County would pass the funding through to it. The Board water majority's rationale is that the County has to do a GSP whether or not the district is approved. Thus it could use the funding vote for either contingency and save the cost of a future funding election. To make this option work the County had to create a new zone of benefit (entitled Zone 19) to tax the basin overlies.

The elections will be conducted by an all-mail ballot between February 8 and March 8, 2016. Please see last week's COLAB Weekly Update at the link below for all the gory details:

http://www.colabslo.org/prior_actions/Weekly_Update_November_8-14_2015.pdf

Public speakers were overwhelmingly opposed various provisions of the package. For example, on Item 7 there were 20 speakers, of which 13 were opposed, 6 were in support, and one was unclear. At one point speakers sequentially read into the record all 1,250 names of those who signed letter opposition which LAFCO ignored. Hill summarized his disdain:

"It's disingenuous, all this IDEOLOGICAL AVERSION TO REGULATIONS!"

C. Formation Election Schedule

SAN LUIS OBISPO COUNTY ELECTIONS OFFICIAL'S ACTIVITY SCHEDULE FOR PLACING A MEASURE ON THE BALLOT FOR THE MARCH 8, 2016, SPECIAL ELECTION FORMATION OF THE PROPOSED PASO ROBLES BASIN WATER DISTRICT

November 10, 2015 EC Sec 4108 WC34400; GC 57000	Board of Supervisors will submit their resolutions calling for and placing a measure regarding the formation of the Paso Robles Basin Water District on the Special All Mail Election ballot.
November 11-20, 2015 EC Sec 9190, 9380	PUBLIC EXAMINATION PERIOD – Ten day examination period begins the day after the adoption of the resolution by the Governing Board.
November 16, 2015 EC Sec 9163, 9316 GC 57146	BY THIS DATE the Elections Official shall publish the Notice Calling for Submission of arguments FOR or AGAINST the measure.
November 16, 2015 GC 57144	BY THIS DATE the LAFCO Executive Director shall submit to the commission, for its approval or modification, an impartial analysis.
December 9, 2015 EC Sec 9161-9163, 9315-9316, 9600-9601 GC 57144-57146 WC 34402.2-34402.3	PRIMARY ARGUMENTS DUE – LAST DAY for proponent(s) to change or withdraw Primary Arguments.
December 10-21, 2015 EC Sec 9190, 9380	PUBLIC EXAMINATION PERIOD - Primary Arguments Only
December 21, 2015 EC 9167 GC 57144; GC 57147	IMPARTIAL ANALYSIS DUE from LAFCO Executive Director AND REBUTTAL ARGUMENTS DUE.
December 22-31, 2015 EC Sec 9190, 9380	PUBLIC EXAMINATION PERIOD - Impartial Analysis and Rebuttal Arguments.
February 8, 2016 (E-29) EC Sec 3001	FIRST DAY BALLOTS ARE AVAILABLE
February 22, 2016 (E-15) EC Sec 2107	CLOSE OF REGISTRATION
March 8, 2016	ELECTION DAY
April 7, 2016 EC Sec 15300-15309 WC 34422; GC 57149	COMPLETE OFFICIAL CANVASS

**Merry Christmas and Happy New Year from the Board.
Just what you wanted to be doing Christmas day.**

Board of Supervisors Meeting of Tuesday, November 17, 2015 (Scheduled)

Item 1 - Monthly Drought Report For November 5, 2015. The only new emphasis in the monthly drought report is a concern about the increasing amount of dying trees throughout the County. In the charts below, it's interesting that Nacimiento actually went up. Perhaps the shutdown of the Naci pipeline saved water. There are 9,000 more acre-feet in storage than this time last year. What if 9,000 acre-feet of Naci water per year were recharged into the Paso Basin? Do we need a project costing \$1million dollars per year each year for 5 years to figure this out?

Reservoir Levels in November 2015

Reservoir Levels (% of capacity):

Reservoir	% of Capacity	Current Acre Feet Storage
Nacimiento	19%	71,903
Whale Rock	37%	14,349
Lopez	30%	14,839
Salinas	13%	3,065

Source: www.slocountywater.org County of San Luis Obispo

Reservoir Levels in November 2014

Reservoir	% of Capacity	Current Acre Feet Storage
Nacimiento	16%	62,185
Lopez	44%	21,563
Salinas	22%	5,271
Whale Rock	47%	18,425

Item 8 - Authorization to Apply for a Sustainable Groundwater Management (SGMA)

Planning Grant. The staff recommends that the Board authorize submittal of the grant application for a \$250,000 grant to conduct planning in various basins for meeting SGMA requirements. The grants are made available to counties with “stressed” basins. For whatever strange reasons, a copy of the actual grant application is not included in the attachment package. Instead there are copies of the various application and instruction packages from the State.

The Board letter states that the grant funds will be used for the purposes in the chart on the next page:

Task Description ⁽¹⁾	Grant Funding ⁽²⁾	Match Funding ⁽²⁾
1. Develop Education and Outreach Program: <ul style="list-style-type: none"> Identify beneficial users of high/ medium priority basins Develop outreach materials and outreach plan for countywide SGMA education; and host workshops Create a SGMA webpage 	\$25,000	\$12,500
2. Efforts to facilitate formation of GSAs: <ul style="list-style-type: none"> Develop guidance documents for interagency agreements Facilitate meetings between interested eligible GSA members 	\$25,000	\$12,500
3. Actions that will lead to the update or development of GSPs: <ul style="list-style-type: none"> Characterization of San Luis Obispo Basin Huer Huero Recharge Area Siting Feasibility Study 	\$175,000	\$225,000 ⁽³⁾
4. Grant Administration	\$25,000	\$0
TOTAL	\$250,000	\$250,000

During last week's discussion of the Paso Basin SGMA management costs, several speakers raised the issue of balances within the County's flood control district fund. Apparently there is no problem in generating the \$250,000 local match for this one.

The groundwater management program, including the grant application process, is budgeted in the fiscal year 2015-16 Flood Control and Water Conservation District, Fund (1300000000). Sufficient funding exists for this grant application. The minimum local cost share required is 50% of the total project cost. It is anticipated that the \$250,000 cost match will be covered by existing County efforts to implement groundwater management efforts. If awarded grant funding, Staff will return to your Board for any necessary budget adjustments.

Grant funds are prohibited to be used in basins which are adjudicated. It appears that the San Luis basin (Edna Valley) is ground zero for this one. Perhaps the Edna Valley overlayers will file for quiet title before the County, City of SLO, and other appropriators get control.

Item 11 - Request to enter into three individual agreements with Property Assessed Clean Energy (PACE) administrators to allow properties within unincorporated County to participate in PACE programs, and to amend an existing Joint Powers Agreement. This is the program whereby property owners (both residential and commercial) can install better windows, insulation, heating and cooling equipment, solar panels, and now even synthetic lawns. Financing is provided by what are termed PACE "administrators" or legally termed "market place members." These are private sector firms and government joint powers authorities that raise capital through large bond financings and then make the loans which are secured by your

property. These firms also select and manage panels of local contractors who perform the work. In effect and by selecting three firms, the Board of Supervisors is granting what could be very lucrative franchises. The program was originated in 2007 by the City of Berkeley, which has since abandoned it.

There are numerous “administrator” firms operating in California and the nation. Cities and counties that choose to use the program have control over which firms are selected as administrators because they can use their control of the property tax system to determine who is selected. The County staff solicited information from a number of firms (the Board letter does not say how many responded) and picked three. These include HERO (Western Riverside Council of Governments), CalFirst (Renewable Funding of California), and YGreene Energy Fund of California. Their websites demonstrate the variety of services and the sales and marketing emphasis of these companies. These companies then in turn choose which local contractors are made available to the customers to actually carry out the work. The Riverside County District Attorney is currently conducting an investigation of HERO as a result of customer complaints. The DA referred to his investigation as “having gone down a rabbit hole.”

In its contracts with these companies the County states its public purpose in blatantly paternalistic phraseology:

WHEREAS, the County seeks to minimize customer confusion, provide access to education and information to property owners and assist with making informed decisions on rebates and incentives, tools and testing equipment, contractor programs, and financing options; and

Concerns include:

- The loans are recorded against the property as a **tax lien**.
- The tax lien is in the **first position**, meaning that if a homeowner goes into default, the “administrator” gets paid before any other creditors, including the lenders that hold the mortgage.
- That first position is so important that the Federal Housing Finance Agency prohibits Fannie Mae and Freddie Mac from purchasing mortgages or notes with PACE liens. Weeks ago, an FHFA statement pointed out the risk this first-lien status poses to taxpayers, real estate agents, banks and homeowners about the marketability of a house
- **Unlike taxes due to a municipal agency which cannot initiate a tax sale until taxes have not been paid for five years, the bondholders of the PACE loans are able to initiate foreclosure proceedings after missing one payment and no provisions are available for making a repayment plan.**

- Realtors have pointed out that there are complications when properties turn over related to the loans. Many closings are falling out over these loans.

California First is so sure that the Board is going to approve its contract that it is already putting advertisements in the electronic version of the San Luis Obispo Tribune.



SMART EFFICIENCY FINANCING IS HERE

All this in the name of “climate change.”

Item 16 - Hearing to consider a request by the County of San Luis Obispo for amendments to Title 29 – Affordable Housing Fund, to consider resolutions adopting an annual adjustment of the residential in-lieu fee and commercial housing impact fee schedules, and approve the Annual Report and Action Plan for Year 2016 pursuant to Title 29. The so-called in lieu “fee” is in actuality a tax on new development. The State passed enabling legislation which allows cities and counties to require that developers provide a specified number of “affordable” homes within their proposed projects as a condition of approval. Often including these homes is physically and marketing-wise impossible. The law allows builders to place a specified amount of funds in an affordable housing account “in lieu” of actually building the homes. San Luis Obispo County adopted the program just as the recession hit, and in recognition of the severely depressed housing market and limited commercial development, the County determined to phase the tax in over 5 years. Each year the Board has had to consider if it would raise the tax from the year 1 level to the year 2 level and has demurred because new construction of housing has remained weak.

Significantly, and even though there is anecdotal data that prices are rising, the staff has actually provided a recommendation that the tax not be raised. The staff report is very clear in its recommendation to the Board of Supervisors:

The Planning and Building Department suggests that the Title 29 fee schedules remain at “Year 1” of the five-year phase-in period. Also, the fee schedules should remain unchanged because there were no construction cost increases in FY 2014-2015. The attached resolution incorporates these recommendations.

While the housing market shows strong signs of recovery, it is unclear whether the level of construction activities has stabilized. Any significant fee schedule adjustments should be deferred until both the housing market and construction activities show steady signs of recovery. Moving to “Year 2” of the phase-in period would double the Title 29 fee amounts. At “Year 1” the fee amounts are 20% of what the full fee would be. At “Year 2” they would be 40%. The full fee amounts are supported by the nexus studies completed in 2012 in conformance with the Mitigation Fee Act (AB 1600 and Government Code 66001). So the County will be able to use the fee schedules from the nexus studies whenever it initiates the five-year phase-in period.

☐ *The housing market shows signs of recovery. Market prices are up. But salaries have not kept up.*

Between 2011 and 2015, the median house prices increased by 48%. But the median salaries The Planning and Building Department suggests that the Title 29 fee schedules remain at “Year 1” of the five-year phase-in period. Also, the fee schedules should remain unchanged because there were no construction cost increases in FY 2014-2015. The attached resolution incorporates these recommendations.

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☐ *The housing market shows signs of recovery. Market prices are up. But salaries have not kept up.*

Between 2011 and 2015, the median house prices increased by 48%. But the median salaries increased by increased by only 3.6%. At this time (Year 2015) only 26% of the median income families can afford a median priced home.

San Luis Obispo-Paso Robles, CA			
Time Period	2nd Qtr. 2006	2nd Qtr. 2011	2nd Qtr. 2015
Median Price	\$550,000	\$320,000	\$475,000
Median Income	\$63,800	\$74,400	\$77,100
Housing Opportunity Index	5.9%	49.4%	26.2%

Perhaps the staff now recognizes that this tax actually increases the price of new homes and thus works to reduce affordability. If the Board understood this simple economic fact, it would abolish the program.

Year	Year 1	Year 2	Year 3	Year 4	Year 5
Percentage of fee collected	20%	40%	60%	80%	100%

Sample Project	Year 1	Year 2	Year 3	Year 4	Year 5
In-Lieu Fee – 2,100 s.f. Residence	\$1,575	\$3,150	\$4,725	\$6,300	\$7,875
Housing Impact Fee – 10,000 s.f. Commercial Retail building	\$6,800	\$13,600	\$20,400	\$27,200	\$34,200

Background: The bottom line is that over the decades the process of developing residential and commercial property has become so overregulated and expensive that developers cannot afford to produce affordable housing and prefer to develop larger, more expensive units. In turn, the State Legislature made things worse by enabling cities and counties to require that developers include a stipulated number of affordable units in their projects or pay an “in lieu fee,” which is really a tax on development. The dollars generated from the “in lieu fee” are accumulated and then given to non-profit housing developers to help finance their affordable projects. This is really a government blackmail program to force homebuilders to charge more for their market units to bail out the politicians’ failed public policy.

Homebuilders are required to provide one affordable unit for each five market units or pay a “fee” (tax) into the affordable housing fund in lieu of actually building the unit. The amount of the fee is based on a complex black box study called a nexus study, which analyzes economic and market factors to come up with the base per sq. ft. costs. This data is then manipulated into a standard “fee” (tax) based on the size of the market houses (unsubsidized houses). It is then applied to each market house (per unit fee).

The number of new homes constructed in the unincorporated county demonstrates how destructive it would be to increase the tax on market houses.

Number of Completed Dwelling Units in Unincorporated County Areas

Fiscal Year	Single Family Residential units	Residential Multi-Family units	Total Units
FY 05/06	979	53	1032
FY 06/07	695	62	757
FY 07/08	741	82	823
FY 08/09	519	69	588
FY 09/10	362	113	475
FY 10/11	364	29	393
FY 11/12	200	21	221
FY 12/13	252	0	252
FY 13/14	311	19	330
FY 14/15	300	19	319

Moreover, it shows that “smart growth” is actually no growth and is depriving the public of the ability to purchase or rent a home by artificially restricting supply. Note the disgusting multi-family (rental) housing numbers.

The table below shows the long-term tax phase-in if the board actually were to begin moving tax up each year for 4 years in the future.

Exhibit "A"

(SUPERSEDED) Table 29.1 (FY 2015/2016) – Residential Development – In-Lieu Fee Schedule

Unit Size (SF)	Year 1 Per Unit Fee*	Year 5 Per Unit Fee	Fee for one IHU**
900	\$675	\$3,375	\$16,875
1,000	\$750	\$3,750	\$18,750
1,100	\$825	\$4,125	\$20,625
1,200	\$900	\$4,500	\$22,500
1,300	\$975	\$4,875	\$24,375
1,400	\$1,050	\$5,250	\$26,250
1,500	\$1,125	\$5,625	\$28,125
1,600	\$1,200	\$6,000	\$30,000
1,700	\$1,275	\$6,375	\$31,875
1,800	\$1,350	\$6,750	\$33,750
1,900	\$1,425	\$7,125	\$35,625
2,000	\$1,500	\$7,500	\$37,500
2,100	\$1,575	\$7,875	\$39,375
2,200	\$1,650	\$8,250	\$41,250
2,300	\$1,725	\$8,625	\$43,125
2,400	\$1,800	\$9,000	\$45,000
2,500	\$1,875	\$9,375	\$46,875
2,600	\$1,950	\$9,750	\$48,750
2,700	\$2,025	\$10,125	\$50,625
2,800	\$2,100	\$10,500	\$52,500
2,900	\$2,175	\$10,875	\$54,375
3,000	\$2,250	\$11,250	\$56,250
3,100	\$2,325	\$11,625	\$58,125
3,200	\$2,400	\$12,000	\$60,000
3,300	\$2,475	\$12,375	\$61,875
3,400	\$2,550	\$12,750	\$63,750
3,500	\$2,625	\$13,125	\$65,625
3,600	\$2,700	\$13,500	\$67,500
3,700	\$2,775	\$13,875	\$69,375
3,800	\$2,850	\$14,250	\$71,250
3,900	\$2,925	\$14,625	\$73,125
4,000	\$3,000	\$15,000	\$75,000

Item 17 - It is recommended that the Board approve the recommended appointments of the individual Board members to various committees and commissions. This item is an annual process wherein the Board determines which members will serve on various boards and commissions which are either established by law or created to advise on various regional or statewide matters. The staff report indicates that the members are satisfied with their assignments other than that Supervisor Compton wishes to be appointed a LAFCO alternate. This would require that Hill would have to step aside or be voted off.

One of the most significant assignments is the appointment of Supervisor Gibson as the County's representative to the California State Association of Counties (CSAC). CSAC is the counties' statewide lobbying organization, and it also provides a variety of training, recruiting, issue analysis, and professional development services related to county government and administration. Gibson has served in this position for many years and has advanced in the CSAC committee and governance structure.

TITLE	2015 APPOINTMENTS
Adult Services Policy Council	Lynn Compton
Behavioral Health Advisory Board	Frank Mecham
Cal ID Advisory Board	Frank Mecham
Carrizo Plain National Monument Advisory Committee	Debbie Arnold
Cal Poly Campus Planning Committee	Debbie Arnold
California State Association of Counties (CSAC)	Bruce Gibson; alternate Adam Hill
Community Action Partnership of San Luis Obispo (CAPSLO)	Debbie Arnold
Economic Vitality Corporation	Adam Hill and Lynn Compton
Fire Safe Council	Frank Mecham
First 5 Children & Families Commission	Bruce Gibson
Homeless Services Oversight Council	Debbie Arnold
Latino Outreach Council	Debbie Arnold
Local Agency Formation Commission (LAFCO)	Bruce Gibson, Frank Mecham; alternate Adam Hill or Lynn Compton
Model of Care Partnership Oversight Committee (MOCPOC) Martha's Place	Bruce Gibson
Nacimiento Water Project Commission	Frank Mecham
National Estuary Program Executive Committee	Bruce Gibson
Psychiatric Health Facility Committee	Lynn Compton
SB/SLO Regional Health Authority (CenCal)	Adam Hill
South County Area Transit (SCAT)	Lynn Compton
Student-Community Liaison Committee	Debbie Arnold; alternate Adam Hill
Visit SLO Advisory Committee	Lynn Compton

Item 19 - Request to Initiate a General Plan Amendment to permit a Children's Cancer Hospital on Highway 41 Just East of the City of Morro Bay. This is a proposed project on 253 acres, which if developed and built would create a major national level cancer treatment center with hundreds of jobs. The actual execution of the project would require major funding from donors and institutions over a long time period in the future. The write-up states:

A pediatric oncology center for 300 children and cancer nursing training in two structures of 100,000 square feet and 200,000 square feet located on the northeast corner of the property 232

acres of the 253 acre site to be kept in open space and will include 50 acres of organic farming and 50 acres of ranching.

The role of the Board of Supervisors at this point is to determine if it would allow the applicant to begin the Plan of Development amendment process. One problem for the applicant is that the property is currently zoned agriculture and open space. County policies require the preservation of agriculture. Another problem is that it is estimated that the project will use at least 100 acre-feet of water per year. This supply does not exist. Apparently the City of Morro bay supports the project but does not have the ability to provide the water. Accordingly, the Planning staff recommends against the Board authorizing the lengthy and costly plan amendment process. The Coastal Commission has weighed in and basically opposes the project. Its letter stated in part:

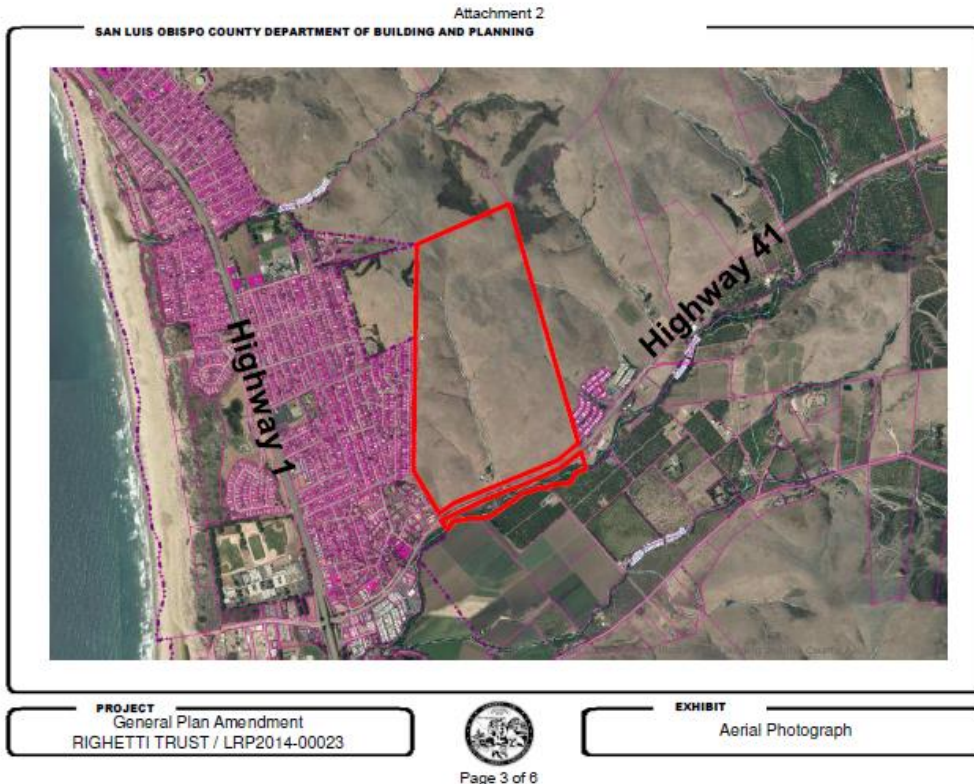
The Coastal Commission staff comments that the proposal “...appears to foster noble and appropriate societal goals...” However, the letter goes on to state given agriculture’s priority it is not clear findings can be made approving the LCP amendment. The Commission concerns also include: 1) lack of available public services; and 2) annexation require further LCP amendments that may not be approvable.

The Commission letter concludes by stating, “...we would suggest the County reject this LCPA request and instead direct the applicant to re-engage in conversations with the County regarding other potential sites elsewhere in the County that are not located on agricultural land and that have adequate public services to serve the project”

Part of the synergy of the applicant’s vision is to have the ocean and Morro views characterized by the site and to operate a program in a beautiful natural setting on acreage.

Just what sites would the County recommend, if any?

A location map of the site is illustrated on the next page.



Local Agency Formation Commission (LAFCO) of Thursday, November 19, 2015 (Scheduled) – LAFCO meets in the Board of Supervisors chambers at the County Building at 9:00 AM

Item A-1: IMPARTIAL ANALYSIS - PASO ROBLES BASIN WATER DISTRICT FORMATION. Once the Board of Supervisors called for elections related to the formation of the proposed district, LAFCO must craft an “impartial analysis” of 500 words or less. Other than the fact that this wording, which certainly is not an analysis, is required by law, it is not clear for what the purpose the “analysis” will be used. The actual text can be accessed at the link:

http://www.slolafco.com/Staff_Reports/2015_November_Item_A-1_PRBWD_Impartial%20Analysis.pdf

There do not seem to be any policy decisions implicit in this item.

Planning Commission Meeting of Thursday, November 12, 2015 (Completed)

Item 9 - Continued hearing to consider a request by FREEPORT-MCMORAN OIL & GAS for a Conditional Use Permit (CUP) to amend the previous CUP to extend the amount

of time allowed to drill the previously approved Phase IV oil wells (D010386D). This request would extend the current limit for an additional 3 years for approximately 31 oil wells not yet installed. The project is located at 1821 Price Canyon Road (San Luis Obispo) on the east and west sides of Price Canyon Road, approximately 2.7 miles north of the City of Pismo Beach, in the San Luis Bay Inland sub area South, South County planning area. The Environmental Coordinator found that the previously certified Final Environmental Impact Report (FEIR) is adequate for the purposes of compliance with CEQA.

CONTINUED FROM 9/10/15 & 10/22/15. The Commission approved the permit extension for 31 oil wells for 3 years on a vote of 5/0. The Commission received extensive presentations from experts from the Regional Water Quality Control Board, the State Water Quality Control Board, the State Conservation Department's Division of Oil, Gas, and Geothermal Resources. The impressive Commissioners exemplified the best qualities of an analytical approach to a very controversial and complex set of questions. In extremely oversimplified terms (for brevity here) these included:

1. Does the existing field leak oil and/or polluted water into the aquifer?
2. Will the new oil wells leak oil and/or polluted water into the aquifer?
3. Will depletion of oil and water (they are mixed together in the oil bearing strata) cause a lower underground pressure vacuum which in turn will cause water from the Edna Valley basin to flow out of that basin and into the space created in the oil field?

The Commission meticulously questioned the experts for hours in an impressive display of public interest concern. Third District Planning Commissioner Meyer was particularly incisive and persistent in his approach even though he may have intrinsically not liked some of the answers. The Commission displayed great teamwork, and the members were mutually supportive in teasing out the very complex information.

As a result of the information and deliberations, the Commission added a number of required monitoring tests to insure that none of the potential risks occur in the future, or if they begin to occur, they are detected early. The applicant agreed to new conditions (some of which were problematic), but nevertheless recognized public concern (especially on behalf of the residential neighbors).

The permit is not a done deal in the sense that it requires further clearances from the State agencies discussed above.

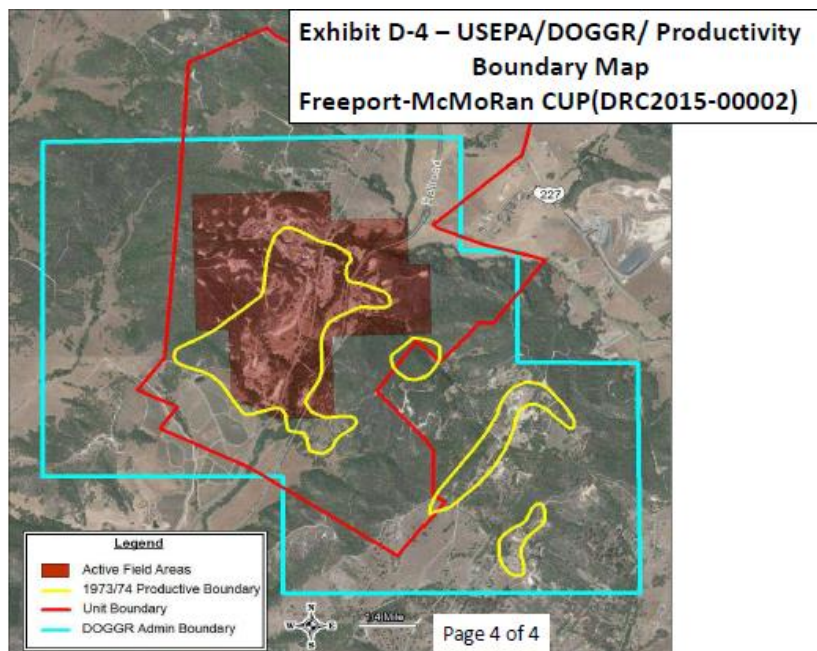
Background: There have been 3 prior hearings, and during the October hearing the Commission asked for assistance in determining the status of groundwater flows. To this end the staff reported during the November 12 hearing:

At their October 22, 2015, Hearing for this item, the Planning Commission had additional questions relating to: groundwater quality, the proposed USEPA 'Aquifer Exemption' expansion process, and impacts to surrounding water quality.

The current 'Aquifer Exemption (AE)' expansion process first requires two state agencies (California Department of Conservation, Division of Oil, Gas and Geothermal Resources [DOGGR] and State Water Resources Control Board [SWRCB]) to reach concurrence. At such time, their recommendation is sent to the US Environmental Protection Agency who will make a final decision on the proposed Aquifer Exemption expansion of the Arroyo Grande oil field.

As a part of the AE review process, SWRCB has solicited the local Regional Water Quality Control Board [RWQCB] for their local knowledge and technical expertise on the groundwater basins around the oil field.

At the time of this memo, confirmation of attendance by the RWQCB was provided. They will provide to the Commission information about the proposed AE expansion and its potential to impact any surrounding potable water source. Furthermore, a request has also been made to SWRCB and DOGGR for their staff to attend the hearing and be available to answer questions.

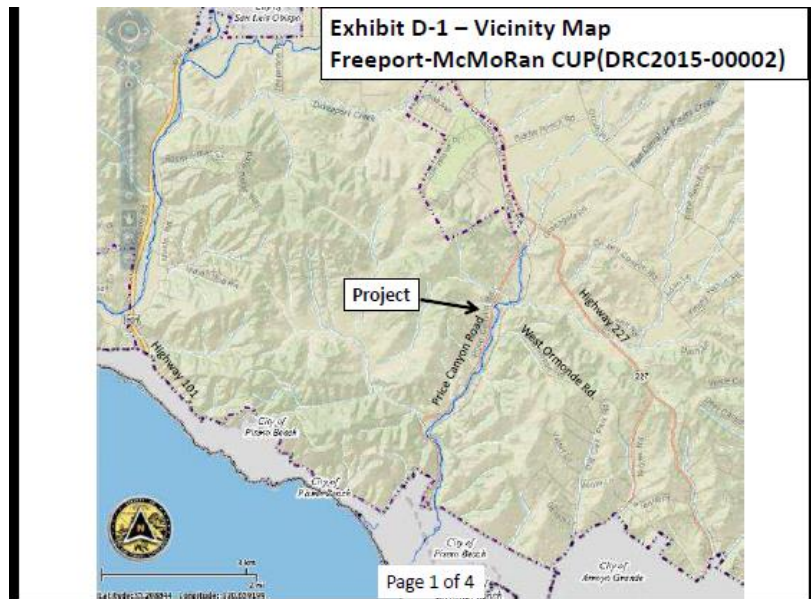


At this point the heart of the issue is a piece of arcana called the aquifer exemption issue (AE), which is a process by which the State and the Feds allow some oil wells to be drilled through a particular aquifer. The field, including the 31 oil wells subject to the extension, is operated under an existing AE. Opponents are asserting that the AE was issued in error because

of lax State process. The Planning Commissioners are attempting to understand the issues and whether the field operating under the current AE is detrimental to any potable water sources.

At the prior meeting the Commission determined to continue the matter to its November meeting. A Center For Biological Diversity attorney asserted that granting the time extension for drilling 31 oil wells, which had already been approved, would contaminate the water supply (even though the existing operations – hundreds of oil wells – have not contaminated the water supply). Separately, Commissioner Meyer repeatedly

expressed concern that the use of water (it's not potable groundwater) that naturally occurs within the oil and is then separated to provide steam for injection would result in negative pressure, which would pull in water from neighboring aquifers such as Edna Valley. The field, started in 1900, is located in Price Canyon. It would be impossible for someone to purchase property in the area and not notice that there is an operating oil field.



San Luis Obispo Air Pollution Control District (APCD) Meeting of Wednesday, November 18, 2015. (Scheduled)

B-7: Draft Policy on Ex Parte Communications by Board Members and Representation Disclosure by Public Speakers at APCD Board Meetings Deferred to January 2016. This item has been generated as a result of the nasty incident at a prior meeting when Hill, Gibson, and SLO Mayor Marx attacked a public speaker (Will Harris) on the basis of his employment with a State agency and his opposition to the Dunes Dust Rule. Gibson complained to Harris's boss and Harris was disciplined. The matter is now being set for January 27, 2016. The staff write-up below suggests that it is being postponed due to a heavy agenda on November 18th.

At the end of the June 17, 2015 Board meeting, a brief discussion was held by Board members regarding whether or not the Board should consider adopting a policy on ex parte communications among Board members, and whether people testifying during public comment should be required to disclose if they are there as a paid representative for a business or organization. It was suggested the Executive Committee discuss the issue and decide whether or not to place such an item on the APCD Board agenda for consideration at a future meeting.

The Executive Committee discussed this issue at their September 9, 2015 meeting and decided a formal policy should be presented at the November 18, 2015 APCD Board meeting for consideration. District Counsel agreed to compile and review applicable policy examples from member jurisdictions that have them and develop a draft policy for Board review and consideration. This decision from the Executive Committee was relayed to the Board by the Air Pollution Control Officer (APCO) during the APCO Report at the September 23, 2015 Board meeting. Subsequently, at the October 21, 2015 Executive Committee meeting, the APCO recommended and the Committee agreed, to defer development and consideration of a draft policy to the January 2016 meeting due to the large number of items already on the November Board agenda.

Thus, review and consideration of this draft policy has been deferred to the January 27, 2016 Board meeting.

Unnumbered Item - Closed Session.

a. Personnel Matter (Pursuant to Government Code section 54957) – Air Pollution Control Officer (APO) Performance Evaluation and Employment Contract. The APO's relentless and myopic pushing of the dunes dust regulation, even though a substantial number of APCD Board members favor a more collaborative path, has raised questions about his ability to effectively manage the agency. It is not known what issues will be discussed in the closed session or what outcome may occur.



NOT EVERYONE CAN AFFORD A BEACH HOUSE