



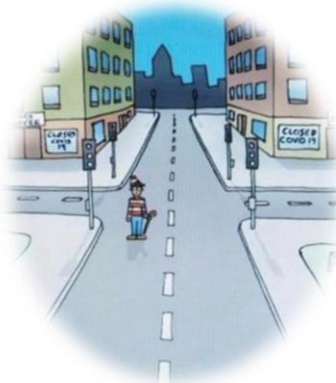
## WEEKLY UPDATE JULY 5 - 11, 2020

### THIS WEEK

**“THE REGULATORS WHO CRIED WOLF”<sup>1</sup>  
APCD SCANDAL – THERE WAS NEVER ANY  
CARCINOGENIC CRYSTALLINE SILICA AT ALL!  
DA SHOULD INVESTIGATE POSSIBLE DELIBERATE MALFEASANCE**

**COASTAL COMMISSION STIRS OCEANO DUNES  
THEY SHOULD BACK OFF  
NO CRYSTALLINE SILICA IN PM<sub>10</sub>**

**BOARD OF SUPERVISORS BACK  
MORE COVID  
EMPLOYEES OFFERED VOLUNTARY FURLOUGH  
NACI PIPELINE COSTS  
SGMA UPDATE  
WHERE IS “WALDO” ADAM HILL?**



<sup>1</sup> See the CALCOASTNEWS article in COLAB IN DEPTH on page 20.

## **SLOCOG CANCELED**

### **HEAVY PLANNING COMMISSION**

**MORE CANNABIS  
VACATION RENTAL BAN IN LOS OSOS  
NEW GENERAL PLAN FOR LOS OSOS**

### **LAST WEEK**

### **BOARD AND OTHER AGENCIES OFF**

### **SLO COLAB IN DEPTH**

**SEE PAGE 20**

### **THE REGULATORS WHO CRIED WOLF**

**BY KAREN VELIE**

**\*\*\*\*\***

### **PROGRESSIVE LAWMAKERS DECRY RACISM, BUT THEIR POLICIES DEVASTATE PEOPLE OF COLOR**

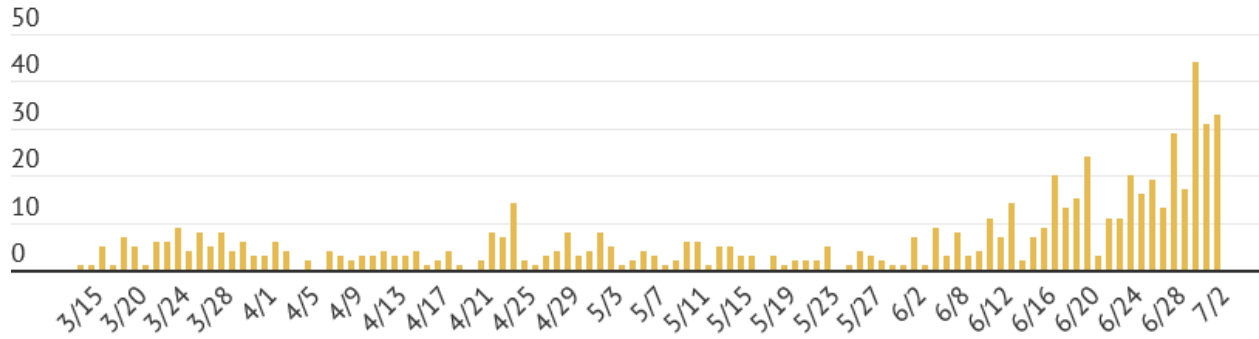
**BY LEE OHANIAN**

### **THIS WEEK'S HIGHLIGHTS**

**Board of Supervisors Meeting on Tuesday, July 7, 2020 (Scheduled)**

**Item 1 - Update on COVID-19 in San Luis Obispo County.** There will be an extensive report, as the virus seems to be spreading more as various facilities open up.

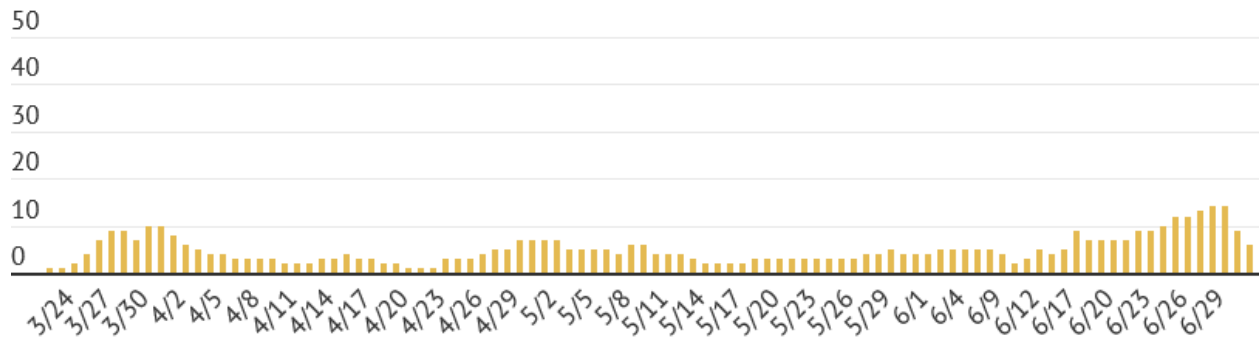
### DAILY COVID-19 CASES



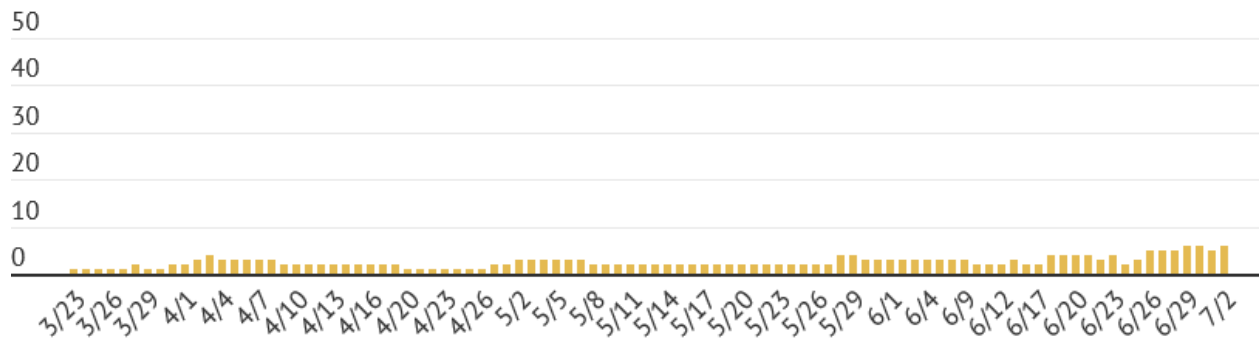
The hospitalization metric is the one to watch. Many people may test positive and be asymptomatic or have only mild symptoms. It appears that the 20-45 year old group for the most part does not contract severe cases. This is good because this is the primary dating, promiscuous spousal/partner experimentation, and partying age group. As long as they don't infect their parents and children it might be all right.

On the other hand the virus could mutate to a more virulent and morbid form that could beckon large-scale shutdowns again, thus leading to further economic problems. These in turn may lead to civil unrest and calls for forceful government intervention.

### DAILY HOSPITAL CASES



### DAILY ICU CASES



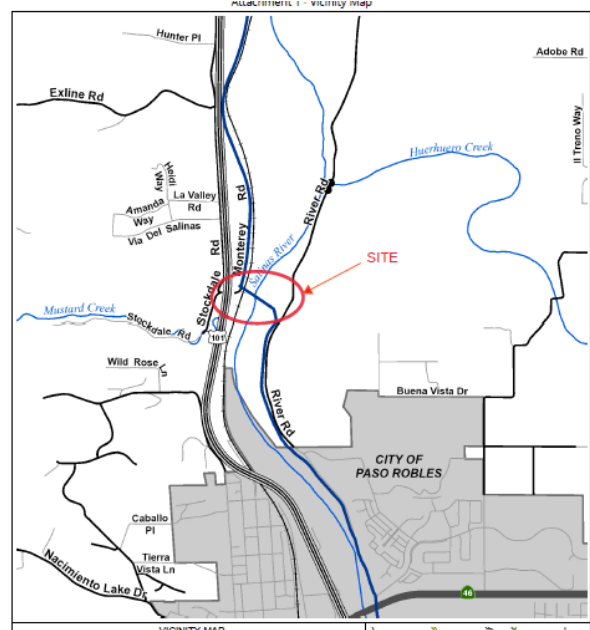
**Item 4 - Submittal of bid opening report for the Nacimiento Water Pipeline North Salinas River Crossing Repair project, to award the subject contract (Clerk’s File) to V. Lopez Jr. and Sons, Inc., the lowest responsive, responsible bidder, in the amount of \$1,026,873.**

**EXHIBIT A**

**Project Cost Estimates**

Nacimiento Water Pipeline  
North Salinas River Crossing Repair  
Project No. 300641

Expenditures:	Total Project Budget	Estimated Project Costs	Variance
Emergency Response	\$300,000	\$300,000	\$0
Preliminary Engineering	150,000	150,000	0
Design, Utility Coord., and AD-15 Processing	575,000	575,000	0
Environmental	50,000	50,000	0
Right of Way	50,000	50,000	0
Construction and contingency	1,180,903	1,180,903	0
Project Administration, Operations and Construction management	1,875,697	1,875,697	0
<b>Total Expenditures</b>	<b>\$4,181,600</b>	<b>\$4,181,600</b>	<b>\$0</b>
<b>Funding Source:</b>			
Nacimiento Operating Fund & Nacimiento Reserves	\$4,181,600	\$4,181,600	\$0
<b>Total Funding</b>	<b>\$4,181,600</b>	<b>\$4,181,600</b>	<b>\$0</b>



This is the second break in the aqueduct pipeline. The good news is that the bid for the actual construction came in substantially below the budget estimate. The costs are paid by the Nacimiento Project Authority, which consists of the City of Paso Robles, Atascadero Water Company, Templeton Community Services District, and the County of San Luis Obispo. Cost will be covered by water rates. The County functions as the agency’s staff.

**Item 14 - Submittal of a resolution approving the Voluntary Temporary Reduction Schedule program.** The staff recommends that the Board authorize a program where employees can volunteer to work fewer hours but maintain their benefits. It is hoped that enough employees would opt for the program to help lower the County’s impending deficit. The County favors a voluntary program versus mandatory furloughs. Details of the proposal are summarized in the quotes below:

*The new Voluntary Temporary Schedule Reduction program is a new program that is being recommended to the Board for approval. This program will allow permanent full-time employees the option to reduce their weekly schedules down to, at most, 50% of their full-time schedule while still receiving either 75% or 100% of their full-time cafeteria contributions or cash in-lieu payment depending on the level of schedule reduction. The savings to the County from the reduced schedules will be in reduced salary and salary-related costs, reduced pension benefit costs, and lower leave accruals*

*For example, if 26 permanent full-time employees (about 1% of the full-time employee population) reduce their schedules to 32 hours per week for a full fiscal year, the estimated savings to the County*

*for Fiscal Year 2020-21 would be \$617,000, while if the same number of permanent full-time employees reduced their schedules to 20 hours per week for a full year, the estimated savings to the County for Fiscal Year 2020-21 would be \$1.93 million. If twice as many permanent full-time employees participate, the estimated savings would be greater, between \$1.23 and \$3.55 million depending on the level of schedule reduction.*

**One problem is that the program is random.** No one can predict which employees will volunteer. For this reason a volunteer must be approved by his or her department head. The Sheriff probably cannot afford to let jail deputies and road deputies volunteer. It would negatively affect the operation and result in more overtime cost.

Similarly the case planner who is processing several major subdivisions cannot just leave in the middle of the long review process. The developers have already paid hundreds of thousands in fees and have borrowed money which cannot be repaid until the projects are in operation,

Many of the jobs are funded by State and Federal revenues on a formulaic basis. For example, Social Service Eligibility Workers are about 95% covered by State reimbursements. If a particular worker is simply not present, the formula lowers the County's reimbursement. There is no actual savings and it may take longer to get an eligible family qualified for food stamps, income maintenance payments, job training, and Medi-Cal.

The advantage of scheduled furloughs is that you can shut an organization down systemically. For example it is well known that up to 60 % of some local government employees will take vacation during the week before Christmas and the week between Christmas and New Year's. By scheduling a furlough at this time, the County could shut down just about all the offices and run skeleton crews in critical social and health services. Fire is not an issue because it's a contract with CAL Fire and the employees don't belong to the County. The Sheriff, jail, and Juvenile Institutions have the least flexibility and have to be staffed.

The savings generated by a two-week mandatory furlough should be calculated. County payroll records will show how many employees take vacation anyway. The actual nonpayment of the 10 days could be spread over the year so that the employees will not be slugged for all of it in one pay period.

**The Board item is unclear about the deficit.**

1. First it says the County could face a \$32 to \$56 million budget gap.
2. Then it says that as of July 1, 2020 the County is facing a \$26.2 million gap.
3. The \$26.2 million is better than \$32 to \$56 million, but which is it?
4. During Budget adoption the Board reduced the budget by \$17 million. Is the \$26 million net of the \$17 million? In other words, if they had not cut the \$17 million, would the gap be \$40.2 million?

**Item 20 - State Ground Water Management (SGMA) Plans status.** The 8 subject water basins include:

1. Cuyama Valley (DWR No. 3-013, “Cuyama”)
2. Salinas Valley – Paso Robles Area (DWR No. 3-004.06, “Paso”)
3. Salinas Valley – Atascadero Area (DWR No. 3-004.11, “Atascadero”)
4. San Luis Obispo Valley (DWR No. 3-009, “San Luis Obispo”)
5. Los Osos Valley – Los Osos Area (DWR No. 3-008.1, “Los Osos”)
6. Los Osos Valley – Warden Creek (DWR No. 3-008.2, “Warden Creek”)
7. Santa Maria River Valley – Santa Maria (DWR No. 3-012.01, “Santa Maria”)
8. Santa Maria River Valley – Arroyo Grande (DWR No. 3-012.02, “Arroyo Grande”)

The status of the work on the plan for each subject basin is detailed at the link:

<https://agenda.slocounty.ca.gov/iip/sanluisobispo/file/getfile/123149>

The PASO Basin Groundwater Sustainability Plan (GSP) was approved by the Board in January and was submitted to the State Department of Water Resources (DWR) on January 31, 2020 in accordance with the State mandated deadline. In turn the DWR posted it on line for public comment until May 15, 2020. The write-up does not indicate if DWR has given any feedback or might render a decision on plan approval.

The report does not mention any problems with any of the plan processes or finances.

**Attachment 2  
Budget Status Update  
for SGMA Program  
as of 4/30/2020**

The table below represents the County's SGMA Program FY 2019-20 Budget and expenditures by basin. Given the complexity of each basin's approach to funding the GSP development, this table does not attempt to depict the multi-year program costs or cost sharing/in-kind services contributed by partner agencies. See footnotes for other key elements of basin funding approaches.

Basin <sup>(2), (3)</sup>	GSP Development Phase Duration in Fiscal Years <sup>(4)</sup>	Current Fiscal Year Budget Status <sup>(1)</sup>			Total SGMA Costs to Date (7/1/17 - Current)
		FY 2019-20 Budget	FY 2019-20 Costs to Date	Remaining FY 2019-20 Budget	
<b>SGMA Program</b>		2,745,425.80		\$ 2,745,425.80	
Los Osos Basin	FY 17/18-19/20		\$ 6,543.60	\$ (6,543.60)	\$ 77,680.85
Cuyama Basin	FY 17/18-19/20		\$ 4,283.91	\$ (4,283.91)	\$ 69,365.28
Paso Basin	FY 17/18-19/20		\$ 159,543.40	\$ (159,543.40)	\$ 1,046,408.51
San Luis Obispo Basin	FY 17/18-21/22		\$ 516,210.88	\$ (516,210.88)	\$ 630,481.78
Santa Maria Basin	FY 17/18-21/22		\$ 3,012.12	\$ (3,012.12)	\$ 47,553.88
Atascadero Basin	FY 17/18-21/22		\$ 3,244.88	\$ (3,244.88)	\$ 8,517.57
<b>County General Fund (GF) Contribution Total</b>		<b>\$ 2,745,425.80</b>	<b>\$ 692,838.77</b>	<b>\$ 2,052,587.03</b>	<b>\$ 1,880,005.83</b>
General Fund Revenue:					
	Grants		\$ 608,069.56		\$ 608,069.56
	FCZG one-time (\$750,000) & Basin Partners		\$ 45,971.43		\$ 895,971.43
	<b>Total Revenue</b>		<b>\$ 654,040.99</b>		<b>\$ 1,504,040.99</b>
	<b>Net General Fund</b>		<b>\$ 38,797.78</b>		<b>\$ 375,964.84</b>
<b>Flood Control Zone General (FCZ) Contribution Total</b>			<b>\$ 989,844.22</b>		<b>\$ 3,303,967.58</b>
<b>SGMA Program Total (GF + FCZ)</b>			<b>\$ 1,028,642.00</b>		<b>\$ 3,679,932.42</b>

## Matters After 1:30 PM

**Item 29 - COVID Testing Fees.** The County is establishing fees for COVID testing as it has been expanding the service. The County has set up testing sites in San Luis Obispo and Grover Beach. It also has a “pop up site” which is shifted around from community to community. These are for people without symptoms. If you have symptoms you are directed to contact your physician or other medical provider. You must make an appointment via the County’s on line COVID site. At the same time the County website says if you have symptoms, get tested.

The Board letter does not talk about payment. That is: Will the County accept private insurance, Medicare, or Medi-Cal? Will there be co-pays? Will credit cards be accepted? Is the service available to everyone? For example, must you be a county resident, US citizen, or can anyone get treated? If you are medically indigent, do you get sent to a regular County clinic or Cen Cal Health?

How often does someone have to be tested to determine if they have not had or do not have the disease? In other words, if you get a test in July, when would you have to be tested again to make sure you are clear?

How is the test result reported and how is the patient’s private physician notified to update their record?

Is the County undermining private medical practices by offering this service to full pay and insured patients?

What are the County’s risks for medical malpractice liability if a mistake occurs, such as switching tests, reports, or not getting accurate results due to procedure errors? For example, if the County determines that John Doe is not infected and he suddenly comes down with it 2 weeks later and dies in the ICU? This kind of thing happens all the time with the private draw stations, even with everyone telling them their name, birthdate, and social security number every step of the way.

Three COVID-19 test related fees are recommended for approval:

Test #	Name	Fee Amount	Description
Test #6850	Coronavirus SARS-CoV2 RT_PCR.	\$138 (CDC test)	This is the mainstream test used since the beginning of the pandemic response. Test costs are concordant with other reference level polymerase chain reaction tests. Testing is performed using a thermocycler.
Test #682	Coronavirus SARS-CoV2 Xpert RT_PCR.	\$94	This test was introduced May 8, 2020 and is run on the existing platform called the GeneXpert. The test can be performed in an hour and is reserved for urgent or “Stat” test orders as needed by the County Health Officer and her designees. Fee is concordant with <i>M. tuberculosis</i> PCR that is performed on the GeneXpert platform.
Test #6860	Coronavirus SARS-CoV2 AMPLIFICATION.	\$63	This test will be introduced on or about June 24 and will replace the bulk of testing now performed with the CDC assay by using the automated instrument called the Panther. Fee is concordant with many other tests performed on the Panther.

**Testing Performed to Date:**

Number of Tests	Cost of Test	Total Expenditure
3,300	\$138	(\$455,400)

**Estimated Revenues upon approval of Fees:**

Number of Tests for a 12-week period	Cost of Test	Total Revenue
6,000	\$63	\$378,000

What is the plan if and when a vaccine becomes available?

What statistical outcome to prevent COVID is expected from this random program?



**San Luis Obispo County Council of Governments (SLOCOG) Meeting of Wednesday, July 8, 2020 (Canceled)**

The write-up did not explain the cancellation.



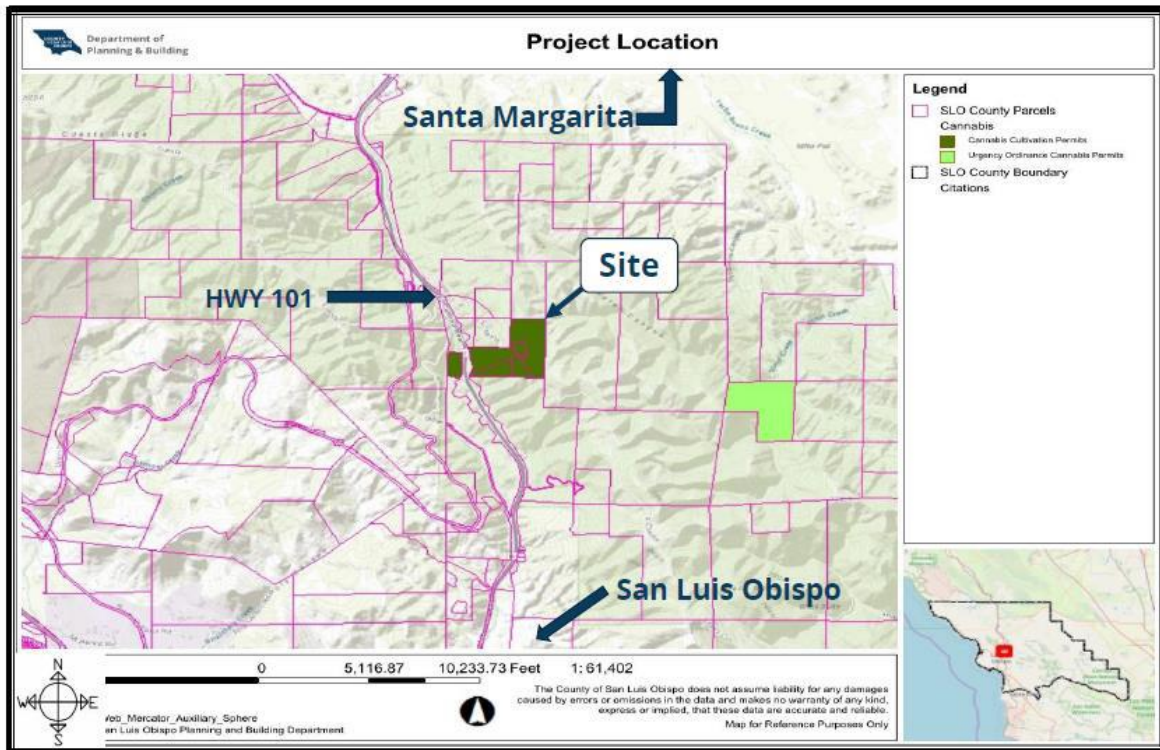
**Planning Commission Meeting of Thursday, July 9, 2020 (Scheduled)**

**Item 3 - Hearing to consider a request by Green Gold Organic Collective for a Conditional Use Permit (DRC2019-00091), previously a Minor Use Permit (DRC2018-00034), to establish 26,136**



square feet (0.60 acres) of outdoor cannabis cultivation in hoop houses. The project would result in approximately 35,000 square feet (0.8 acres) of site disturbance on a 58.12-acre parcel, including approximately 25 cubic yards of cut and fill. The project site is within the Agriculture land use category located at 3033 Mt. Lowe Road, approximately 0.35 miles east of U.S. Highway 101 on the East Cuesta Ridge. The site is within Los Padres Sub Area of the North County Planning Area. Green Gold Organic Collective was originally scheduled for a Planning Commission Hearing (PCH) on March 26, 2020. Due to the COVID19 Shelter in Place orders issued by California's Governor, the scheduled PCH was postponed off calendar. The project is now scheduled for a PCH on July 9, 2020, and a new public hearing notice was issued for this date.

The staff recommends approval. There is no written opposition in the record at this time. The plants will not be visible from Highway 101. Perhaps you can enjoy a nice whiff as you cruise down the grade.



**Item 6 - Hearing to consider a request by the County of San Luis Obispo to approve amendments to the Coastal Zone Land Use Ordinance, Title 23 of the County Code, to establish residential vacation rentals standards for the community of Los Osos, under Section 23.08.165.** If adopted, these will be the strictest vacation rentals (VR) regs in the unincorporated county.

They include:

500 ft. separation between existing and new vacation rentals or other visitor serving accommodation. Note that it is 100 ft. in most places and 200 ft. in Cambria.

Limited to single family homes, no VRs in multi-family homes or mobile homes.

Community cap of 1% of all residences would result in a maximum of 55.

Potential ownership requirement – you must be a natural person, not a trust or corporation. (This one could definitely have legal problems).

A VR permit would expire when the property is sold.

There are 20 pages of correspondence in the file so far supporting the ordinance and/or requesting that VRs be banned entirely. There is one letter objecting from a company that manages vacation rentals.

**Bigger Picture:** The fundamental problem is that owners should be able to rent their property for whatever term they wish. It is still a residential use. The regulations that are now popular in beach, lake, mountain, and communities with other attractions violate basic property rights. That is, the right of the owner should be primary. It is not as if the VR is serving food, fixing cars, or dispensing cannabis. Loud parties and overcrowding can be prevented under normal nuisance ordinances.

The staff report attempts to justify the very expansive ordinance on the grounds that Los Osos should be a series of quiet neighborhoods and laid back. They also invoke the argument for the removal of long-term rental housing. This is all social engineering at best and confiscation at worst. The fact that some alleged majority in Los Osos (there has been no vote) wishes to ban short-term rentals is simply an expression of the tyranny of the majority.

Interestingly, the new Los Osos Land Use and Circulation Plan (see **Item 7** immediately below:) states in part:

*In the vision statement, Los Osos maintains its small-town atmosphere and is environmentally oriented **yet promotes expanded tourism** and environmentally friendly businesses that provide job opportunities for residents. Automobile transportation is accommodated, but the need for automobile travel is reduced by encouraging alternative transportation such as walking, bicycling, and public transit. For example, pedestrian activity is encouraged, especially in commercial areas. Los Osos wants to take advantage of its environmental assets, offer a high quality of life and exhibit a high degree of community involvement and maintain local control over its future to the greatest extent feasible*

How does essentially banning VRs comport with this vision statement? The commercial areas in the new Plan are very restricted. There will not be a slew of new hotels.

This ordinance, if adopted as proposed, will no doubt be DOA at the Coastal Commission. Denial by local communities of the opportunity for California residents to visit and enjoy coastal resources violates the Commission's prime mission. Given the fact that California is now about 39 % Hispanic and will be majority Hispanic in the future, there is huge social equity issue which the Board of Supervisors must address in considering such ordinances.

We are already openly confronted by the issue of discrimination from the Oceano Dunes State Park closure advocates. They have clearly expressed their belief that people from Central Valley communities who use fossil fuel off road vehicles and pull on road campers into the dunes are intellectually inferior and unwoke. In fact just last week, an Oceano activist who complained about the dunes dust suggested that the use of the area discriminates against Hispanics who live in the area. This was met by a sharp rebuttal from Hispanics who live in the area and who enjoy off road riding and camping.

Some of us have fond memories of being able to stay with a family that had a vacation rental on Balboa Island in the 1950's and 1960's. This was the golden age of Southern California and the surfing life in an age of abundance. A sleazy motel next to an oil field on the PCH was not the same. It's now the same thing when you want to take your family to Tahoe. If the Incline Village Community Service District banned vacation rentals in time-share condos, we could not afford to stay in a family environment in a condo. We would have to stay in a dilapidated motel on the California side.



Huntington back in the day.



Balboa Island, in the late '50's early '60's. We stayed upstairs in the back. There was a little beach down the street on the bay.

The proposed Los Osos ban would prohibit this type of VR.

The appeal to preserving permanent affordable housing is the most cynical and hypocritical of all. When will the Board of Supervisors zone in large parcels for large-scale projection of garden apartments?

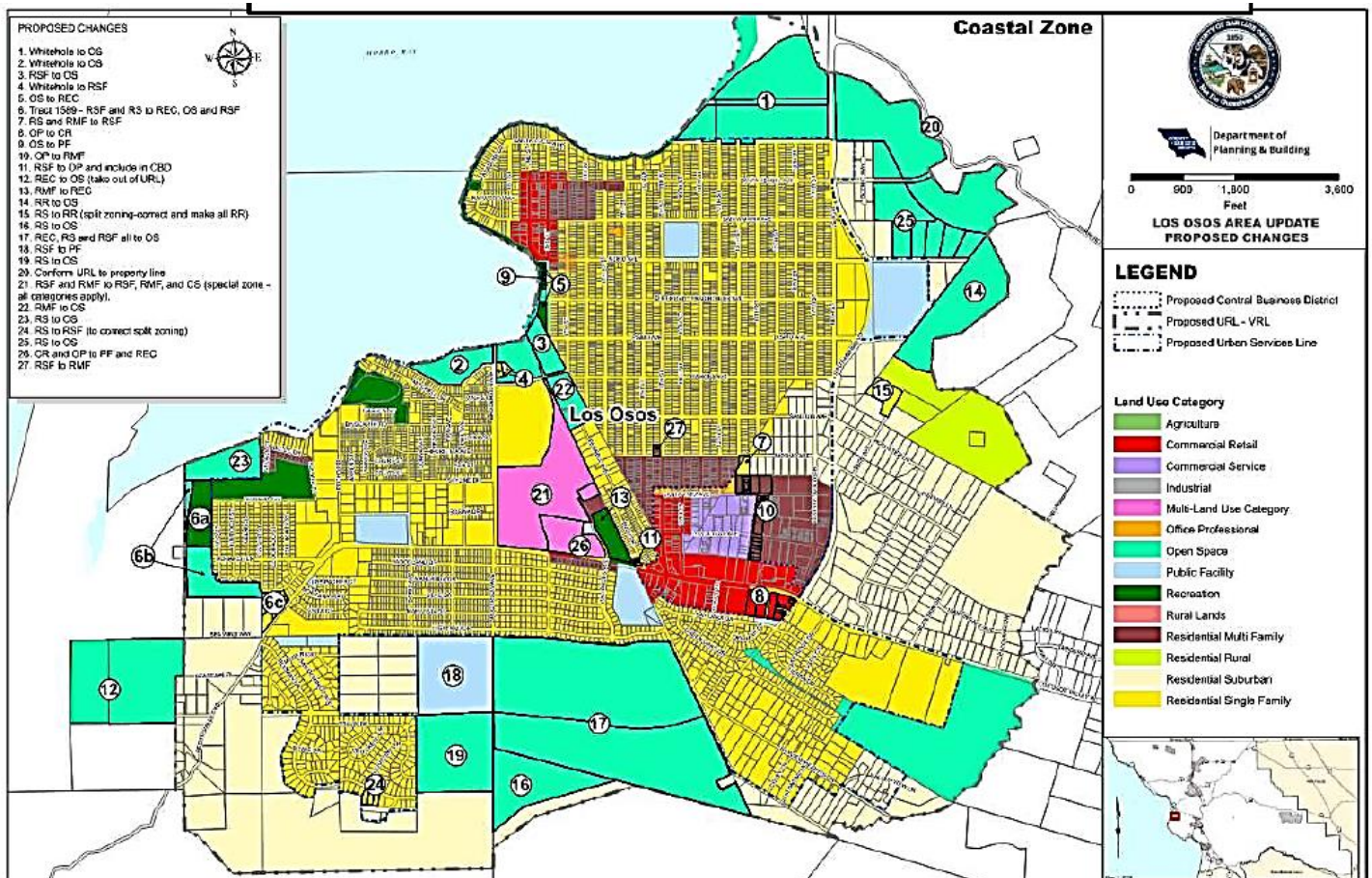
**Item 7 - Hearing to consider a request by the County of San Luis Obispo to: 1) amend and update the Estero Area Plan, Part II of the Land Use and Circulation Element of the County General Plan and Local Coastal Plan, by updating the Los Osos Urban Area, including goals, policies, programs, and planning areas standards, for the area within and outside of the existing Los Osos Urban Reserve Line, known as the 'Los Osos Community Plan', and making other related changes to the Area Plan; 2) amend the Official Maps, Part III of the Land Use Element of the County General Plan, to reflect changes to land use categories and combining designations; and 3) amend and update the Growth Management Ordinance. This is a long**

coming Plan update which revises the Land Use Plan and the Circulation Element (transportation). The map below provides a general overview.

The Plan is pretty much an Epistle from the Disciple St. Bruce of Cayucos to the Los Osians, which incorporates the 50-year old concepts of resource based planning, the basic tenants of which are the natural and manmade resources limit development and economic growth. Growth should be slow if at all. Nature is to be preserved at all costs. To these cannons have been added the global warming and social justice provisions of greenhouse gas reductions, prejudice against cars, and the idea of forcing the average person into dense housing and mass transit.

There was a huge and long preparation process including all the Delphi techniques to make sure the Plan came out the way Bruce wanted it to.

Lots that have been locked down for decades due to the sewer issue will now supposedly be first in line for permit processing. The water problem seems to exist unabated and without a firm long-range solution. Thus the mantra of limited resources will inevitably continue.



Note that the turquoise color on the map key is open space. The dark green is recreation. It appears that most of the village will be surrounded by open space.

The correspondence in the file expresses concerns that the plan will result in overuse of water, which is already in severe shortage. It also indicates that the community is not too happy with the idea of any more density or additional housing development. The Community Services District sent a letter expressing particular concern about water. The community does not wish to become a target for more than its share of affordable and subsidized housing. One problem attendant to the County's overall smart growth policy is that denser housing, usually a prerequisite for affordable housing, is allowed only in the urban villages such as Templeton, Nipomo, San Miguel, and now, Los Osos.

Later some will regret their parochialism as they wonder how they lost their property, their job, their pension, and then ended up in an Antifa gulag for complaining too late.

### California Coastal Commission Meeting of Thursday, July 9, 2020 (Scheduled)

## **APCD SCANDAL: WHAT WILL THE COMMISSION DO WHEN THEY FIND OUT THAT CRYSTALLINE SILICA IN PM<sub>10</sub> WAS A LIE?**

### **Summary**

**Oceano Dunes Dust Agenda Items:** The 3 items below are interrelated as they all pertain to a Coastal Commission Permit under which the State Department of Parks and the SLO APCD are conducting a project to reduce dust generated from the Oceano Dunes State Vehicular Recreation Area (ODSVRA). **Item Th 9** is a Quarterly status report on how the Coastal Commission staff assesses the progress of the State Parks Department/SLO APCD Plan to reduce the dust to 50% of its 2017 level by 2022. It appears that the report will be verbal as there is no write-up in the agenda package.

**Will APCD Scandal Give Coastal Commission Pause?** Readers should note that last week, the CAL COAST NEWS published an article resulting from its investigation, which reveals that the blowing dust does not contain crystalline silica (a very fine version of the mineral silica – which is 100 times finer than the version that occurs in nature). The crystalline silica has been found to be carcinogenic particles that can lodge in the lungs. It is also known to promote asthma and other pulmonary problems.

The premise of the efforts to close down and/or regulate the dunes riding for the past 10 years has been based on the alleged presence of the crystalline silica in the microscopic sand sub-particles PM<sub>10</sub> and PM<sub>2</sub>.

According to the CAL COAST NEWS article, The APCD never tested for the presence of crystalline silica until 2017, after its Hearing Board questioned the staff about the matter. The first test came back negative for silica. Another test was conducted in 2019, which was also negative. For whatever reason, the APCD did not announce the data, which was eventually forced out by the CAL COAST NEWS.

**Please see the full article “The Regulators Who Cried Wolf” on page 20 of this week’s update below.**

Over \$14 million of taxpayer and park user fees have been expended by the State over the past 10 years on the issue.

This circumstance constitutes gross misfeasance in office by the APCD, and the fact that they did not immediately go to the APCD Board and disclose the information may well constitute malfeasance. The San Luis Obispo County District Attorney should review the matter to determine if an investigation should be undertaken.

In the meantime, individual Coastal Commission members have been woofing louder and louder about yanking the original overall permits which allow the Parks Department to operate the Park in the first place. They continuously talk about restricting activities or even closing the Park to off-road riding and camping.

It will be interesting to watch how the Commissioners and APCD staff duck and weave on Thursday under this revelation. The retired former APCD Chief Executive should probably be detained before he decamps for a hideout in Uruguay.

The Coastal Commission ought to pend its actions, and especially any regulatory conditions, until all those involved can be questioned in an independent San Luis Obispo County proceeding. Perhaps the Board of Supervisors could set a special investigatory meeting during which experts, witnesses, and perpetrators are questioned in public under oath.

Since **Items Th10** and **Th11** are so closely intertwined, they will be handled as one hearing item together.<sup>2</sup>

**Item Th9 - ODSVRA PWP Update Quarterly status report by State Parks on the progress of State Parks’ Oceano Dunes State Vehicular Recreation Area (ODSVRA) Public Works Plan (PWP) efforts.** **Item 9** appears to be a verbal introduction to the subject, as there is no write-up. It is clearly an effort to orient the Commissioners to a confusing and repetitive mass of data designed to overwhelm them.

The difference between **Items Th10** and **Th11** are a little confusing, since the titles of both items are word for word the exactly the same. Also the recommended action is word for word exactly the same.

**Item Th10 - Coastal Permit Applications: Application of State Parks (on remand from court decision) to implement a five-year program (between 2017 and 2022) to reduce dust and particulate matter emissions at State Parks’ Oceano Dunes State Vehicular Recreation Area**

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<sup>2</sup> The item numbering system may puzzle readers who are not familiar with the Coastal Commission agendas. The Commission usually meets for 3 days in a row, Wednesday, Thursday, and Friday. Thus they must designate the items numbers by the day on which they appear. Accordingly Item Th10 is the 10<sup>th</sup> item scheduled for Thursday’s session.

**(ODSVRA) which spans the City of Grover Beach and the unincorporated community of Oceano in southern San Luis Obispo County.**

***Action: Staff recommends that the Commission, after a public hearing, approve a coastal development permit for the proposed development. To implement this recommendation, staff recommends a YES vote on the following motion. Passage of this motion will result in approval of the CDP as conditioned and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.***

**Item Th11 - Application of State Parks (on remand from court decision) to implement a five-year program (between 2017 and 2022) to reduce dust and particulate matter emissions at State Parks' Oceano Dunes State Vehicular Recreation Area (ODSVRA) which spans the City of Grover Beach and the unincorporated community of Oceano in southern San Luis Obispo County .**

***Action: Staff recommends that the Commission, after a public hearing, approve a coastal development permit amendment for the proposed development. To implement this recommendation, staff recommends a YES vote on the following motion. Passage of this motion will result in approval of the CDP amendment as conditioned and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.***

As noted above, they will both be covered as if they were one item in the hearing.

In 2017 the APCD, State Parks, and the California Air Resources Board agreed in a stipulated legal settlement to undertake a project (the project) to reduce the dust by 50% over a 5-year period. Because the project involved physical changes such as installing wind fences, plantings, hay bales, and other physical alterations, the State Parks was required to obtain a Coastal Permit from the Commission.

Similarly, and since the Commission's main purpose is to maintain public access to the coast, the State Parks was required to obtain a Permit from the Commission because some aspects of the project reduce the area available to the public who use the ODSVRA.

Ultimately the Commission issued a permit, but in doing so, added more requirements than were including in the settlement. While the original project limited the new closure areas to about 100 acres (others were already closed), a close reading of the provision suggested that the Commission could require the closure of even more acreage if it determined progress was not sufficient. Users of the Park sued the Coastal Commission, pointing out that the permit ignored the values of coastal access and was overly broad in terms of allowing closing of the Park or reducing its camping and riding areas.

The Court sided with the users, finding that the requirement was overly broad and that the Commission could interpret the language to include much of the acreage or even the entire ODSVRA. The permit was remanded by Court order back to the Commission for correction.

The Commission's staff writing on these subjects is interesting in its oblique approach:

*The Commission was sued over its CDP approval by the Friends of Oceano Dunes in San Luis Obispo County Superior Court. The Court subsequently determined that the Commission's approval was overly broad because it could be interpreted to authorize more than approximately 100 acres of permanent dust control mitigation, and could apply to potentially the entire OHV area of the park (i.e., approximately 1,500 acres total at the time). The Court further found that the Commission only analyzed the coastal resource impacts associated with 100 acres of permanent dust control mitigation, and thus the findings were inadequate because they did not analyze the environmental impact of dust control measures over the entire 1,500-acre area of the park. Ultimately the Court remanded the matter back to the Commission to re-hear the CDP application for the project and to take action consistent with the Court's order. The Court's order does not otherwise limit the Commission in any way in its review of the CDP application for the proposed project, and the Commission retains its full discretion to approve, approve with conditions, or deny a CDP for the proposed project based upon the facts of the case.*

In other words, the Commission could find other ways to shut the park and will ultimately try.

The action of amending and adopting a revised version with clarifying language correction is the subject of **Item Th10**.

For whatever arcane legal reasoning, the actual reissuance of the amended permit is the subject of **Item Th11**. Note that in addition to the 47 pages contained in **Item Th10**, **Item Th11** contains over 60 pages. **Item Th11** is so detailed that there is no way that State Parks can actually comply.

The Commission staff has used **Item Th10** to write a long 42-page defense of its original order and in effect to defend itself and the Commission from any blame with respect to the adverse Court decision. In fact the write-up states that it was actually the APCD that wanted more flexibility to expand the areas closed to riding and camping. Of course the APCD was under severe pressure from the Commission to amp up its restrictions and reduce the dust.

The Commission itself was and is conflicted, because its main mission is to maintain and expand public access to the coast. Although most of the Commissioners would prefer that the dunes become passive park for hiking and bird watching, they know that the State has a huge stake in the dunes for riding and camping. In fact it's the State's most well attended park. Nevertheless they themselves hold the door open for farther reductions in riding and camping.

*At the same time, it appears likely that the Program will lead to a decrease in areas available for OHV recreation, some seasonally and some more permanent, including up to approximately 100 acres where OHV activities would be eliminated. Although this raises some Coastal Act public recreational access concerns, staff recommends that the Commission find it is appropriate and Coastal Act consistent in this case, including as the Act explicitly requires that its public access provisions "be implemented in a manner that takes into account the need to regulate the time, place and manner of public access" depending on, among other things, "the capacity of the site to sustain use and at what level of intensity," and the need to potentially limit access "depending on such*



factors as the fragility of the natural resources in the area.” In this case, it is appropriate to implement measures that have the effect of limiting the ‘time, place, and manner’ of OHV use associated with the fragile dunes in question to stabilize their structure, restore their surface properties, and address applicable air quality requirements.

Thus **Item Th10** is a long discourse on how the Commission’s requirements and reasoning are ever so perfect. For example, with respect to the actual explanation of the remanded permit, staff states:

*As conditioned, DPR’s approach to restore dune surface properties, minimize dust emissions, and meet applicable air quality requirements by, among other means, ensuring dune revegetation is located within emissive areas subject to OHV activity, and by ensuring that all measures are scientifically defensible and designed to comply with applicable APCD and CARB requirements, can be found consistent with the Coastal Act. Again, the approval authorizes a broad program for dust abatement and dune protection, with the specific measures to be deployed ultimately determined through partnership and coordination among PR, CARB, and APCD, submitted to the Executive Director for review and approval, and ultimately approved by the Commission to ensure their consistency with this CDP.*

*In this case the proposed project at its core seeks to stabilize dunes so as to help reduce emissions. Thus, although the objective is air quality related, the measures themselves are largely designed to better protect and preserve dune features, including stabilizing dune structure and restoring dune surface properties. When the sand is left undisturbed, a combination of salt spray and particle sorting causes a fragile crust to form over the sand surface, significantly reducing its emissivity. The proposed dust control measures prevent disturbance of sand dunes, help keep sand on-site, and restore habitat, with the overall effect of restoring the natural surface properties of the sand dunes. Thus, this development is an allowable restorative use under Section 30240.*

Note the recitation of the disturbed crust theory above as part of the Coastal Commission staff report. They must not have heard that the dust has actually been the worst in years since the Park has been locked down for 3 months so far due to COVID.

The larger problem for the APCD, Coastal Commission, and the California Air Resources Board (CARB) is the disclosure reported above, that there is no crystalline silica mixed into the dust. It has of course been the main justification for regulating the situation in the first place. In its absence we are back to just plain old blowing dust and sand, which are natural features of the coastal dune environment. In fact, and as we have been pointing out for years, the entire Nipomo mesa was formed by blowing sand and dust.

**Now What?** If the PM<sub>10</sub> particles do not contain crystalline silica, are the particles intrinsically harmful to Mesa residents? Remember, PM<sub>10</sub> does not define the substance of particles, but the size.<sup>3</sup>

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<sup>3</sup> Health Effects of Particulate Air Pollution, Douglas W. Dockery Professor of Environmental Epidemiology, Departments of Environmental Health and Epidemiology, Harvard School of Public Health, Annals of Epidemiology: 2009.

*In the simplest terms, particulate air pollution is anything solid or liquid suspended in the air. It includes smoke, fumes, soot, and other combustion byproducts, but also natural particles such as windblown dust, sea salt, pollen, and spores. It includes primary particles coming directly out of exhaust stacks and tailpipes, but also can include secondary particles such as sulfates and nitrates which form from condensation of vaporized materials or from the byproducts of the oxidation of gases in the atmosphere. So particulate air pollution is a mixture of contaminants from a range of sources.*

Accordingly can the APCD and the Coastal Commission demonstrate that the beach sand dust, sea salt, and pollen that blows off the dunes are generators of bronchitis, asthma, and other pulmonary disorders? They can't because neither the State nor the County have done any cluster studies. In fact, the County has ignored repeated request for a cluster study. There is no data which show that they are carcinogenic. The natural PM<sub>10</sub> from the dunes does not contain industrial contaminants sulfides, coal dust, or even cannabis and hemp spores.

At this point the entire effort by the APCD, Coastal Commission, and a coterie of residents who want to use the dunes as their private beach park should be declared a failure and ended.

**Classism:** The real issue is the classism and racism of those who see riding gas powerd vehicles by hardworking people from the Central Valley as antithetical to their desire to convert the area to a local nature preserve. They would like to see the area locked down on windy days. They would even prefer that access be restricted to docent led tours and activies they deem to be for the more "educated elites." Hiking, bird watching, kite flying, and sipping fine wines would be the order of the non-windy days. The hordes of the "unwashed" should be banned in their view. The elitist view to promote gentrification is shared by agency staffers, enviros, and high end beachfront homeowners.

In fact, as we have repeatedly pointed out, the dunes visitors are largely families, and many are extended familes for which their visit is the highlight of their entire year.

We thought one of the letters to the Coastal Commission relative to the permit is much more indicative of the truth and public interest than the prattling of the Coastal Commission and APCD staffs:

*I live here but I have family and friends that live in Chico. Every year for the 15 years, we camp at Oceano Dunes for two weeks Christmas through New Year's. Our out of town guest list range from 50-75 people with roughly 12-15 trailers each year. Each of these families come with their trailers, trucks, toys, families and kids. We are talking 100K set ups, not cheap. Their first stop is Costco in SLO for food. Their second stop is the local gas station down the street from the dunes for water and fuel.*

*Once on the beach and set up, we all spend our first night at Juan's Cantina. We go to Old West Cinnamon rolls to get rolls for Christmas morning. The day after Christmas, all the wives go shopping in Pismo. At least three times during the trip, we go to Splash Cafe for clam chowder. The kids drive into town once or twice to go to the Pismo bowling alley and*



*to spend their Christmas money at Panchos and Esteem. For New Year's Eve, we go to Port San Luis to purchase crab and lobster for a crab feast for 100 people and when they don't have enough we hit the seafood road show at Costco. We ride so much that we have to make multiple trips to the gas station to fill up our tanks. We find ourselves out of light fluid or fire magic dust and have to run to little store on the beach.*

*The kids want stickers from the little store so we get those too. When we pack up, all the kids in camp on the last day are given trash bags and while the adults are closing up camp, all the kids pick up bag fulls of trash and we have a contest and a winner for who picks up the most. It is good wholesome (EXPENSIVE) fun. It is a tradition.*



**\$14 million on studies and junk so far and ongoing.**

Plastic wind fences are fine but God forbid you eat your cinnamon roll with a plastic fork. After all it's mostly the same folks on the APCD as the IWMA. The stars move up to the Coastal Commission

## LAST WEEK'S HIGHLIGHTS

**No Board of Supervisor Meeting on Tuesday, June 29, 2020 (Not Scheduled)**

**The Board was off for a 3-week summer recess. It will return on Tuesday, July 7, 2020.**

# COLAB IN DEPTH

IN FIGHTING THE TROUBLESOME, LOCAL DAY-TO-DAY ASSAULTS ON OUR FREEDOM AND PROPERTY, IT IS ALSO IMPORTANT TO KEEP IN MIND THE LARGER UNDERLYING IDEOLOGICAL, POLITICAL, AND ECONOMIC CAUSES

## THE REGULATORS WHO CRIED WOLF

BY KAREN VELIE



For more than a decade, San Luis Obispo County's Air Pollution Control District (APCD) warned about silica dust blowing inland from the Oceano Dunes.

It causes cancers, and lung and kidney disease.

It was the result of off-roading at the Dunes.

It was made up.

Studies of air quality samples taken by both the APCD and State Parks consistently failed to find detectable levels of the dust. There was, in the words of an expert on the risks of silica dust, "no evidence of a realistic pulmonary (inhalation) risk with respect to respirable crystalline silica." Even so, silica dust was an effective way to justify APCD regulation of the dunes. The APCD continued to warn mesa residents that off-highway vehicle recreation at the Oceano Dunes State Vehicular Recreation Area was causing silica dust to blow on their properties. That, the APCD said, meant people were at risk of cancer and other diseases.

The reports alarmed state and local agencies. They repeated the APCD's warnings. Local media and the public bought into the claim. The silica dust scare affected Nipomo Mesa real estate transactions

and property values. Some real estate disclosure forms, required to warn buyers of risks associated with properties, were modified to note health hazards of crystalline silica in the air at the mesa.

The form quotes from both the APCD's Phase 2 report the Phase 1 report's silica statements. The forms also note that the World Health Organization's classification of "inhaled crystalline silica from occupational sources as carcinogenic to humans."

It was ultimately California State Parks, the managers of the Oceano Dunes, that refuted the silica fabrication. But that was more than 10 years after the APCD started pushing its silica dust argument. In 2007, the APCD first initiated the belief that the mesa air was filled with silica dust in a Phase 1 report, which documented airborne dust levels on the Nipomo Mesa that exceeded air quality standards. Silica is mentioned only once in the lengthy report, and that is on the last page, in a vague reference to the upwind coastal dunes.

"Sand particles are high in crystalline silica, a known carcinogen with a high risk factor," according to the report.

Relative to other minerals, silica — also known as crystalline silica and quartz — is quite hard. The energy necessary to break it into fine dust particles is typically found in industrial and mining settings. The particles are 100 times smaller than what is found on beaches and sand dunes. Because of the acute health risks, exposure to silica dust is specifically regulated by state and federal health and safety agencies. OSHA says silica exposure remains a serious threat to nearly 2 million U.S. workers, including more than 100,000 in high risk jobs, such as abrasive blasting, foundry work, stonecutting, rock drilling, quarry work and tunneling.

In March 2010, the APCD held a public workshop to announce the results of its Phase 2 report, and to receive written questions about their findings. The APCD subsequently prepared a document of responses to submitted questions.

"While not specifically measured in the study, crystalline silica can be a significant portion of wind-blown sand and soil, and is a known lung cancer hazard," according to the APCD's written response. In Nov. 2011, the APCD board voted to adopt "the dust rule" based on the Phase 2 report, which blamed recreation on the Oceano Dunes for high dust levels two to four miles away on the mesa, and a claim that the dust was mainly silica. The APCD proposed a \$1,000 fine to State Parks for each day dust concentrations on the mesa reached a certain level.

During the 2011 meeting, APCD board members and the public voiced their concerns over silica dust.

Despite having previously admitted silica was "not specifically measured" in their Phase 1 and Phase 2 studies, then-APCD director Larry Allen invoked silica as he argued for the dust rule, and the ability for his agency to fine the state.

"We found that on days when we were exceeding the standards, it was predominately silica, which is sand essentially," Allen said during the 2011 board meeting.

At that time, the APCD had not yet tested the dust blowing on the mesa for silica.

In 2011, unaware that silica had not been found in the two studies, the APCD Board voted to adopt the dust rule.

With the passage of the dust rule, Allen's claim that silica dust was blowing from the Oceano Dunes to the mesa was repeated many times by many people.

Arlene Versaw, an organizer for the Mesa Community Alliance, is arguably the most vocal advocate of the APCD's silica dust claims.

In Feb. 2016, Versaw created a GoFundMe page to raise money for the group's primary cause of holding State Parks accountable for silica dust blowing on the mesa through a nuisance lawsuit. "Why is your donation so critically necessary?" Versaw wrote on GoFundMe. "These 'particulates'—fine silica particles—are dozens of times smaller than a human hair. They can cause respiratory problems, heart and lung problems, even premature death ... with children and seniors most at risk."

For years, Versaw repeated the APCD's claim that the dust blowing on the mesa was primarily composed of silica in newspapers and in letters to the editor.

A few examples of Versaw's assertions:

- "Mesa residents are subjected to hazardous silica dust that truly threatens human health," [San Luis Obispo Tribune](#), March 22, 2016.
- "The specific pollutant we face – silica dust – is cumulative and does not leave the body," [The Pulse](#), Nov./Dec. 2016.
- "For years, it has been known, well documented and reported that the Ocean Dunes Off-Highway Vehicle Park is the source of particulate matter silica dust, which is a very serious health hazard." [San Luis Obispo Tribune](#), June 30, 2017.
- "Second, the problem is not SAND. It is silica dust," [San Luis Obispo Tribune](#), Jan. 15, 2018.
- "The funds are being spent unnecessarily all right—but the APCD is merely defending itself and defending its duty to do its job of protecting Nipomo Mesa residents from hazardous air pollution," [SLO New Times](#), July 20, 2016.

In her New Time's commentary, Versaw chastised former APCD Board member Debbie Peterson, who was consistently critical of the dust rule and the nearly \$400,000 cost to taxpayers for the legal challenge that invalidated the dust rule. In the same article, Versaw praised Supervisor Adam Hill, a public official known to loudly challenge those who questioned the validity of Allen's silica dust assertions.

Versaw also claimed to know of information that "undermines any claim that the Oceano Dunes OHV is not the source of the hazardous silica dust."

In reality, there was no information. The APCD had not yet conducted any testing for silica dust in the mesa air. Apparently, unbeknownst to Versaw, it would not be until April 2017 that the APCD finally began sampling and testing mesa air specifically for silica dust.

Versaw and other members of the mesa community would remain unaware of the testing for nearly another year because the APCD remained silent about the testing and the results.



**California Coastal Commission puts weight behind APCD’s silica argument:**

Unaware that testing of silica in the air on the Nipomo Mesa had not yet occurred, in 2017, the deputy director of the California Coastal Commission’s north central coast district also began promoting the APCD’s silica claims.

The commission is tasked with protecting California’s coast and ocean for present and future generations. It does so through planning, regulating development, and utilizing the “rigorous use of science,” according to the commission.

In 2017, then-APCD Director Larry Allen spurred California Coastal Commission Deputy Director Dan Carl’s interest in the mesa in a letter in which Allen repeated his unsubstantiated claim that the dust in the mesa air is mostly silica.

“Public exposure to unacceptably high levels of particulate matter, much of which occurs in the form of highly toxic crystalline silica, have continued to impact downwind residents,” Allen wrote in a letter to Carl on March 27, 2017.

Two days later, in a letter to State Parks, Carl repeated the APCD’s false assertion that dust on the mesa was primarily comprised of silica, and as such, was a public nuisance. “The dust emissions are largely comprised of crystalline silica, which is known to be highly toxic,” Carl wrote in the March 29, 2017 letter. “Furthermore, the dust emissions constitute a ‘public nuisance’ as that term is defined in Civil Code Section 3480 because the dust emissions affect County residents in residential areas downwind of the Oceano Dunes State Vehicle Recreation Area riding areas. The dust emissions are significant, considering that the Superior Court and the APCD have characterized them as ‘unacceptably high,’ ‘highly toxic,’ and ‘a significant public health threat.’”

After 10 years of warning Nipomo residents of the dangers of silica dust, the APCD decided to run tests for silica in the air.

From April through June 2017, the APCD collected and tested dust samples from the Nipomo Mesa “CDF” air monitoring station. However, the results of the testing, or even the fact that testing had been conducted, were not made public.

Months later, an APCD staffer admitted to State Parks that they had tested for silica, but gave no indication of the results. Eventually, the APCD provided State Parks the lab reports.

State Parks tasked John Kelse, an industrial hygienist with experience in assessing risks posed by silica dust, to analyze the APCD laboratory reports. Kelse found no risk to the residents on the mesa from silica.

“The analytical reports of the air filter samples collected at the CDF air monitoring station in April, May, and June 2017 offer no evidence of a realistic pulmonary inhalation risk with respect to crystalline silica,” according to Kelse.

State Parks then asked Kelse to oversee its own collecting of air filter samples and have the samples submitted to an accredited laboratory for silica analysis. Air filter samples were collected in March 2018 within the Oceano Dunes and at the CDF air monitoring station on the mesa.

“Results for all air filter samples collected on March 8, 2018 and analyzed for respirable crystalline silica (quartz) are below the detection limit of the analysis applied,” according to Kelse. “These results are consistent with those presented in my prior report dated Dec. 14, 2017. As such, the presented and reviewed data provide no evidence of a realistic pulmonary (inhalation) risk with respect to respirable crystalline silica.”

Kelse noted that silica that creates health risks in industrial settings is not typically found in beach and dune environments.

“As stated in my prior report, the respirable-size fraction of crystalline silica found in industrial environments is typically 100 times or more smaller (due to employed physical forces associated with processing) than that typically encountered in sand in beach and dune environments,” according to Kelse. “For this reason, it is unsurprising that crystalline silica was not detected in the air filter samples collected.”

For years, disagreements over the validity of the dust rule spurred discord between State Parks and the APCD. The dust rule contained a provision for imposing \$1,000 a day fines against State Parks whenever dust concentrations on the Nipomo Mesa reached a certain level.

In July 2017, the APCD issued State Parks a notice of violation for failure to comply with the dust rule. Technical arbiter Dr. W. G. Nickling was enlisted as a special master in an attempt to resolve the ongoing discord that led to the notice of violation. Both State Parks and the APCD then provided Nickling documents in support of their respective positions.

“The submission report provided by Parks is highly focused, well documented, and attempts to address the issues related to the NOV straight on and without embellishment,” according to Nickling’s Oct. 11, 2017 mediation report. “It stands in strong contrast to the submission provided by APCD, which contains inflammatory language, demonstrates a notable lack of objectivity, and fails to provide direct reference to supporting documentation and data.”

Ultimately, Nickling recommended the withdrawal of the notice of violation because it was “unnecessarily punitive and unproductive.” Additionally, he encouraged cooperation between the parties to resolve concerns related to dust on the mesa.



Appearing to ignore Nickling's advice, Allen asked the APCD Board to vote to convene the APCD's Hearing Board in an attempt to assert more authority over State Parks. However, the APCD Board denied Allen's request based on the mediation report. The five-member Hearing Board is a quasi-judicial body whose purpose is to decide on matters of conflict between the air district and industry, according to the APCD.

Undeterred, Allen filed a petition with the Hearing Board for an order of abatement against State Parks. The Hearing Board granted Allen's request, which led to a series of public meetings that extended from Nov. 2017 through April 2018.

At a March 21, 2018 meeting, Hearing Board Member Robert Carr questioned Allen over the lack of transparency regarding the 2017 silica dust testing. In the exchange, both Allen and Carr initially conflated the mineral silica with the synthetic compound silicone. Eventually, Carr landed on the proper term, followed by Allen.

The exchange highlighted notable departures from previous declarations the APCD made, including that the dust in the mesa air was predominately composed of silica.

Carr: "I'd like to know Mr. Allen, why you didn't release the silicone data when you first got it? And I wonder if you have a chance to complete your comments?"

Allen: "Well, so, the silicone data that was originally, you know the rule is not based on silicone at all, we do understand that it's a natural component of all beach sand..."

Carr, interrupting: "Why didn't you release the data when you first got it?"

Allen: "Well, so, when we look at it there was a new OSHA standard that came up and the public was saying we think we're seeing levels that might be exceeding that standard. We only took four samples, and we weren't doing a study. We just wanted to get an idea to see if this was worth exploring. If we were going to release the data, we would have wanted to have done a much broader study that would give us a much better understanding of what those concentrations..."

Carr, interrupting again: "Where'd the idea come from in the first place to test for silica?"

Allen: "Because the public brought it up, ah, OSHA came up with a brand new standard of that 50 micrograms and members of the public were coming to our board saying, well, you know — the concentrations that we're breathing down there, if there's a majority of it is crystalline silica we're probably exceeding even the OSHA standard. And so we agreed to take a few samples out there. We weren't hiding any data."

Carr: "So I hope this is the last we hear about silica."

Allen: "Well, you know it's a red herring and I'm kind of disappointed it's even mentioned in the, ah, abatement order, in the proposed abatement order because it's really, it has no bearing whatsoever."

Allen's red herring comment contrasts starkly with the many previous warnings given by the APCD regarding silica dust.

In 2018, State Parks entered into a stipulated order of abatement with the APCD. The order mandates that the state reduce wind-blown dust, specifically dust particles that are 10 microns or less in

diameter, on the Nipomo Mesa by 50 percent. Despite agreeing to the various terms in the order, State Parks still denied that off-roading causes the dust on the mesa.

Meanwhile, the APCD quietly continued its quest to find silica dust in the air on the mesa that could be tied to the Oceano Dunes. In 2018 and 2019, APCD staffers collected multiple air filter samples at their CDF air monitoring station for silica analysis. However, they again came up empty-handed. “None of the 26 samples exceeded the Occupational Safety and Health Administration (OSHA) 8-hour workplace health-based standard for respirable crystalline silica. An estimate of the 2018 annual average silica concentration does not exceed the California chronic Reference Exposure Level,” according to APCD’s 2019 report on the testing.



### **State Parks Director Lisa Mangat**

Over the past 10 years, the state has spent more than \$15 million in taxpayer revenue to reduce dust concentrations on the mesa. State Parks covered approximately 200 acres of dune sand with hay, vegetation or orange plastic fencing.

Additional dune-covering projects are anticipated in the coming months and years, under the disputed theory that the obstructions will help reduce dust produced by the blowing sand.

State Parks has little to show for the money spent. In March, the state temporarily closed the Oceano Dunes to vehicle recreation because of the coronavirus.

During May, the windiest month of the year, [excessive dust days more than doubled](#) with no off-road vehicles on the Oceano Dunes, data from two Nipomo Mesa air quality monitoring sites show.

In January, State Parks Director Lisa Mangat shut down approximately half of the camping area, and about 5 percent of the riding area at the Oceano Dunes, or approximately 50 acres near the shoreline to reduce sand blowing on the mesa. The area was popular with campers, and provided 50 percent of the park’s camping availability.

A 2017 study showed visitors to Oceano Dunes Recreational Area spent more than \$200 million a year in the county. It has not yet been determined what economic losses the county will incur because of the closures.

Even though the APCD’s silica fallacy has been refuted, the California Coastal Commission continues to find that off-road vehicle recreation is responsible for sand blowing two to four miles away on the Nipomo Mesa, based on APCD reports.

On July 9, the California Coastal Commission deputy director will report on restrictions to off-road vehicle use on the Oceano Dunes, which were allegedly implemented to protect the health of Nipomo Mesa residents.

*This article first appeared in the June 29, 2020 Cal Coast News. Karen Veile is an investigative reporter who exposed corruption in both government and private business for over a decade. Subjects have included real estate financing scams, corruption at the SLO County Integrated Management Authority, cover-ups at the SLO County Air Pollution Control District, and irate and bullying behavior by County Supervisor Adam Hill. The progressive left and local courthouse gang have attacked her through lawsuits and the left media*



## **PROGRESSIVE LAWMAKERS DECRY RACISM, BUT THEIR POLICIES DEVASTATE PEOPLE OF COLOR**

**BY LEE OHANIAN**

California politicians are promising to address racism with new policies, including a potential state constitutional amendment, ACA 5, that would restore racial, ethnic, and gender-based preferential hiring and college admissions. As one lawmaker remarked, “It is time to eliminate the systemic racism that permeates our society. We will not stand for anything less.”

But at least some of the politicians who are promising to address racism are the same ones who are responsible for the reasons so many Californians—particularly Blacks—struggle economically, decade after decade. These politicians must know by now that their policies, which reduce economic opportunities, increase living costs, and perpetuate a failed K–12 education system, have imposed substantial and disproportionate harm on Blacks, Hispanics, and women. But they continue doubling down on this failed agenda by passing new laws and imposing new regulations that make Black lives—and the lives of many more Californians—much worse off.

Many in the country now blame racism as the central cause of Black economic and social struggles. But in California, economic policies that cater to a small number of political elites are the key factor oppressing people of color. California is perhaps the worst state in the country in terms of economic well-being for Blacks, because the cost of living overwhelms the benefits of even the highest-paying jobs in the state.

To see this, I first note that Blacks living in coastal California, the location of California’s highest-paying jobs, do earn incomes ranging from 20 percent to nearly 50 percent higher on average than Blacks in the rest of the country. So far so good, yes? But California’s extraordinarily high cost of living swamps these higher nominal incomes to the point that many families are immiserated and struggle to make ends meet.

For example, after adjusting for cost-of-living differences, real median household income for Blacks living in Los Angeles is 32 percent below the national median for Black households. And it is even worse in San Francisco, where the real median household income for Blacks is 45 percent below the national average.

To put this in perspective, salaries are among the lowest in the country in Mississippi, yet Black median household incomes in Jackson are 11 percent above the national median after adjusting for Mississippi's much lower cost of living.

Housing costs are the major factor in depressing California living standards. The median-priced home in San Francisco is over \$1.6 million. Less than five percent of Black households living in San Francisco can afford that home. In contrast, 55 percent of Black households can afford the median-priced home in the rest of the country.

For those who identify bigotry as the key factor driving today's different racial economic and social outcomes, think about this statistic for a moment; 55 percent housing affordability nationwide for Blacks, versus five percent affordability in San Francisco, one of the most economically vibrant—and politically liberal—cities in the country.

This is not overt bigotry and prejudice at work. San Francisco was never the home of Jim Crow, but it is the home of ridiculously stringent regulatory policies that prevent new housing from being created. For example, if a planned apartment building in San Francisco will likely block the sun on a neighboring property, then don't even try to get a building permit. No go. Similarly, suppose you fancy developing your decrepit, 1970s-era downtown San Francisco laundromat into new housing. Think again, because your eyesore washeteria will almost certainly be petitioned by neighborhood community activist groups to be historically preserved in order to fight gentrification, thus blocking your development.

Every Bay Area property owner knows that you had better be prepared to spend millions in legal fees and several years of your time fighting for the right to use your property to put a roof over people's heads. The above regulations are just two of the comedy-skit-equivalent restrictions that plague Bay Area housing, where the cost one pays to rent a small bedroom in a crowded home with several other tenants is about equal to a full mortgage payment on a new home in most of the rest of the country.

Many Black families in California are indeed economically oppressed by housing costs. But this oppression is not the "racist roots of capitalism," as the *New York Times* 1619 Project wants you to believe. What is going on in San Francisco is the antithesis of capitalism. Rather, this oppression is blatant non-market-based economic policies created by politicians who are delighted to be part of an anti-racism press conference or photo op in the morning while shutting down new housing proposals in the afternoon.

The failure to build housing is a failure of governance, pure and simple. And this failure is not the consequence of battling political parties. California's Democratic party has a comfortable supermajority in both the Senate and the Assembly, yet these lawmakers refuse to pass legislation that reduces regulatory barriers and expands housing supply.

Many housing-reform bills have been advanced in the past several years, but they never get enough votes. Most Democratic lawmakers refuse to support these because they would be going against some very powerful political supporters, who either do not want to expand housing or who hold up development in order to funnel some of its economic value to politically important interest and advocacy groups. These range from unions that benefit by being hired onto a construction project to existing businesses that do not want to face new competition and neighborhood activists who demand that developers pay for pet projects.

California legislators have doubled down on the economic pain of over-the-top housing costs by passing legislation last year that disproportionately hurt people of color and women by making it illegal to be self-employed, unless the person's occupation happens to be in a politically protected classification, such as a physician or attorney. Independent contractors who have lost their livelihoods because of this new law, AB 5, have inundated their representatives with correspondence to abandon it, as has the California Black Small Business Association.

California's progressive legislators are busy writing legislative proposals to address racism, ranging from providing reparations to the descendants of slavery living in California to limiting felony probation to no more than two years. But no Democratic lawmaker has offered to abandon AB 5. In fact, the latest state budget proposal, which is supposed to address a \$54 billion budget deficit, includes \$22 million in funding to enforce the law that prevents people from engaging in what is otherwise legal work.

Who is particularly harmed by this law? People of color. In the Bay Area, nearly 80 percent of gig workers—the group that was originally targeted by the law—are people of color, and more than half of gig workers are immigrants. Racism? How could it not be? And this racism is created by the most progressive lawmakers in the state. <https://sg.news.yahoo.com/gig-workers-san-francisco-mostly-164540059.html>

Why won't Democrat legislators roll back AB 5? Because by trying to force independent contractors into formal employer-employee relationships, unions—which are perhaps the most important political supporters for many Democratic state and local lawmakers—have new employees to potentially organize into collective-bargaining units. And now that the country is deeply engaged in soul searching about old racial wounds, let's not forget that trade unions—the potential beneficiaries of AB 5—were among the most racist institutions of the 20th century.

But the most insidious racism among California politicians is in K–12 education. Less than five percent of California's Black students are in a high performing school.

Many Black students are woefully unprepared for postsecondary education, because they attend horribly deficient K–12 schools. What to do? Much research shows that school performance could improve substantially if common-sense reforms were made to teachers' union agreements, including the time to teacher tenure, the ability for a school to fire teachers for cause, and the introduction of merit-based pay. Very different studies show that simple modifications could improve student lifetime earnings enormously.

Several of the authors of these studies provided expert witness testimony in a lawsuit brought by nine California schoolchildren. This lawsuit was led by Beatriz and Elizabeth Vergara, who, along with seven other children, filed an equal-protection lawsuit against the State of California, arguing that their constitutional rights were being violated because of the awful education that they were receiving. These exceptionally bright students—almost all are students of color—took their education in their own hands because no one in the state’s K–12 school system would.

Now, the state could have faced this lawsuit by treating it as an opportunity to systematically address California’s educational shortcomings, particularly in schools primarily attended by children of color. This opportunity could have opened the door to implementing politically sensitive school and union reforms that virtually all experts view as required. But the state chose to fight its own students while having the backs of their politically important teachers’ unions.

The trial judge ruled in favor of the plaintiffs on all counts. His decision, which focuses on the disparate impact of badly performing schools on Blacks and Hispanics, emphasizes that the expert findings were not only compelling but that they “shock the conscience.” Let that soak in for a minute, because we are dealing with kids here, most of whom have no other educational options.

One of the experts found that spending one academic year with a poorly performing teacher was equivalent to losing about 9.5 months of satisfactory education. Note that a school year is about 9 months. According to this research, having a bad teacher for a year is worse than having no teacher at all.

The trial judge’s decision struck down teacher tenure and dismissal rules. You are now thinking that perhaps the state should have worked cooperatively to improve their very own schools rather than losing at trial, yes? And that this decision should have been a wake-up call for much-needed reforms, yes?

Wrong. In what is perhaps the most ironic of all this year’s political campaigns, then California attorney general Kamala Harris, who is now considered a frontrunner to be Joe Biden’s running mate, and who argued so passionately during her presidential candidacy about public education and minorities and failed schools, appealed the decision, just two days after it was announced.

The state’s progressives decided to fight its own children yet again, including children of color—more than 4.5 million—many of whom receive deficient educations. Ironically, no one in the original trial, including the experts on behalf of the state, claimed that minority children were not being significantly damaged by attending bad schools. Nor did the Court of Appeals, which agreed that harm was being done but claimed that the lawsuit did not merit an equal-protection argument because school administrators—not the tenure and teacher dismissal statutes—determine where badly performing teachers are placed.

What the Court of Appeals failed to see is that the original experts, including school principals, showed that bad teachers are invariably sent to poor districts with disproportionate minority student populations. Put differently, the worst teachers don’t magically find their way into teaching in Beverly Hills. Since the teachers can’t be fired, administrators must place them somewhere in their districts,

and the worst teachers are transferred to districts with overwhelmingly poor families. Yet again, progressive politicians failed people of color and their children.

It has been six years since the Vergara lawsuit, and nothing has changed. But it is much worse than that. In 2018, two Democrats faced off in the election for school superintendent. One candidate, then Assembly member Tony Thurmond, was the status quo candidate, hand-picked by the state Democratic party, and with 100 percent teachers' union backing.

The other Democratic candidate, Marshall Tuck, was a school reform candidate, who believed that modest changes to teacher tenure and compensation policies, including introducing merit-based pay, would improve schools substantially. But at the state's 2018 Democratic convention, Tuck was not even allowed to speak. His convention presentation, where he had planned to describe his reforms and why they would help children from poor families, was drowned out by a well-orchestrated chorus of boos. This is the state's progressive political agenda. And it stinks, no matter what you call it.

As the country confronts difficult issues associated with a complex past, it is fundamental that we focus on solutions for our collective future. Reforming institutions and creating policies that are fair, equal, and efficient is what everyone should demand from their representatives.

But the history of progressive politics in California is anything but this. And unless this inconvenient progressive history is recognized, then trusting voters will continue down this stained path, voting for more progressives and dooming more generations of people of color and their children to futures that could have been so much brighter.

*This article first appeared in the Stanford University Hoover Institution California on your Mind of June 30, 2020. Lee E. Ohanian is a senior fellow at the Hoover Institution and a professor of economics and director of the Ettinger Family Program in Macroeconomic Research at the University of California, Los Angeles (UCLA). He is associate director of the Center for the Advanced Study in Economic Efficiency at Arizona State University and a research associate at the National Bureau of Economic Research, where he codirects the research initiative Macroeconomics across Time and Space. He is also a fellow in the Society for the Advancement of Economic Theory.*

*His research focuses on economic crises, economic growth, and the impact of public policy on the economy. Ohanian is coeditor of [Government Policies and Delayed Economic Recovery](#) (Hoover Institution Press, 2012). He is an adviser to the Federal Reserve Banks of Minneapolis and St. Louis, has previously advised other Federal Reserve banks, foreign central banks, and the National Science Foundation, and has testified to national and state legislative committees on economic policy. He is on the editorial boards of *Econometrica* and *Macroeconomic Dynamics*. He is a frequent media commentator and writes for the *Wall Street Journal*, *Forbes*, and *Investor's Business Daily*. He has won numerous teaching awards at UCLA and the University of Rochester.*



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## **ANNOUNCEMENTS**

### **HOME WORK**

### **SAVE PROP. 13**

**PLEASE COPY, SIGN, AND, SEND IN THE PETITION  
BELOW ON THE NEXT PAGE**



**PLEASE PRINT, SIGN AND MAIL THIS PETITION TO:**

Howard Jarvis Taxpayers Association  
Attn: Director of Member Services, Dept. 202006  
P.O. Box 14230  
Orange, CA 92863-1230



**HOWARD JARVIS TAXPAYERS ASSOCIATION**

OFFICIAL PETITION

**To: My Assembly Member  
And the entire California State Assembly**

*Whereas* Assembly Constitutional Amendment 1 (ACA 1) creates dozens of exceptions to Proposition 13's two-thirds vote protection, which would cost taxpayers billions in the coming years, including Parcel Taxes and Bond Debt that puts the security of home ownership at risk;

*Now Therefore I hereby exercise my right of Petition*, urging you to **VOTE NO** on ACA 1 or any Constitutional Amendment that would weaken Proposition 13.

Print Name: \_\_\_\_\_

Signed: \_\_\_\_\_ Date Signed: \_\_\_\_\_

One of hundreds of thousands of Members and Supporters of the Howard Jarvis Taxpayers Association

*Please do not remove the section below. The form will be detached before petitions are released to the State Assembly.*

**Dear HJTA President Jon Coupal:**

**Yes**, I'm returning my signed Petition to you so you can compile the thousands you receive and deliver them to my Assembly Member and the entire State Assembly. To help HJTA fight ACA 1 and ALL threats to Prop. 13, I am also enclosing a special donation of:

\$25    \$15    Other \$ \_\_\_\_\_

First, Last Name: \_\_\_\_\_

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City, State ZIP: \_\_\_\_\_

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My check is enclosed, payable to Howard Jarvis Taxpayers Association or HJTA.

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Name on Card: \_\_\_\_\_

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# ALERT

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AUTHOR & NATIONALLY SYNDICATED COMMENTATOR BEN SHAPIRO APPEARED AT  
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## MEMBERSHIP APPLICATION

### MEMBERSHIP OPTIONS:

General Member: \$100 – \$249  \$ \_\_\_\_\_ Voting Member: \$250 - \$5,000  \$ \_\_\_\_\_

Sustaining Member: \$5,000 +  \$ \_\_\_\_\_

*(Sustaining Membership includes a table of 10 at the Annual Fundraiser Dinner)*

General members will receive all COLAB updates and newsletters. Voting privileges are limited to Voting Members and Sustainable Members with one vote per membership.

### MEMBER INFORMATION:

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Company: \_\_\_\_\_

Address: \_\_\_\_\_

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### NON MEMBER DONATION/CONTRIBUTION OPTION:

For those who choose not to join as a member but would like to support COLAB via a contribution/donation.  
I would like to contribute \$ \_\_\_\_\_ to COLAB and my check or credit card information is enclosed/provided.

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Memberships and donation will be kept confidential if that is your preference.  
Confidential Donation/Contribution/Membership

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(Revised 2/2017)