



WEEKLY UPDATE FEBRUARY 7 - 13, 2021

THIS WEEK

BOS MEETING FEBRUARY 9TH

MORE PLANNING STAFF TO EXPEDITE DIABLO CLOSURE
ALLOCATION OF HOUSING FUNDS – LACKS UNIT COST DATA
BIG LAWSUIT ON WOMENS'S JAIL PROJECT – AMOUNT IN DISPUTE HIDDEN
LAST WEEK COVID WAS WORSE – BUSINESSES STRUGGLING
MAJOR WATER SUPPLY POLICY – MORE FLEXIBILITY BUT IS IT A TRICK?
LATE HIT POORLY CRAFTED CANNABIS APPEAL NEAR SAN MIGUEL

INTEGRATED WASTE MANAGEMENT AUTHORITY
POLYSTYRENE BAN BACK FOR CONSIDERATION

PLANNING COMMISSION
NON-STOREFRONT CANNABIS DISPENSRY IN NIPOMO

LAST WEEK

BOS MEETING COMPLETED

IMPORTANT POLICY CHANGE NEEDED – ROADS STILL UNDERFUNDED

COVID STATUS – PUSH REOPENING OF LOCAL BUSINESS
COUNTY DOING GOOD JOB ON VACCINATIONS – NEEDS MORE DOSES

SLOCOG – HWY 1 REOPENING PROBLEMS

COLAB IN DEPTH

SEE PAGE 15

STOP WORRYING ABOUT THE WRONG PEOPLE GETTING VACCINATED

BY NOAH ROTHMAN

THE GOVERNOR WHO WOULD BE KING

BY LEE OHANIAN

THIS WEEK'S HIGHLIGHTS

Board of Supervisors Meeting of Tuesday, January 9, 2021 (Scheduled)

Item 10 - Addition of 2 New Senior Level Planners to Process PG&E's application to decommission the Diablo Nuclear Power Plant. The Board letter summarizes the request as:

Pacific Gas and Electric (PG&E) intends to submit land use permit applications for the decommissioning of the Diablo Canyon Nuclear Power Plant by the end of the first quarter of 2021. To assist the County of San Luis Obispo Department of Planning and Building (Department) Nuclear Power Plant Decommissioning Manager, who was hired in December 2020, in the decommissioning permitting effort, additional staffing is necessary. Specifically, the project requires a 1.00 FTE Principal Environmental Specialist and a 1.00 FTE Senior Planner. Both are proposed as three-year limited-term positions to cover the duration of the environmental review and project permitting. Due to the complexities of the project and community interest, experienced staff are needed who can master the technical aspects as well as policy considerations associated with the project.

The County has already approved and funded the boss, the "Decommissioning Manager" for the project.

FY 2020-2021 Estimated Expense for 6 Months					
Classification	FTE	Salary	Benefits	Total	Step Estimate
Principal Environmental Specialist, Limited-Term	1.0	\$14,539	\$8,734	\$23,274	Step 1 for 2 Months
Senior Planner, Limited-Term	1.0	\$13,440	\$8,451	\$21,891	Step 1 for 2 Months
Net Change FY 2020-21	2.0	\$27,979	\$17,185	\$45,161	
FY 2021-2022 Estimated Annual Expense					
Classification	FTE	Salary	Benefits	Total	Step Estimate
Principal Environmental Specialist, Limited-Term	1.0	\$90,147	\$53,574	\$143,721	Step 1 for 4 Months / Step 2 for 8 Months
Senior Planner, Limited-Term	1.0	\$83,332	\$51,778	\$135,110	Step 1 for 4 Months / Step 2 for 8 Months
Net Change FY 2021-22	2.0	\$173,479	\$105,352	\$278,831	
Estimated Annual Expense at Maximum Step (Step 5 of 5)					
Principal Environmental Specialist, Limited-Term	1.0	\$106,068	\$60,199	\$166,237	Step 5 for 12 Months
Senior Planner, Limited-Term	1.0	\$98,030	\$58,224	\$156,254	Step 5 for 12 Months
Net Change at Max Step	2.0	\$204,068	\$118,423	\$322,491	

Next they will need clericals to support the professionals, more IT support, and experts to set up all the community and agency meetings.

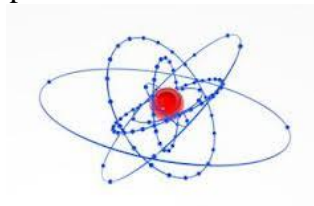
PG&E will cover the cost as part of the fees it must pay. This will be the largest permitting application in the history of the County since the original application for construction of the plant. Of course, the regulations and levels of analysis have exponentially increased since 1980's when the plant was first approved. Moreover, this application will cover the removal, storage, and ultimate disposal of radioactive material.

Key issues include the reuse of the actual site of the plant as well as thousands of acres owned by PG&E and affiliated owners. The enviro groups wish to convert the entire area into a passive nature zone with no economic activities.

There will be a massive environmental impact report (EIR) which must deal with local and regional impacts of the closure and dismantling operation. Since the plant forestalls 8 million metric tonnes of CO₂ generation each year, which will have to be replaced mostly by natural gas, what if the preferred alternative is to maintain the plant open? Will a future Board overrule a class one CEQA finding that would deny the project on the grounds that closure would result in 8 million new metric tonnes of CO₂ being spewed into California's atmosphere?

It might be worthwhile to assess this situation as a separate pre-project before launching the whole thing and wasting millions of dollars. Where will all the power come from for the mandatory electric vehicles?

It is too bad that the County did not create a project team in 2010 to assist PG&E with relicensing instead of throwing up barriers every step of the way. You get what the dumb, brainwashed boomers voted for. Your children and grandkids will suffer accordingly. Meanwhile, we have the highest electrical rates in the nation and supply problems to boot.



What if these guys' shamans had banned fire? You know, "the toddlers could get burned around the campfire fires" and "the fires could smoke up the cave and suffocate us."



The whole episode is a shameful and dumb policy. The progressive left is driving us to societal suicide.

Item 11 - Request to reserve \$1,348,831 in federal Housing and Urban Development funds and \$265,250 in County Inclusionary Housing In-lieu Fee (Title 29) funds for four affordable housing projects. The projects may be all right in so far as they go to provide some housing units with supposedly below market rents. Unfortunately, the Board letter does not provide the projected rent rates. Nor do the attachments provide the per month maintenance per unit and operating costs of the not-for-profit landlords. Thus, the Board of Supervisors actually has no idea of the real benefits or cost effectiveness of the projects.

Similarly, what will be the income limits by family size and unit size required of the projects. How will the tenants be selected?

In other words, what is the taxpayer's bang for the buck? The write-up only shows the Federal and county subsidies to the project. What are the total costs, and most importantly what are the per unit costs for each project all in? How can the Board judge the overall effectiveness without this fundamental data?

Table 1: 2021 Reservation Letter Projects

Project	HOME	CDBG	Title 29	Total Allocation
Woodland Plaza – 79 Senior Units (Paso Robles Housing Authority)	\$455,000	N/A	N/A	\$455,000
Toscano Family Apartments – 38 Units (Housing Authority San Luis Obispo)	N/A	\$333,506 City SLO \$479,196 County	\$142,396	\$955,098
Morro Bay Family Apartments – 35 Units (Housing Authority San Luis Obispo)	N/A	\$81,129 City MB	\$7,216	\$88,345
Pismo Terrace – 50 family and special needs Units (People's Self-Help Housing)	N/A	N/A	\$115,638	\$115,638
Total	\$455,000	\$893,831	\$265,250	\$1,614,081

Item 14 - More Cost Overruns in the Women's Jail Project. The project has been troubled almost from the start. There have been successive rounds of cost overruns. Now to frost the cake, the main contractor is suing the county in a dispute over change orders and costs.

Contract close-out with the contractor, Roebbelen Construction, Inc., is ongoing due to construction claims filed by the contractor. The contractor has filed formal litigation against the County and involved several subcontractors and consultants. The case has been designated as a complex case by the court due to the multiple parties and counterclaims involved. County Counsel provides legal assistance to the Department of Public Works in the management and execution of its Capital Projects program, including the Women's Jail Expansion project. County Counsel and Public Works retained outside counsel and technical experts early in the claims process to assist in managing the litigation process, as well as analyze the claims in order to support the County's legal defense.

Sheriff – Women’s Jail Expansion
Contract No. 300034

Table #1

Project Costs			
Costs			
Component	Est. Cost Dec. 2013	Current Budget	Expenses through June 2020
Construction Housing/Medical	\$29,721,565	\$31,570,217	\$31,046,142
Construction Electronic Security/Property Storage	1,910,018	1,877,327	1,876,427
Architectural & Design	3,619,222	3,547,524	3,501,149
CEQA Biological, Environmental Consultant SWPPP Construction Inspector	477,339	234,566	234,087
Construction Management Construction Manager Inspector of Record Testing & Special Inspection Commissioning	3,275,325	5,681,602	5,682,585
County Administration	1,691,317	2,917,738	3,297,913
Total Project Budget	\$40,694,786	\$45,828,974	\$45,638,303

Now the staff is requesting a new \$952,000 to cover costs of outside expert counsel to help defend the County. Significantly the write-up does not inform the public of the amount in dispute or the items in dispute. The Board may be party to this data from closed session, but there is no reason to hide it from the public as its disclosure would not jeopardize the County’s litigation position or strategy.

Table #2

Sources of Funding			
Funding			
	State Funding	County Funding	Proposed Authorized Funding
State - AB 900	\$25,125,630		\$25,125,630
County - Detention Facilities Reserve		7,000,000	7,000,000
County - Criminal Justice Facility Const. Reserve		4,421,504	4,421,504
County - Facility Planning Reserve		3,656,652	3,656,652
County - General Fund		694,000	694,000
County - Contingency		300,000	1,252,000
County - General Building Replacement Fund		400,000	400,000
County - Prop 172 Solar		3,050,000	3,050,000
County - Capital Project Savings		1,181,188	1,181,188
Total Project Funding	\$25,125,630	\$20,703,344	\$46,780,974

The County ended up in a dispute with one of the major subcontractors on the Los Osos Sewer treatment plant and wound up settling for \$10 million. Similarly, it settled for \$5 million over the Andrew Holland’s jail death in a restraint chair at the County Jail on January 22, 2017.

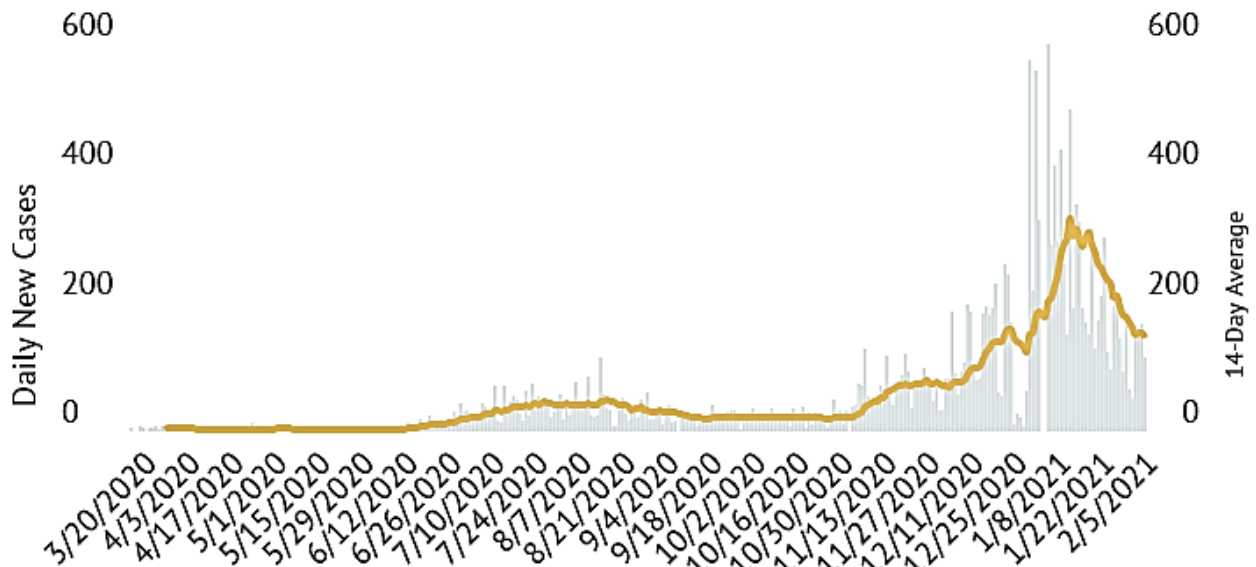
Wow! The write-up refers to the nearly \$1 million requested as a “budget adjustment.” A million here, a million there, and as is pointed out in last week’s **Item 10**, below, there is insufficient funding to prevent the County road system from deteriorating.

We have never heard of any accountability of any County executives or managers for any of these or other mistakes.



Item 19 - COVID Status.

Daily New Cases (and 14-Day Average)



Why do cases seem to have dipped and then spiked in recent days? (12/29/20) The State recently started a new process to rapidly assign suspected cases to a jurisdiction. Those cases must then be inspected at the local level and

reclassified as a confirmed case by a local health official to ensure the accuracy of local data. This new process causes a slight backlog of the number of new confirmed cases reported locally, creating an artificial lull. We are working to correct the issue, but we may see a backlog for a week or so. Regardless, COVID-19 transmission is surging in SLO County and everyone should be taking extra precautions to stop the surge.

45 (9 ICU)**

SLO County Residents with COVID-19 in Hospital

Item 22 - Submittal of a request to 1) approve the recommended allocations for the California Emergency Solutions Grant (Round-2) funding in the amount of \$5,522,401 and 2) authorize the Director of the Department of Social Services, or his designee, to enter into contracts and made amendments needed in order to carry out the program. This is the latest round of state funding for the homeless related to COVID. The County passes most of the money through to not-for-profit homeless contractors and rakes off some for its own administrative expenses. The Homeless Services Oversight Council or HSOC administers a competitive process for awarding grants. The table provides a snapshot of the types of programs funded.

Table 3: HSOC Recommendations for CA ESG-CV2

Program	Recommended Amount	Key Activities
Transitional Food and Shelter	\$ 125,400	Non-congregate shelter for medically fragile homeless persons
Salvation Army	\$ 1,597,373	\$1,577,793 to serve up to 124 households with Rapid Rehousing assistance for up to six months
Transitions Mental Health Association (TMHA)	\$ 20,000	Temporary, non-congregate shelter and supportive services for homeless clients of TMHA
RISE	\$ 13,000	Emergency shelter services for households fleeing from domestic violence
Stand Strong	\$ 20,000	Mental health services and shelter costs for households fleeing from domestic violence
CAPSLO/ECHO/5CHC Collaborative application	\$ 2,751,155	\$2,010,299 to serve up to 77 households with Rapid Rehousing assistance for up to one year; \$565,780 to provide street outreach services
Subtotal	\$ 4,526,928	
County Emergency Operations Center	\$ 395,000	Costs related to preventing, preparing for and responding to COVID-19 among persons experiencing homelessness
County administrative costs	\$ 100,473	
Total	\$ 5,022,401	

Approving the recommendations will result in the following outcomes by the end of the grant term:

- At least 201 households will receive Rapid Rehousing assistance,
- At least 225 persons will receive temporary emergency shelter, and
- Street outreach programs will make at least 860 contacts with unsheltered homeless persons.

In the big picture, this process is only one part of a much larger set of past, current, and future grants which have been generated under the rubric of COVID impacts on the homeless. All in and by the end of this year, it is expected that the County will have received \$33.4 million for COVID related homeless assistance. Imagine if this amount could have been used to leverage other private and public

dollars to create real solutions, such as homeless RV campgrounds, a homeless mobile home park, homeless tiny home parks, and single room occupancy housing.

Instead it is being used to fund services which although humane, are not permanent solutions. When the COVID musical chairs grants end, we will be back to ground zero. At that point there will be huge pressure from the progressive left to make the extra ordinary funding permanent. Never let a crisis go to waste.

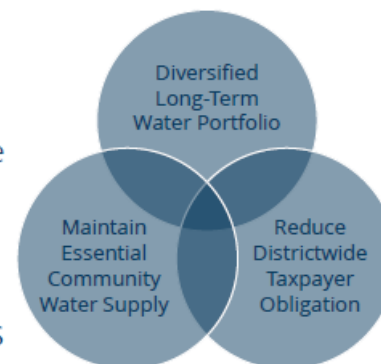
Item 23 - A Complicated and Perhaps Bamboozling Recommendation Related to Water Supply in the County. The Board is being presented with a proposed revision of its long-standing supply contract with the State Department of Water Resources (DWR). The benefit seems to be that the new contract adds flexibility that allows the County and member jurisdictions to sell surplus water to outside entities in some years and buy water in others. The table below demonstrates the history of how water in good years had to be spilled from the San Luis Reservoir because there was no mechanism to sell it or bank it somewhere else.

Greater Ability to Move Water Prior to Spills

Year	Annual Allocation %	Stored Water Lost to San Luis Reservoir Spill (AF)	Water Lost Due to Storage Limits (AF)	Total Water Lost to Spill or Storage Limits (AF)
2007	60	12,500	None	12,500
2010	50	No Spill	2,201	2,201
2011	80	6,009	4,160	10,169
2012	65	No Spill	3,139	3,139
2017	85	15,267	6,487	21,754
2019	85	18,639	3,719	22,358
TOTAL		52,415	19,706	72,121

Water Management Amendment

- Greater water management flexibility
 - Single and Multi-Year Transfers
 - Allowed to be a buyer and seller in the same year
 - Ability to transfer stored water
- More opportunities for cost recovery
- Would not be obligated to use the tools
 - Specific use would be future Board action



The text below illustrates some of the flavor of the complexity of the issue.

For example, this will give the District the options to transfer a portion of its Project water that is not anticipated to be needed and/or would otherwise be subject to storage limitations using a single or multi-year sales contract (similar to the District's participation with Central Coast Water Authority's (CCWA) Water Reliability Program in 2008-09, and with DWR's Multi-Year Pool Program 2013-14; the programs recovered \$6.6M) and recover a greater portion of the fixed annual costs. Additionally, the District would not be restricted in this scenario from simultaneously retaining a part of its wet year Project allocation from DWR to maximize deliveries to the Subcontractors in future dry years. For example, 72,000 acre-feet of water was available to the District between 2007 and 2019 but lost due to lack of storage or opportunities to transfer the water. If the WM Amendment were in effect, and the District had policies and other approvals in place to utilize the tools of the Amendment, transfers like the 2008-09 program rate of \$160 per acre-foot would have recovered a total of approximately \$11.52M. Furthermore, the WM Amendment resolves the issue that road blocked the 2016 effort to complete a District-CCWA exchange at San Luis Reservoir aimed at addressing critical drought contingency supply needs for both Zone 3 of south San Luis Obispo County and various parts of Santa Barbara County.

The Final EIR determined that the WM Amendment would have significant and unavoidable impacts to groundwater hydrology and water quality, and cumulatively considerable and unavoidable impacts to groundwater supplies and subsidence. Because the FEIR is programmatic and does not evaluate specific uses of the tools, it includes both the possibility that transfers and exchanges of Project water among the Contractors could result in benefits to groundwater levels and/or an increase in groundwater pumping resulting in a net deficit in aquifer volume or lowering the local groundwater table in some areas of the study area. This would seem to mean in the vast areas of the State served by the State Water Project.

To see the actual contract, click on the link below. The text describes under what circumstances and the calculation methods for buying and selling unused water.

<https://agenda.slocounty.ca.gov/iip/sanluisobispo/file/getfile/129629>

The text seems to say that it is real water and not certificates. However, if the County water agency, a city, or a water district has surplus stored water somewhere in the State system, could it sell it as a credit to a developer in Temecula or somewhere for purposes of meeting water supply requirements for a permit. Is it then possible that in a bad (dry) year, when the supplier to the development needed the water and sent it forward, the County and/or other water purveyors within the county would have to use other (perhaps ground water?) and/or forego some of its own needed supply? Would this be tantamount to virtual water exporting?

One must ask, what are the downsides and/or risks. Why should the DWR and other power players in the California water world agree to amend this and similar contracts all over the state all of sudden in 2021? The power guys have sheered the sheep before. Something is up.

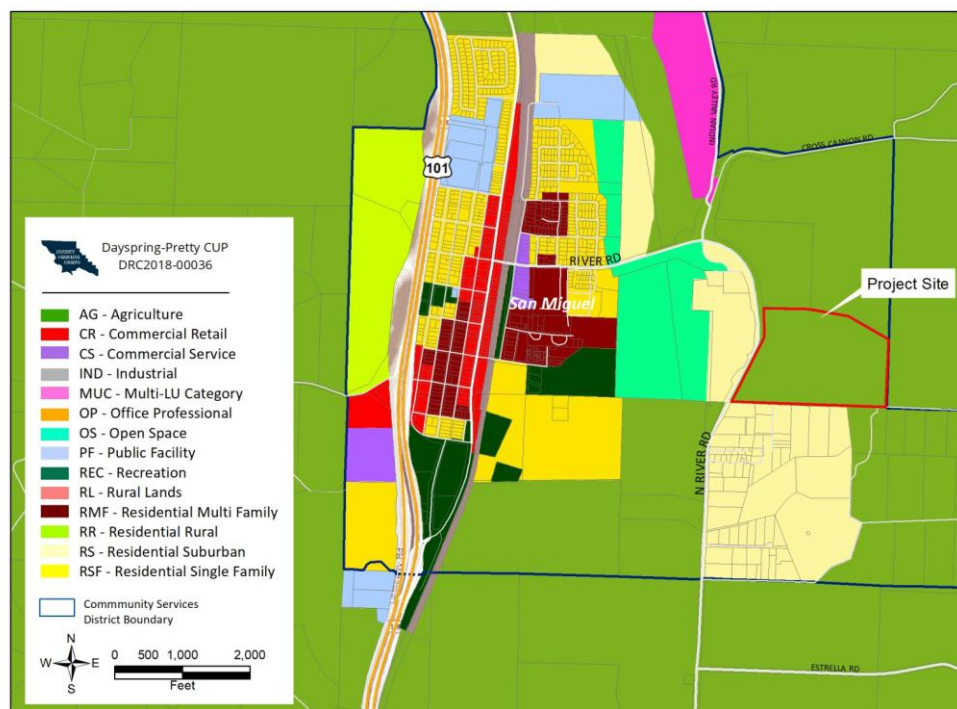


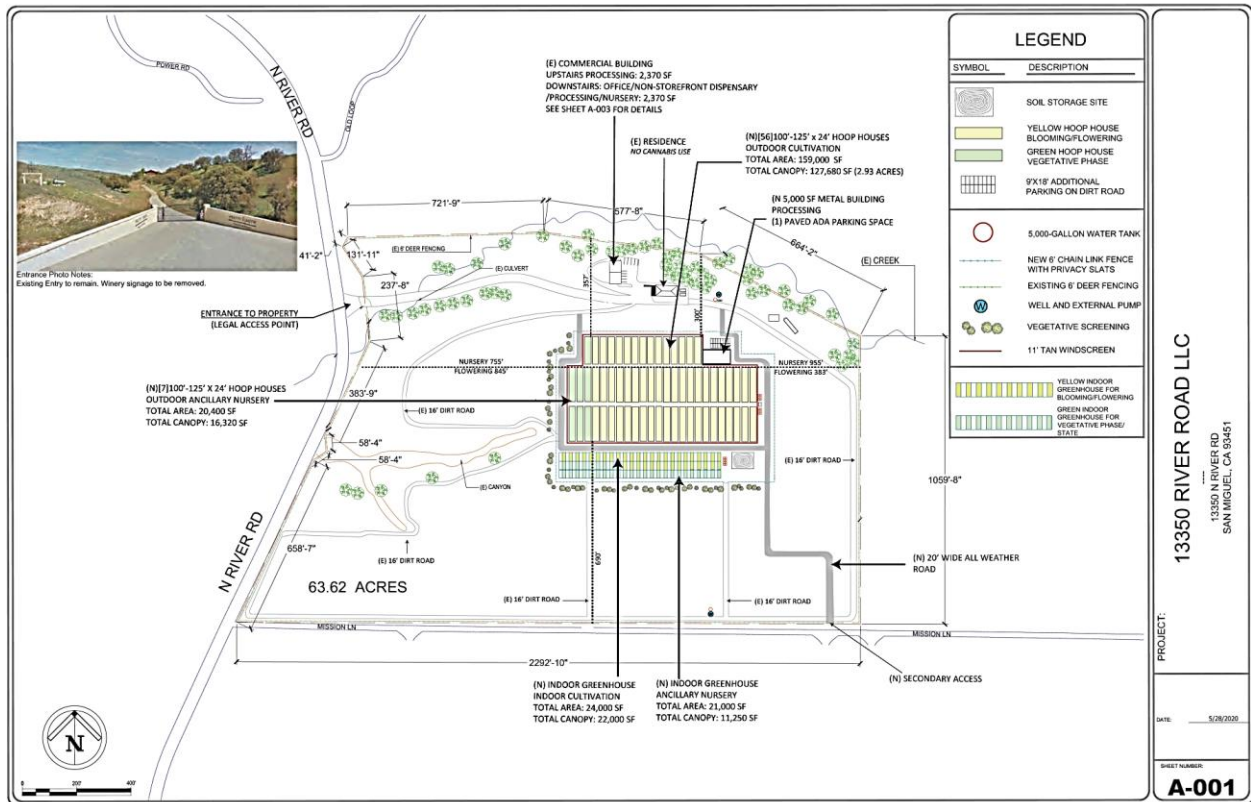
Matters After 1:30 PM

Item 25 - Hearing to consider an appeal (APPL2019-00019) by Kenneth Cottrell and Stephanie Shakofsky of the Planning Commission's approval of a request by 13350 River Road LLC (formerly Helios Dayspring) for a Conditional Use Permit (DRC2018-00036) to establish up to three acres of outdoor cannabis cultivation, up to 22,000 square feet of indoor mixed-light cannabis cultivation, up to 27,570 square feet of ancillary cannabis nursery, and operation of a non-storefront dispensary at 13350 River Road, east of the community of San Miguel. Former San Francisco resident, carpetbagger, and losing 1st District Supervisor candidate Stephanie Shakofsky has filed a sloppy appeal. The permit application is for a 3-acre operation with outdoor and indoor cannabis grows on land which had formerly been a vineyard. The applicant had been attempting to obtain the permit over 4 years and finally received the approval of the Planning Commission.

The appeal is technically defective in several regards, and staff strongly recommends denial of the appeal and approval of the project. There are several residential subdivisions in the vicinity where residents have voiced opposition. Their problem is that the proposed project meets the County's zoning requirements. They are worried about odor, traffic, stray light, and water consumption.

Denial of the project at this point would require the Board to make substantive findings (reasons) for the denial. This would be difficult under the circumstances after all the vetting to which the project has been subjected.





Integrated Waste Management Authority Meeting of Wednesday, February 10, 2021 (Scheduled)

Item 10 - Ordinance No. 2019-1 An Ordinance Regulating Polystyrene and Expanded Polystyrene (Eps) Food Containers and Products. The proposed ordinance is back for consideration. It had been proposed last year but was tabled due to COVID. Rational folks said: “Wait a minute, we need polystyrene containers for take-out food during the pandemic.” The pandemic is still here, and the State Legislature is working on a state-wide ban. Moreover, the staff is heavily tasked working on a new State mandate to recycle wet garbage and food. They don’t have time to tackle preparing and working with the community on a new ban, which will impact supermarkets, drug stores, restaurants, most businesses involved in packing and shipping goods, etc. Staff also recommends that any such bans be left to the individual cities. Thus, San Luis Obispo City can continue on a politically correct march to suicide without dragging the rest of the community in.

If the IWMA Board does direct that the ordinance be brought forward, staff indicates that a \$105,000 consultant will be required.

Imagine how stupid the progressives are. You pick up a salad at the deli and they have to put it in a cardboard container, which leaks all over the place before you get it back to the office.

Planning Commission Meeting of Thursday, February 11, 2021 (Scheduled)

Item 7 - Hearing to consider a request by Golden State Cannabis for a Development Plan / Coastal Development Permit (DRC2020-00146) to establish the phased development of a 1,500-square-foot combined non-storefront dispensary, distribution, and cannabis manufacturing business within an existing 12,000-square-foot building. No new structures are proposed. The project site is located within the Industrial land use category located at 2115 Willow Road (State Route 1) Unit C approximately two miles west of the community of Nipomo. The project site is located in the Callender-Garrett Village Area in the South County (Coastal) Planning Area. Also, to be considered is the environmental determination that the project is categorically exempt under CEQA. The project is recommended for approval, and there does not appear to be any opposition.



LAST WEEK'S HIGHLIGHTS

Board of Supervisors Meeting of Tuesday, February 2, 2021 (Completed)

Item 7 - Update and possible action on COVID-19 in San Luis Obispo County. The Board received the weekly report and heard from a few public speakers.

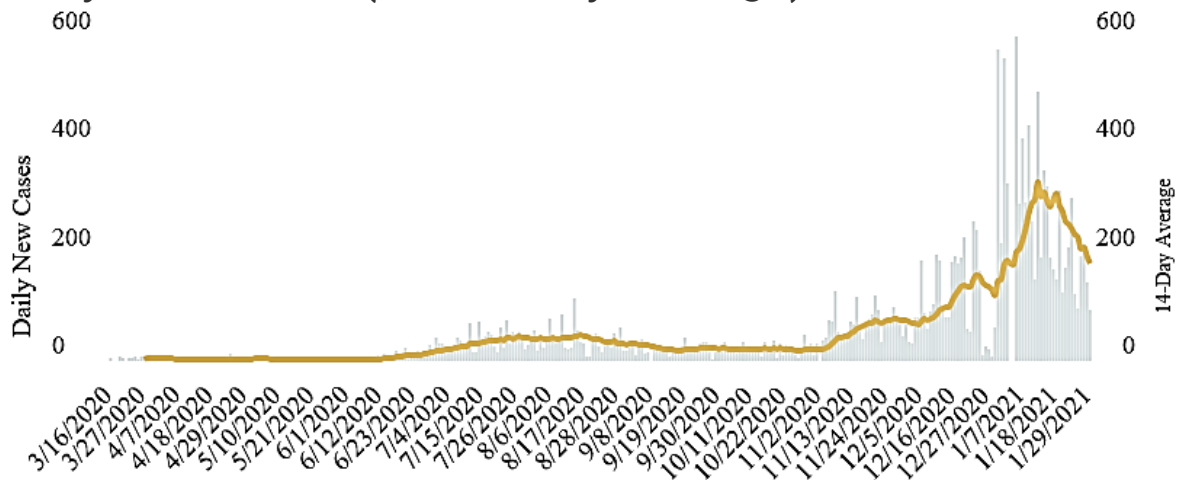
Brown Act Violation? There appears to have been confusion about the public comment on this item. Apparently, the clerk reported that there were no prerecorded phone comments when actually, there may have been quite a number. When COLAB called in live as the Board was finishing its discussion, its representative was told that it was too late and that the Board had closed the item.

Reportedly, when asked if the people could have two bites next week, County Counsel said no.

The County's vaccine program is successful, and unlike many other jurisdictions, the County uses all the vaccine doses it receives within a week.

Citizens who have received a shot report to COLAB that the sign-up and actual injection process are pleasant and efficient. They report no lines or confusion.

Daily New Cases (and 14-Day Average)



46 (17 ICU)**

SLO County Residents with COVID-19 in Hospital

After last week's rescission of the "stay at home" order by Governor Newsome, the County is back in the purple lockdown tier.

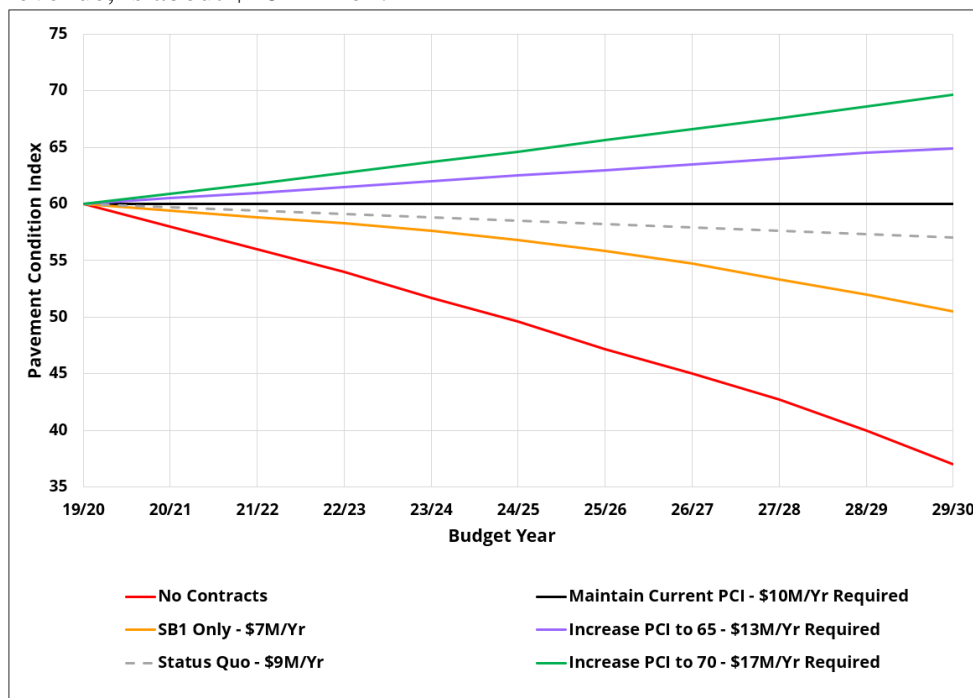
Item 10 - Status of County Roads and Bridges – Maintenance and Funding Options. The Board heard the presentation, received the report, and passed a resolution, setting priorities within the road

and bridge maintenance program. The problem is that they have so many current operational commitments for general fund spending. Public safety, mental health, homeless, pay raises, pension costs, and lawsuit settlements eat away at the service budget. Roads do not have a vocal constituency. Unions, advocacy groups, business, and agriculture do not show up to support expansion of the road budget.

Background: The bottom line is that even with the new SB 1 gas tax, the County’s road maintenance program is falling further and further behind each year as costs for materials and labor increase and the deterioration accelerates accumulatively.

Pavement Management Program: Improving the countywide average pavement condition index (PCI)¹ within ten years to the Board’s adopted goal of 65 now requires an estimated \$13 million per year investment, based on current projections. This is \$4 million per year over recent available funding. As a result, the countywide average PCI is anticipated to steadily decline. Reducing Pavement Management to only SB1 funds (approximately \$7 million per year) would result in a further decline of the countywide PCI of 1 point per year.

The graphic below illustrates the PCI progressions over the years at different levels of County funding. It should be noted that the overall annual program, including State, Federal, and fee revenue, is about \$26 million.



To maintain the roads at the current level will require a new \$4 to \$5 million per year. The reader may reflect that some prior choices have limited the availability of funds for capital investment:

¹ The PCI is a scale from 1 to 100 with 100 being perfect. The County’s policy goal is to not let the PCI fall below 65. Today it is at 60. The rural roads are at 51.

1. Pension Obligation Bond debt payments - \$13.3 million annually.
2. Diablo closure - \$8 million in foregone general fund property taxes annually.
3. Phillips 66 closure - \$1.7 million foregone in general fund property taxes annually. Note the schools get about 63% and the County around 40%.
4. Addition of 550 fully funded staff positions over the past 10 years with an average fully loaded cost of \$116,777 per position.²
5. The County is currently spending more on Behavioral Health from its general fund (\$14.4million out of total agency budget of \$70.4 million) than it does on roads (\$11.4 million out of a total roads budget of \$24.8 million). Note that Santa Barbara County, a larger county, is providing only \$5.3 million in general funds to a Behavioral Health budget of \$134 million.

**San Luis Obispo County Council of Governments meeting of Wednesday, February 3, 2021
(Completed)**

There was considerable discussion of flooding and Highway 1 closure due to the recent heavy rain induced landslide. Northwest county communities and businesses are very concerned that if the highway remains closed, tourism will suffer. The Cal Trans representative stated that they were looking at various repair alternatives but could not make any promises at this time.

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 GOVERNOR WHO WOULD BE KING

BY LEE OHANIAN

Much to everyone’s surprise, California lifted its latest COVID stay-at-home order, permitting previously shuttered restaurants, barber shops, salons, and many other businesses to reopen. This move caught virtually everyone off guard, because California governor Gavin Newsom, who promised to be the model of transparency, is unilaterally making pandemic policy for the world’s fifth largest economy while keeping nearly all other 40 million Californians in the dark. Both Democratic and Republican legislators have expressed concern, including Republican leader Senator Shannon Grove, who stated:

“Without the full release of data, it has been difficult not to speculate that the governor has been using the livelihoods of 40 million Californians as political pawns. Californians deserve full transparency,

² Note that many of these positions are categorically funded out of OBAMACARE and State mandated social service programs for which the revenues are nontransferable to other programs. Nevertheless, 100 fewer general fund staff positions would translate into \$ 11.7 million freed up dollars.

especially when their life, livelihood, children’s education, and mental health are being directly affected.”

State official’s claim that the process being used to determine shutdown orders is too complex to understand, and that providing this information would confuse and mislead the public. Really? Are Californians just simpletons who can’t process information with potentially life-and-death consequences?

The confusion problem doesn’t lie with Californians. Confusion emanates from Sacramento, with an ongoing stream of start-stop shutdown orders that have been so poorly communicated that many Californians have given up on trying following them. More confusion has been created as the state has moved the goalposts in determining when and where it will implement shutdowns, changing the models it uses to make its decisions, and changing the geographic regions for which decisions apply.

The current model—the one deemed too complex for the public to understand—is based solely on Intensive Care Unit (ICU) capacity and is being applied to five very broad geographic regions, each of which shares the same COVID regulations within that region. One of these regions includes both densely populated Sacramento County, with 381 COVID hospitalizations and just 48 remaining ICU beds, and Plumas County, a sparsely populated county of about 19,000 people near the Sierra Nevada mountains, with just one current COVID hospitalization, and which never had more than four hospitalizations at any one time.

The number of ICU beds in Plumas County? Zero. The county has plenty of hospital beds available, with just the one COVID patient, but Plumas County hospitals have no officially recognized ICUs. And despite the absence of high-tech ICUs, the COVID death rate in Plumas county is lower than the statewide death rate. But given that COVID policy depends solely on ICU capacity, poor Plumas County might forever be in lockdown purgatory.

For nearly a year, Newsom has appealed to the state’s Emergency Services Act (CESA), which grants the governor widespread power to respond to a state of emergency. He has used this power to issue fifty-plus executive orders, including the shut-down orders that the state has experienced since last March. CESA also gives the governor power to spend money “from any fund legally available” in response to an emergency. It further authorizes the governor to commandeer any private property or personnel deemed necessary, with the state providing a “reasonable” reimbursement.

But CESA doesn’t grant the governor unlimited powers, prompting a lawsuit from Sutter County last November, which took issue with Newsom’s executive order directing counties to substantially expand the number of locations where voters could cast ballots.

The judge found that the executive order was an “an unconstitutional exercise of legislative power” and broadly barred him “from exercising any power under the California Emergency Services Act which amends, alters, or changes existing statutory law or makes new statutory law or legislative policy.”

Like FDR in the 1930s, Newsom is learning that courts hold dear the notion that there are constitutional limits to what a political executive can do. Such as unilaterally rewriting existing law based on his personal preferences. But fortunately for Newsom, and unfortunately for California, Newsom has a much friendlier court system at his disposal than did FDR. The Third Court of Appeals issued an indefinite stay on the Sutter County decision. FDR tried to pack the Supreme Court to allow him to ride roughshod over the Constitution. Newsom doesn't need to do that. It is already in place.

Despite near-despotic rule, how is Newsom doing in managing the pandemic and California's economy? Not so well. California is among the 10 worst states for job losses. Between December 2019 and December 2020, California lost eight percent of its jobs, which amounts to nearly 1.5 million workers. While the US unemployment rate is 6.7 percent, California's is 9 percent, which is higher than all states other than Hawaii (9.3 percent) and Nevada (9.2), both of which have economies that depend enormously on travel and leisure spending.

Meanwhile, unemployed Californians are in some cases having to wait months to receive unemployment benefits after the state employment department's 30-year-old computer system was hacked, resulting in \$8 billion paid in fraudulent claims, ranging from a 120-year-old man to a one-year-old infant.

Restoring economic growth means vaccinating Californians, and here California is also near the bottom among US states. California has administered one vaccine dose to just 5.5 percent of residents, not much above Missouri, which is the worst at 4.7 percent, and well below Alaska at 11.6 percent. Not surprisingly, California is also among the worst in administering the critical second dose, at 1.1 percent, just above Mississippi, which is the worst (0.7 percent).

California is also among the worst in vaccine distribution. It has administered only 50 percent of the vaccine it has received, not much above Alabama, which is the worst at 44.4 percent, and far below North Dakota, which has administered nearly 85 percent of the vaccine it has received.

California's vaccination program has been hampered by confusion that relates to widely varying appointment procedures and eligibility requirements across counties. Californians have been understandably frustrated by showing up for vaccinations after Newsom publicly stated that all over 65 were eligible to be vaccinated, only to be turned away from several clinics that refused to vaccinate them, stating that they were still vaccinating health care workers. What a mess.

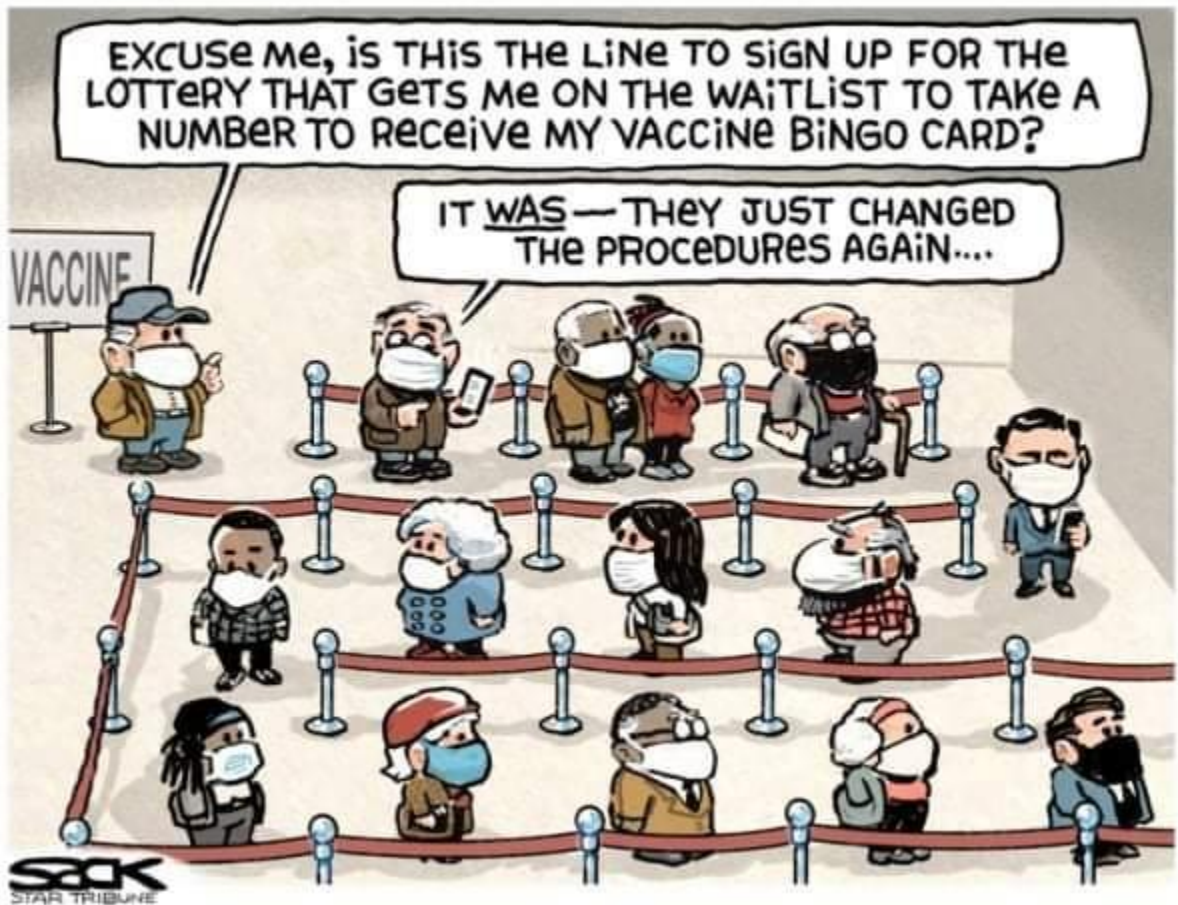
The good news is that the state has recognized that it has made a hash out of perhaps its most important responsibility in decades and is now ceding control of vaccine distribution to Blue Shield and Kaiser, both of which should do a much better job than the state.

COVID should become much less of a threat within a few months as the number of vaccinated rises. But as the pandemic subsides, some Californians worry that Newsom won't give up his emergency powers. Perhaps he will if he wants to contain the "Recall Gavin" movement, which now has 1.2 million signatures, and which will qualify for the next state ballot should it receive another 280,000 signatures by March. On the other hand, Newsom's approval rating among likely voters remains high, at 58 percent, which means that he may ignore recall and continue to channel FDR well after COVID can be used to justify the application of the Emergency Services Act.

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STOP WORRYING ABOUT THE WRONG PEOPLE GETTING VACCINATED BY NOAH ROTHMAN

This should be pretty simple: A crippling global pandemic has attenuated our economic and social lives, and that's not great. The logic for preserving those restrictions in perpetuity will dissolve when a certain number of Americans have the antibodies necessary to prevent a tidal wave of infections that could overwhelm hospital systems. That number is the threshold for "herd immunity," functionally putting the pandemic to an end. And the faster we get there, the better.

And yet, there is a teeming subculture that seems to believe the series of medical miracles that could bring an abrupt end to the pandemic isn't an unalloyed public good. For these people, the distribution of COVID-19 vaccines must observe the demographic hierarchies with which social-

justice advocates concern themselves. Herd immunity is desirable, of course, but not if the wrong people get us there.

In New York, for example, Gov. Andrew Cuomo has wielded COVID vaccines as an instrument to combat the “forces of inequity.” Those forces are, apparently, arrayed against the distribution of these shots in poorer and minority-dominated neighborhoods. Therefore, public officials are doing all they can to ensure that access to the vaccine in these neighborhoods is uninterrupted. But there is a problem of scarcity amid the near-universal demand for these vaccines. And so, consumers, who are desperate to be inoculated, are not waiting for the supply to come to them. That has become a source of frustration for those who want to balance the goal of ending the pandemic along with the objective of meting out karmic retribution against the white and wealthy.

The fact that “so many white people” are migrating to neighborhoods like New York City’s Washington Heights to get vaccinated is “bad news,” according to Dr. Susana Bejar, who was favorably quoted in a report in “The City.” These concerns are not entirely ideological. Hispanic and black New Yorkers have higher rates of COVID-19 infections, and they make up a larger proportion of hospitalizations and deaths. But it seems self-evident that the risk of infection among minority populations is mitigated as much by their own inoculation as the inoculation of everyone else around them. Obsessing over who gets a life-saving vaccine first doesn’t seem productive if the directive is to vaccinate everyone.

But that egalitarian outlook is not shared by many in the press. “Although low-income communities of color have been hit hardest by Covid-19,” the *New York Times* reported on Tuesday, “health officials in many cities say that people from wealthier, largely white neighborhoods have been flooding vaccination appointment systems and taking an outsized share of the limited supply.” The *Times* reports that the bureaucratic obstacles placed before would-be vaccine recipients, which were designed to privilege “people in underserved neighborhoods,” have actually made it harder for these residents to get immunized. The challenge is compounded by well-documented vaccine “skepticism” in communities of color.

The *Times* report notes that the phenomenon isn’t limited to New York City. It’s being observed all over the country, where whiter and wealthier Americans are migrating into minority neighborhoods for their chance at a job. But “fixing the problem” is “tricky,” because “singling out neighborhoods for priority access could invite lawsuits alleging race preference.” And those lawsuits would be entirely legitimate because what is being expressed by lawmakers is quite plainly race preference. What is most confounding here is the notion that enthusiastic demand for a COVID vaccine is a “problem” at all.

The threat to the health-care system represented by COVID-19 is a matter of volume. The disease’s communicability and its relatively high mortality rate threatened to overwhelm hospitals, and

drastic measures—including the varying degrees of lockdown that still persist throughout the country—were necessary to mitigate that threat. When any one person is fully immunized, though, that’s one less person who represents a transmission vector and a hazard for local hospitals. Getting as many people vaccinated in the shortest span of time is not just one social good among many—it is the paramount objective for policymakers, who should be thinking about their constituents’ psychological and economic health and their physical wellness.

Brandishing this vaccine as a weapon in an ongoing crusade to achieve retributive historical justice isn’t just counterproductive—it actively harms the interests of the very people these social engineers think they’re helping. Eliminating the structural obstacles in the way of access to lifesaving care is a noble objective, but not if that pursuit needlessly perpetuates a deadly pandemic. No one should be frustrated by the fact that “the wrong people” are getting the vaccine when everyone needs it sooner rather than later. This outlook is, to be frank, insane. But insanity is not an uncommon feature of our current political discourse.

Noah Rothman is the Associate Editor of Commentary and the author of Unjust: Social Justice and the Unmaking of America. This article first appeared in Commentary on February 2, 2021.



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