

COLAB

San Luis Obispo County



The Coalition of Labor Agriculture and Business

WEEKLY UPDATE
DECEMBER 11 - 17, 2022



14TH ANNUAL
DINNER &
FUNDRAISER

WHAT WILL IT BE, IN 2023?

DETAILS COMING SOON....

SAVE

THURSDAY MARCH 30TH

5:30 PM

MADONNA INN EXPO CENTER

THIS WEEK

**BOS
ELECTION RESULTS TO BE DECLARED
AFTER MONTH LONG COUNT**

**NEW DSA LABOR CONTRACT
PRETTY MUCH WITHIN BOS BUDGET POLICY**

PLANNING DEPT PROJECT PRIORITIES FOR FY 2023-24

**CALIFORNIA COASTAL COMMISSION MEETINGS OF
TUESDAY, DECEMBER 13, WEDNESDAY, DECEMBER
14, AND THURSDAY, DECEMBER 15, 2022**

3CE SPECIAL POLICY BOARD MEETING

3CE AUTHORITY SPECIAL OPS BOARD MEETING

**LAFCO
AGAIN VERY LIGHT**

LAST WEEK

**SUPERVISORS MEETING
FIRST QTR FINANCIAL REPORT INCONCLUSIVE**

**BOS GIVES GRANT TO NPR RADIO STATION KCBX
TO HELP PROMOTE A LEFTIST VIEW OF COUNTY ISSUES?**

BOS DE-RECOGNIZES OCEANO COMMUNITY COUNCIL

PLANNING DEPT PRIORITIES FOR FY 2023-24 CONTINUED

**PASO BASIN MORATORIUM ORDINANCE REVISIONS APPROVED
MAJOR POLICY AND CONTROVERSY OVER WATER EQUITY**

**SLOCOG
FORECASTS \$2.0 BILLION FUNDING SHORTFALL OVER
NEXT 23 YEARS**

**PLANNING COMMISSION
APPROVES RAGGED POINT INN UPGRADES**

EMERGENT ISSUES

**INCUMBENT GIBSON IS APPARENT WINNER OF 2ND
DISTRICT SUPERVISOR RACE BY 13 VOTES**

**FIRST-EVER CALIFORNIA OFFSHORE WIND
AUCTION NETS \$757 MILLION
INVESTORS CAUTIOUS - DEEP WATER, LACK OF PORT FACILITIES**

**COLAB IN DEPTH
SEE PAGE 25**

**BATTERY STORAGE IS A FANTASY
BY JOHN HINDERAKER**

THE TYRANNY OF THE MINORITY
*A few hundred super-rich elites and a powerful handful of woke and
climate activist ringleaders now tyrannize America.*
BY EDWARD RING

THIS WEEK'S HIGHLIGHTS
ALL MEETINGS ARE AT 9:00 AM UNLESS OTHERWISE NOTED

Board of Supervisors Meeting of Tuesday, December 13, 2022 (Scheduled)

Item 13 - It is recommended that the Board declare the results of the November 8, 2022, Consolidated General Election. It is not clear what happens if a recount takes place for Supervisorial District 2. See the Emergent Issues section on page 17 below for further discussion of the election. The report from the Clerk Recorder states in part:

All in-person, vote-by-mail, and provisional ballots have been counted and the official canvass has been completed. The County Clerk-Recorder/Registrar of Voters has certified the election and signed the Certification of County Clerk Recorder/Registrar of Voters of the Results of the Canvass. The Summary Report of Final Official Election Results and Statement of Votes Cast is available on the Clerk-Recorder website as well as the Clerk's File. Pursuant to Elections Code 15400, "The governing body shall declare elected or nominated to each office voted on at each election under its jurisdiction the person having the highest number of votes for that office, or who was elected or nominated under the exceptions noted in Section 15452. The governing board shall also declare the results of each election under its jurisdiction as to each measure voted on at the election."

With a 13-vote margin, a 7-vote swing could change the result.

Item 20 - Submittal of a resolution approving 1) the January 1, 2023, through December 31, 2025, Memorandum of Understanding between the County of San Luis Obispo and the Deputy Sheriffs' Association, Bargaining Unit 03 - Law Enforcement Unit, Bargaining Unit 21 - Non-Safety Law Enforcement Unit, and Bargaining Unit 22 - Dispatcher Unit; 2) the January 1, 2023, through December 31, 2025, Memorandum of Understanding between the County of San Luis Obispo and the Deputy Sheriffs' Association, Bargaining Unit 14 - Supervisory Law Enforcement Unit; and 3) amendments to the San Luis Obispo Employees Retirement Plan Appendices. The costs appear to be within the County's overall budget policy for raises and benefits (about 2.5% per year).

The Deputy Sheriffs' Association (DSA) currently represents a total of 178 employees and is comprised of the following bargaining units (BU): BU03 - Law Enforcement Unit, BU21 - Non-Safety Law Enforcement Unit, BU22 - Dispatcher Unit, and BU14 - Supervisory Law Enforcement Unit. There is one Memorandum of Understanding (MOU) for BU03, BU21, and BU22, and a separate MOU for BU14

A number of written contract provisions increase the benefits offset, add money for clothing, increase shift differential pay, and provide other perks.

FINANCIAL CONSIDERATIONS

The increased costs associated with the provisions of these new MOUs are estimated as follows:

| | Fiscal Year 2022-23 | Fiscal Year 2023-24 | Fiscal Year 2024-25 | Annual Ongoing |
|----------------------------|---------------------|---------------------|---------------------|--------------------|
| Wages | \$326,560 | \$683,486 | \$1,260,413 | \$1,260,413 |
| Healthcare | \$66,540 | \$180,180 | \$270,330 | \$313,380 |
| Pension | \$110,209 | \$222,979 | \$225,541 | \$225,541 |
| Bilingual Differential | \$10,485 | \$20,970 | \$20,970 | \$20,970 |
| Career Incentive Allowance | \$64,800 | \$129,600 | \$129,600 | \$129,600 |
| Safety Equipment Allowance | \$53,050 | \$23,600 | \$23,600 | \$23,600 |
| Special Assignment Pays | \$17,895 | \$35,790 | \$35,790 | \$35,790 |
| Uniform | \$9,950 | \$16,900 | \$16,900 | \$16,900 |
| Shift Differential | \$149,680 | \$302,839 | \$313,278 | \$313,278 |
| Total Costs | \$809,169 | \$1,616,344 | \$2,296,422 | \$2,339,472 |

MATTERS AFTER 1:30

Supplemental Agenda Item 4 - Request to receive and file a report on Board-identified priority projects for the Department of Planning and Building and provide staff direction, as necessary. The item was carried over to next week’s Board meeting. That meeting ran further and further behind due to extensive public comment on other matters.

The discussion and possible Board direction commences the annual discussion of those projects on which the Planning and Building Department’s Long Range Planning Division (about 8 planners) should be working. This is a priority setting process by which the Board determines which ones to select. These include State mandated changes to Plans and Ordinances, requests by the Board for new or revised plans and regulations, and requests from the public for changes and additions. Feasibility projects that may involve other departments are also included. A recent example is the Paso Basin Water Moratorium amendments revisions, which constituted a very substantial amount of work.

There is always more work than the current staffing can handle. Several tables provided by staff illustrate the current status and potential work. A quick look will provide the reader with a basic understanding of the pending choices.

Table 1 – Long Range Planning – Staffing Levels

| Classification | Allocated¹ | Filled | Vacant |
|--|------------------------------|---------------|---------------|
| Supervising Planner | 1.0 | 1.0 | 0.0 |
| Senior Planner | 2.0 | 1.0 | 1.0 |
| Planner I/II/III | 3.5 | 3.5 | 0.0 |
| Limited Term Planner I/II/III ² | 1.0 | 0.0 | 1.0 |
| Total | 7.5 | 5.5 | 2.0 |

¹The term “Allocated” refers to filled and vacant positions on the Department’s Position Allocation List (PAL).

²Allocated to administering the County’s water conservation programs through 12/31/24.

Table 2: 18-Month Long Range Planning Work Program

| Workload Type | FTE Allocated and Vacancy Status | | | Timeframe and Workload Capacity | | | | | | Est. Completion Date |
|--|----------------------------------|-------------|-------------|---------------------------------|-------------|-------------|-------------|-------------|-------------|----------------------|
| | FTEs | | | FY 22-23 | | FY 23-24 | | | | |
| | Allocated | Filled | Vacant | Q3 ¹ | Q4 | Q1 | Q2 | Q3 | Q4 | |
| Mandatory Workload | 5.00 | 3.75 | 1.25 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | |
| Applicant-Submitted GPAs | 1.25 | 1.00 | 0.25 | | | | | | | Ongoing |
| Applicant-Submitted Specific Plans | 1.25 | 1.25 | 0.00 | | | | | | | Ongoing |
| Growth Management Ordinance | 0.25 | 0.25 | 0.00 | | | | | | | Ongoing |
| Housing Policy and Homeless Division Support | 0.50 | 0.00 | 0.50 | | | | | | | Ongoing |
| Water Conservation Programs | 1.00 | 0.75 | 0.25 | | | | | | | Ongoing |
| Williamson Act Program | 0.50 | 0.50 | 0.00 | | | | | | | Ongoing |
| Tracking and Implementing State Law | 0.25 | 0.00 | 0.25 | | | | | | | Ongoing |
| Discretionary Workload | 2.50 | 1.50 | 1.00 | 1.50 | 2.50 | 2.25 | 2.25 | 1.25 | 1.25 | |
| Community Plans - Major | 1.25 | 1.25 | 0.00 | 1.25 | 1.25 | 1.25 | 1.25 | 1.25 | 1.25 | |
| <i>Avila Community Plan</i> | | | | | | | | | | FY 24-25 Q4 |
| <i>Los Osos Community Plan LCP and HCP</i> | | | | | | | | | | FY 23-24, Q3 |
| LCP Amendments - Minor | 0.125 | 0.125 | 0.00 | 0.125 | 0.125 | | | | | |
| <i>ADU Ordinance</i> | | | | | | | | | | FY 22-23 Q4 |
| <i>Density Bonus Ordinance</i> | | | | | | | | | | FY 22-23 Q4 |
| <i>Agricultural Worker Housing Ordinance</i> | | | | | | | | | | FY 22-23 Q4 |
| Housing Element Implementation | 0.125 | 0.125 | 0.00 | 0.125 | 0.125 | | | | | |
| <i>ADU Pre-approved Plans</i> | | | | | | | | | | FY 22-23 Q4 |
| 2023 Minor Ordinance Amendment Package | 1.00 | 0.00 | 1.00 | | 1.00 | 1.00 | 1.00 | | | |
| <i>Craft Distilleries Ord.</i> | | | | | | | | | | FY 23-24 Q2 |
| <i>AR Combining Designation</i> | | | | | | | | | | FY 23-24 Q2 |
| <i>MRA Combining Designation</i> | | | | | | | | | | FY 23-24 Q2 |
| <i>Cannabis Ord. - 5 Years at Operations</i> | | | | | | | | | | FY 23-24 Q2 |
| Filled Staff Positions (FTEs) | 7.50 | 5.25 | 2.25 | 5.50 | 7.50 | 7.50 | 7.50 | 7.50 | 7.50 | |
| Total FTE Workload | | | | 6.50 | 7.50 | 7.25 | 7.25 | 6.25 | 6.25 | |
| Total FTE Available | | | | -1.00 | 0.00 | 0.25 | 0.25 | 1.25 | 1.25 | |

¹ This work program assumes the Department will fill its 2.0 vacant Long Range planner positions by March 31, 2023. The Department is currently relying on consultant assistance to balance workload in the short term as the Department hires, onboards, and trains new staff.

Table 3: Potential New Long Range Planning Projects

| Potential New Long Range Planning Project | FTEs Total | Staff Cost | Professional Services | Total Cost | Timeline (Months) ¹ |
|--|------------|------------|---------------------------------|-------------------------|--------------------------------|
| Major Ordinance Amendments | | | | | |
| Brick and Mortar Dispensaries | 1.00 | \$194,832 | \$0 | \$194,832 | 12 – 18 |
| Rural Camping Ordinance | 1.50 | \$576,649 | \$50,000 – 500,000 ² | \$626,649 - \$1,076,649 | 18 – 24 ² |
| Minor Ordinance Amendments | | | | | |
| Dark Skies Ordinance | 0.33 | \$46,224 | \$0 | \$46,224 | 6 – 9 |
| Guest Ranch to Dude Ranch | 0.33 | \$61,632 | \$0 | \$61,632 | 9 – 12 |
| RV Storage in Rural and Agricultural Areas | 0.33 | \$46,224 | \$0 | \$46,224 | 6 – 9 |
| Small Urban Wineries | 0.33 | \$46,224 | \$0 | \$46,224 | 6 – 9 |
| Other Land Use Initiatives | | | | | |
| Completing Vacation Rental Nexus Study | 0.25 | \$37,872 | \$70,000 | \$107,872 | 6 – 9 |
| Harvest Host RV Stays | 0.125 | \$8,242 | \$0 | \$8,242 | 3 – 4 |
| Phillips 66 Refinery Feasibility Study | 1.50 | \$432,487 | \$200,000 | \$632,487 | 12 – 18 |

¹Number of months to complete project after resources are allocated.

²The cost and timeline range for the Rural Camping Ordinance depends on the necessary level of environmental review under the California Environmental Quality Act (CEQA). The low end of the range assumes a mitigated negative declaration and the high end assumes an environmental impact report.

Each year the Board agonizes over these choices. The Land Use Planning Division of the Department has about 22 employees, of which the seven assigned to these projects are presumably included. The full budget for the division is about \$3.9 million. The rest of the 22 are not available to work on these projects, as they are assigned to economic development work, GIS, federally funded work, and so forth. Note that we cannot be precise, as the County does not budget at the program level. Thus is not possible to determine the exact deployment.

In any case, and given that land use is the primary source of friction and controversy in the County and that the overall County Budget is \$781.4 million, the Board could consider adding 2 additional planners to this division and moving forward with its priorities. The Board has undergone considerable pressure to develop plans and regulations for rural camping, dude ranches, and harvest host camping. All of these could be of assistance to agriculture.

**3CE Authority Special Policy Board Meeting of Wednesday, December 14, 2022
(Scheduled) 9:00 AM**

As of 10:00 AM on Saturday, December 10, 2022, no agenda or material had been posted on the Authority website. If it is not posted by 9:00 AM Sunday morning, the meeting will be illegal, as it will violate the 72-hour advance posting requirement. As of 10:00 AM Sunday, there was no posting.

**3CE Authority Special Operations Board Meeting of Wednesday, December 14, 2022
(Scheduled) 1:00 PM**

Similarly no information as posted as of 10:00 AM on Saturday December 10, 2022. It will have to be posted prior to 1:00 PM on Sunday for the meeting to be legal. As of 10:00 AM on Sunday, there was no posting.

**Local Agency Formation Commission Meeting of Thursday, December 17, 2022
(Scheduled)**

No Substantial Policy Items on this agenda. There are no annexations, detachments, or other major issues on this very short agenda.

California Coastal Commission Meetings of Tuesday, December 13, Wednesday, December 14, and Thursday December, 15, 2022 (Scheduled)

No Major Policy Issues Impacting San Luis Obispo County on this agenda.

Th.18.a - Appeal by Tarren Collins and Erik Howell of City of Pismo Beach approval of a coastal permit for demolition of a 1,340 sq., one-story, single-family home and construction of a new 3,648 sq., two-story, single-family home at 171 Naomi Avenue, in the St. Andrews

neighborhood of the City's Shell Beach area, upcoast of downtown, in Pismo Beach. One item of interest is an appeal by Erik Howell (a former Pismo City Councilman and Coastal Commissioner) of a single-family home. The staff recommends that the Commission decline to hear the appeal on the grounds that the project meets all requirements. Apparently, the appellants feel the house is too big for the neighborhood.

The matter was controversial when it was before the Pismo Beach City Council.



From a larger policy perspective, it is amazing that a state-wide Commission is empowered to regulate single family homes in zoned cities.

LAST WEEK'S HIGHLIGHTS

Board of Supervisors Meeting of Tuesday, December 6, 2022 (Completed)

Item 4 - FY 2022-23 First Quarter Financial Report. Submittal of the FY 2022-23 First Quarter Financial Status Report and request to 1) approve a resolution amending Position Allocation Lists for various departments; and 2) approve various financial actions as detailed in the Recommendation (one or more actions require a 4/5 vote). The report was received on the consent calendar without question or comment.

The report was inconclusive, as it focuses on expenditures as opposed to revenues. There are no projections as to how the property tax, sales tax, hotel tax, or major inter-governmental revenues will match with the Adopted Budget on June 30, 2023, the end of the current fiscal year.

On the expenditure side, overages are expected in both the Sheriff's Department and the Fire Department due to the cost of labor negotiations for which no estimates were budgeted. The Clerk Recorder projects a shortfall in recording fee revenue. A decline in real property deed

filing fees could signal a future economic slowdown and/or trouble in the growth of the property tax if real estate sales are off.

| Table 2 Summary of Notable Issues Included in the Attached Report Issue Status Updates | | |
|--|--|----------------------------------|
| Department | Issue | Potential Impact to General Fund |
| Public Protection | | |
| 136 - Sheriff-Coroner | Projected to exceed General Fund support level by \$3.2 million at year-end due to unbudgeted salaries and benefits expenses, overtime, fuel, meals, professional services expenditures, and revenue shortfall | \$3.2 million |
| 140 - County Fire | Projected to exceed budgeted CAL FIRE contracted expenditure amount by \$3.1 million due to State negotiated salary and benefit increases | \$3.1 million |
| Fiscal and Administrative | | |
| 110 - Clerk-Recorder | Projected to exceed General Fund support level by \$521,000 at year-end due to shortfall in recording revenue | \$521,000 |

SUMMARY OF POSITION ALLOCATION CHANGES

| FY 2022-23 | Q1 | Q2 | Q3 | Q4 |
|---------------|----------|----|----|----|
| Quarter Start | 2,932.00 | | | |
| FTE Additions | 53.00 | | | |
| FTE Deletions | 26.75 | | | |
| Quarter End | 2,958.25 | | | |
| Net Change | 26.25 | | | |
| % Change | 0.90% | | | |

Item 15 - Request to approve an agreement with KCBX Inc. allocating a total of \$3,950 from Districts One, Two, Three, Four, and Five Community Project Funds - Fund Center #106 to be used for expenses associated with producing several 5-minute reports on issues of high concern in San Luis Obispo County. District 1, 2, 3, 4, and 5. The Board approved the grants, notwithstanding the blatant leftist orientation of NPR.

This radio station is part of the larger National Public Radio Network (NPR), which receives federal funding. The write-up states that the grant of public funds is to keep the community in touch.

As an NPR station, KCBX puts their community in touch with the world. KCBX will be producing several 5-minute reports covering a water supply, water quality, or fire prevention issue affecting local community members in San Luis Obispo County.

Listen to KCBX on these FM frequencies.

- 90.1 - San Luis Obispo
- 89.5 - Santa Barbara
- 91.1 - Cayucos
- 95.1 - Lompoc
- 91.7 - Paso Robles to Salinas
- 90.9 - Santa Ynez, Avila, Cambria

The grant will simply further empower leftist causes in the County. Of course the spots will be interspersed with some of the most flagrant propaganda on the American air waves. It appears that they cover a wide area. County Parks Department may already fund spots on the station.

How about a \$4,000 grant for the Andy Caldwell Radio Show on local K-News 98.5 to provide some balance. After all, we talk about the County every Monday and related issues every weekday.



Item 44 - Request to discuss and consider unrecognizing the Oceano Advisory Council as a Community advisory council to the Oceano area. The Board voted 3/1/1 to derecognize the often vicious and blatantly leftist neighborhood advisory council. Gibson vote to not derecognize the Council, stating that the real issue is the existence of a severely divided public and lack of communication. Supervisor Ortiz-Legg abstained.

Supervisor Compton presented video and written testimony of some of the council members, including its officers cursing, threatening the public and each other, and otherwise conducting abusive meetings in violation of the County's anti-harassment policy and codes of conduct.

While Supervisor Compton provided a great service to the community (remember years ago Supervisor Paul Teixeira wanted to get abolish the council but failed), she did a nice favor for incoming Supervisor Jimmie Paulding, who can ignore them if he's smart.

Item 46 - Request to receive and file a report on Board-identified priority projects for the Department of Planning and Building and provide staff direction, as necessary. The item was carried over to next week's Board meeting. That meeting ran further and further behind, due to extensive public comment on other matters. See **Item 4** of the supplemental agenda, above, for the December 13th meeting.

Item 47 - A Hearing to consider (LRP2021-00001): 1) amend Title 8 and Title 22 of the San Luis Obispo County Code to require "water neutral" ministerial planting permits for crop production irrigated from groundwater wells within the Paso Basin Land Use Management Area (PBLUMA) until 2045, with a 25-acre-feet per year exemption allowed per site ("PBLUMA Planting Ordinance"); 2) amend the Agriculture and Conservation elements of the San Luis Obispo County General Plan for consistency with the PBLUMA Planting Ordinance; 3) certify a Final Program Environmental Impact Report (FPEIR) (SCH 2021080222) prepared for the project pursuant to CEQA and based on the attached CEQA findings, including a statement of overriding considerations. The ordinance amendments, Resolutions, and certification of the EIR were approved 3/2, with Gibson and Ortiz-Legg dissenting. Supervisor Gibson was particularly critical of the ordinance. He carefully placed many statements in the record describing what he believes to be environmental failures, legal failures, and violation of County Plan of Development policies.

The ordinance was opposed by the San Luis Obispo County Farm Bureau, San Luis Obispo County Cattlemen's Association, Grower Shippers of San Luis Obispo County and Santa Barbara, the Paso Robles Wine Alliance, Sierra Club, and a number of individuals.

The Farm Bureau submitted a 10-page legal brief in opposition, which outlined many reasons why the Bureau believes the ordinance revisions are illegal. A spokesman indicated that if the

ordinance were to be approved, there would be a lawsuit. The legal brief is included in Addendum I on page 32 of this Update.

Given Bruce Gibson’s apparent 13-vote Supervisorial victory, and Supervisor Elect Jimmie Paulding's imminent accession, the new Board could simply accept the provisions of the lawsuit in closed session and agree to the termination of the ordinance. The County and the Farm Bureau could also agree to handle their own costs. Both Gibson and Paulding received generous campaign contributions from funders who are and were opposed to the ordinance.

The proposed amendments to the Paso Basin Water Moratorium are designed to allow smaller users (under 25 acre-feet per year) to apply for a permit to pump if they meet a set of rigorous conditions. These users are now capped at 5 acre-feet per year. Please see the Background sections below for all of the history and details.

PROJECT SUMMARY The attached ordinance (Attachments 1 and 2) and resolution (Attachment 3) would amend Title 8 and Title 22 of the San Luis Obispo County Code and the Agriculture and Conservation and Open Space Elements of the San Luis Obispo County General Plan to require “water neutral” ministerial planting permits for new and expanded crop production irrigated from groundwater wells within the Paso Basin Land Use Management Area from January 31, 2023 through January 31, 2045 (22 years), allowing a 25-acre-foot per year (“AFY”) exemption per site to continue to exercise the County’s land use authority to regulate irrigated crop planting and to allow farms to irrigate that have not been able to under the current agricultural offset requirements.

The key objection is that the ordinance and its CEQA-proposed mitigations include a number of objectionable regulations. Even though these would pertain only to the individuals who apply for a permit, the expansion of regulation over agriculture could be precedent setting, and therefore any gains acceded now are not worth it in the big picture.

Table 1: Summary of Mitigation Measures, Applicability, and Monitoring Methods

| Mitigation Measure | Required for Planting Permit and/or 25-AFY Exemption | Monitoring Methods | |
|--|--|---|---|
| | | Application | Annual Site Inspections |
| AQ-1 Construction Emissions Reduction Dust control measures. | Both | Self-certification | Verify measures are in place |
| BIO-1 Riparian and Wetland Habitat Setback No planting within 50' of riparian or wetland vegetation unless planted when ordinance took effect. | Both | Show on site plan | Verify compliance with site plan |
| GHG-1 Carbon Sequestration Incorporate conservation practices to sequester carbon at 0.15 MT CO ₂ e per acre of planting per CDFA Healthy Soils Program guidelines. | 25-AFY Exemptions | Show in site plan and provide CDFA COMET calculations | Verify measures implemented per site plan |
| UTIL-1 Well Metering and Reporting Reporting monthly groundwater extraction. | Both | Identify well(s) in site plan | Verify participation in County GSA-approved groundwater extraction program or well meter installed during final planting inspection |
| UTIL-2 Hydrology Report Verification of no more than two feet of drawdown over five years in off-site groundwater wells within 750 feet. | 25-AFY Exemptions | Submit with application as applicable | NA |

Proponents of the ordinance argue that most of the water being used in the Basin is being consumed by large corporate vineyards, which will continue unfettered pumping until the SGMA plan bites in decades in the future.

Circumscribed by a scathing 430-page Environmental Impact Report (EIR), the Planning Commission unanimously recommended that the Board of Supervisors reject the proposed ordinance. Of course, this is highly sensitive, since it was a Board of Supervisors majority that initiated the ordinance in the first place. They undertook the effort, as they felt that the 2013 moratorium was manifestly unfair to smaller users overlying the Basin. In simplest terms, one of the letters in the record summarizes the problem from their standpoint. The letter is quite extensive, and therefore only a portion is quoted here on the page below. It is also eloquent.

Commission Rejection: The Commission unanimously determined to recommend that the Board of Supervisors reject the proposed ordinance. Some of the reasons cited in their recommended rejection include:

The ordinance is not needed, as the SGMA process is ramping up and should be used to manage the control of pumping.

The mitigations measures recommended by staff are harmful to agriculture - the fix is worse than the problem.

The ordinance is too complex, and as such, will render it expansive and difficult to administer. It results in 16 immitigable CEQA Class I impacts, which would have to be overridden by the Board of Supervisors in order to adopt the ordinance.

Water Calculations:

The most significant objection was that the ordinance would result in the potential use of 450 new acre-feet of water per year accumulatively over the life of the ordinance. Most of the rest of the impacts are bogus. However, with respect to water, the EIR states in part:

Table 2 Estimated Reasonable Potential Increase in Water Use From Proposed Ordinance

| Estimated Existing Water Use for Irrigated Crops (per Individual Site) | Reasonable Potential Total Annual Increase in Water Use (1% of Maximum Potential Increase in Water Use from Step 4) (AFY) | Reasonable Potential Total Increase in Water Use, From January 31, 2023 to January 31, 2045 (Cumulative) (AFY) |
|--|---|--|
| 0-25 AFY | 68 | 1,496 |
| No irrigated crops | 382 | 8,404 |
| Total | 450 | 9,900 |

Note: This estimate does not account for future Paso Robles Subbasin Groundwater Sustainability Plan management actions that may require area-specific pumping reductions.

If no SGMA plan were to be implemented, this would reach an estimated accumulative 9,900 acre-feet per year by 2045. Note that the footnote to the table above cautions that the estimate may be high, given that there will be pumping restrictions phased in as part of SGMA.

The EIR reiterates that the current deficit is 13,700 acre-feet per year. This must be eliminated under the SGMA plan by 2045.

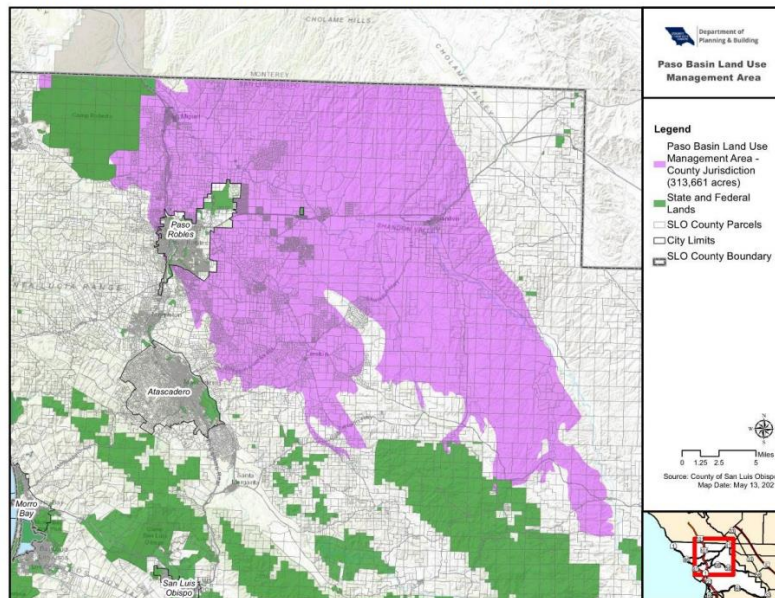
The GSP projects a 13,700-acre-feet per year (AFY) deficit in groundwater storage in the Paso Robles Sub basin (i.e., each year, approximately 13,700 acre-feet [AF] more water exits the sub basin than is recharged to it). The Paso Robles Sub basin Water Year 2020 Annual Report prepared to meet SGMA reporting requirements estimates 90 percent of groundwater extractions are used for the agriculture sector.

Accordingly, the EIR found that since the ordinance would add 450 acre-feet per year to the existing 13,700 ft., it is an immitigable Class I impact.

18. Impact HYD-6: The proposed planting ordinance would allow increased groundwater extraction that would conflict with the GSP’s goal of sustainable groundwater Attachment 5 County of San Luis Obispo Paso Basin Land Use Management Area (PBLUMA) Planting Ordinance CEQA Findings and Statement of Overriding Considerations Program Environmental Impact Report September 2022 management and with the GSP’s projections for groundwater extraction within the Paso Robles Sub basin.

Note: COLAB has provided extensive additional review of the Planting Ordinance over the past months. These can be seen in last week’s Update at the link:

Figure 2-1 Paso Basin Land Use Management Area (PBLUMA)



SLO County Council of Governments (SLOCOG) meeting of Wednesday, December 7, 2022 (Completed)

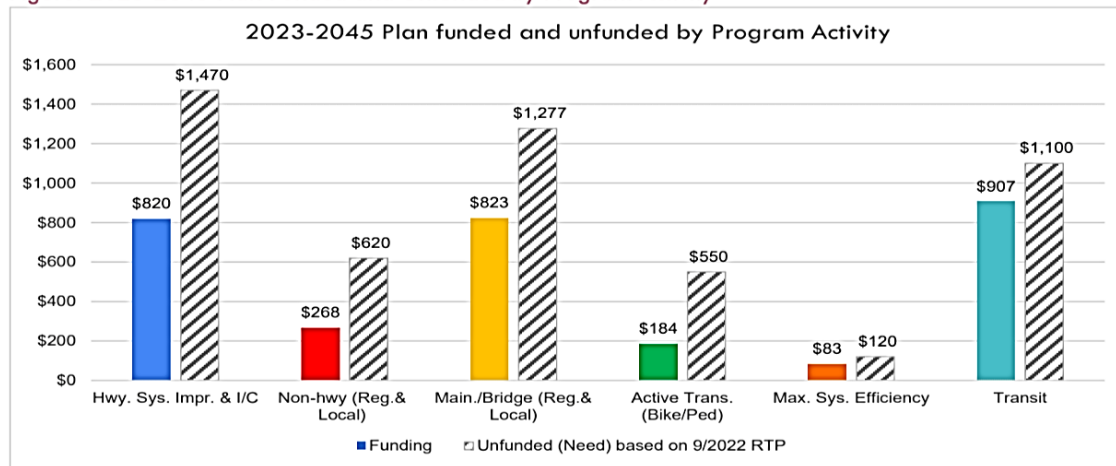
F-1 Status of the Regional Transportation Plan (RTP). The RTP is the long-range plan, which presents a comprehensive view of the Counties and cities transportation needs. The Plan has been completed in draft and is about to be presented in all sorts of community forums. A significant issue is that it identifies about \$2 billion in unfunded needs over the next 23 years.

The 2 tables below detail the scope of the problem.

CHAPTER 6: THE FINANCIAL ELEMENT

The following content was used in the development of Chapter 6.

Figure: 2023-2045 Plan Funded and Unfunded by Program Activity



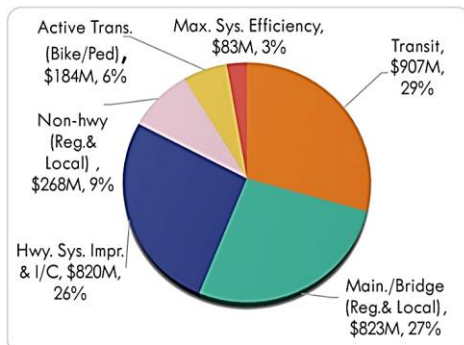
Reasonably Expected Revenue Scenario

Figure 6-1: 2023 Expenditure Categories

| PROGRAM CATEGORY | EXPENDITURE MILLIONS | % OF TOTAL |
|--|----------------------|------------|
| Highway System Improvements & Interchanges | \$820 | 27% |
| Non-highway projects (Regional and Local) | \$268 | 9% |
| Maintenance/bridges (Regional and Local) | \$823 | 27% |
| Active Transportation (Bike/Ped) | \$184 | 6% |
| Maximizing System Efficiency | \$83 | 3% |
| Transit | \$907 | 29% |
| TOTAL: | \$3,085 | |

REASONABLY-EXPECTED REVENUE: \$3.1 Billion

\$5.1 Billion Unfunded Need



The Reasonably Expected Revenue Scenario includes estimates of funds that will reasonably be available from all anticipated public and private financial resources available over the next 23 years, including: estimated funds for highways, local streets, and roads; bicycle and pedestrian; and transit improvements. It includes reasonable success with High-Priority/Competitive funds (\$275M) but does not include supplemental funding. Still, projected revenues fall short of expectations in historical RTPs, and are flat to lower when compared with the last two long-range transportation planning documents [i.e., 2014 RTP,

Planning Commission Meeting of Thursday, December 8, 2022 (Scheduled)

Item 5 - Hearing to consider a request by Ragged Point Inn, Limited Partnership for a Development Plan/Coastal Development Permit (DRC2013-00048) to allow for the phased expansion and redevelopment of the Ragged Point Inn and Resort. The Commission approved the project unanimously. The Commissioners were effusive in their praise of the high quality of the application in general as well as the sensitivity to the heritage of the area, use of materials, concern for tribal history, and other details

Background: The applicant requested a permit to renovate the property, add rooms, and add a spa. The overall update would be consistent with the resort's heritage and the use of natural materials, such as rock and hardwoods that typify the Big Sur lodge designs of the past. The staff recommends approval of the project. The applicant and that County have worked with the Coastal Commission and seem to believe that they have satisfied the staff. However, the Coastal Commission has not yet sent its report and formal approval. The key improvements include:

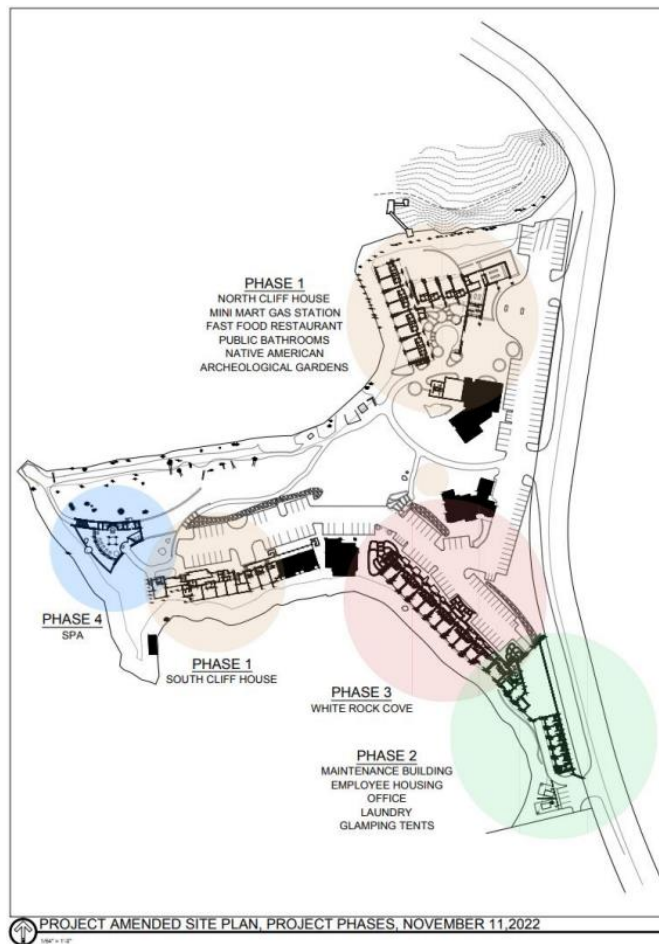
- *Add 30 guest rooms for a total of 69 guest rooms and two tent/yurt sites;*
- *Renovate and remodel the existing guest rooms and construct new ones in the South Cliff House;*
- *Remove the existing caretaker trailers and construct eight permanent caretaker housing units;*
 - *Replace the existing mini mart and provide new gas pump canopies;*
 - *Replace the existing fast-food restaurant with a slightly smaller building;*
 - *Replace the existing public restrooms with larger facilities;*
- *Upgrade the existing wastewater treatment facility with tertiary treatment equipment;*
 - *Replace asphalt pavement with water-permeable paving blocks;*
- *Protect archaeological resources and promote the education of tribal cultural activity in the area; and*
- *Construct a spa facility.*



Existing Development



Proposed Development



EMERGENT ISSUES

Item 1 - Incumbent Gibson Wins 2nd District Supervisor Race by 13 votes. The vote means that the Board of Supervisors will have a left progressive majority for at least the next 2 years.

Statistically Significant Anomaly: Hopefully, the Clerk Recorder, herself, will investigate the statistically significant anomaly. Where did the last 1182 votes originate? Were they randomly distributed over the district? When and how did they come in? What was the chain of custody? How were they stored, etc.?

2ND District Vote By Mail Count Anomaly Table:

| CANDIDATE | NOV 23 BY MAIL | DEC 7 BY MAIL | DIFFERENCE NOV 23 / DEC 7 | | |
|-----------|----------------|---------------|---------------------------|--|--|
| GIBSON | 10,980/52.6% | 11,333/52.5% | 853/72.1% | | |
| JONES | 9,913/47.4% | 10,242/47.5% | 329/27.9% | | |
| TOTAL | 20,893 | 21,575 | 1182 | | |

1. It seems impossible that the last 1,182 vote by mail ballots would accelerate in Gibson's favor to 72.1%
2. From the election night count and through the other successive counts, the difference hovered around 47 – 52%.
3. How can the last 1,182 ballots suddenly come in at 72.1 percent to 27.9%?
4. Ignore the poll voted ballots, as they remained exactly the same from election night forward.

Count as of November 23, 2022

County Supervisor, 2nd District (Vote for 1)

Precincts Reported: 29 of 29 (100.00%)

| | Polling | Vote by Mail | Total | |
|------------|---------|--------------|-----------------|--------|
| Times Cast | 1,795 | 22,419 | 24,214 / 36,891 | 65.64% |
| Undervotes | 87 | 1,522 | 1,609 | |
| Overvotes | 0 | 4 | 4 | |

| Candidate | Polling | Vote by Mail | Total | |
|---------------------|---------|--------------|--------|--------|
| BRUCE GIBSON | 339 | 10,980 | 11,319 | 50.08% |
| BRUCE JONES | 1,369 | 9,913 | 11,282 | 49.92% |
| Total Votes | 1,708 | 20,893 | 22,601 | |

| | Polling | Vote by Mail | Total | |
|---------------------|---------|--------------|-------|--|
| Unresolved Write-In | 0 | 0 | 0 | |

Count as of December 7, 2022

County Supervisor, 2nd District (Vote for 1)

Precincts Reported: 29 of 29 (100.00%)

| | Polling | Vote by Mail | Total | |
|------------|---------|--------------|-----------------|--------|
| Times Cast | 1,989 | 23,180 | 25,169 / 36,891 | 68.23% |
| Undervotes | 133 | 1,601 | 1,734 | |
| Overvotes | 0 | 4 | 4 | |

| Candidate | Polling | Vote by Mail | Total | |
|---------------------|---------|--------------|--------|--------|
| BRUCE GIBSON | 389 | 11,333 | 11,722 | 50.03% |
| BRUCE JONES | 1,467 | 10,242 | 11,709 | 49.97% |
| Total Votes | 1,856 | 21,575 | 23,431 | |

| | Polling | Vote by Mail | Total | |
|---------------------|---------|--------------|-------|--|
| Unresolved Write-In | 0 | 0 | 0 | |

Policy Impacts of the Election: The Progressive majority is likely to undertake some or all of the following:

1. The current redistricting plan will be “found” to be illegal and reversed. The Board majority can simply go into executive session and agree to surrender the issue.
2. The County will join the Central Coast Community Energy Authority at the first opportunity. Admission to the Authority is done in 1.5-year cycles, based on its long-range energy acquisition situation. This will have the result of obligating the County and its citizens to be responsible for its proportionate share of the Authority’s 40-year long term energy contracts.
3. The so-called housing in lieu fee, which is really a tax on home builders and developers, will be reinstated.
4. The Paso Water Basin will become subject to massive water banking of State water, thereby vitiating the overlies’ primary water rights. It will also enable large outside corporate entities to dominate the water policies that impact the basin. The recently adopted planting ordinance will be revoked. Again, and if the promised lawsuit is filed, the new Board majority can go into executive session and surrender.
5. Permits for cannabis cultivation will be made easier to obtain, and cannabis grows will be allowed in more regions of the county.
6. The last remaining oil and gas production in the County will be driven out. New wells will not be permitted.

7. The use of natural gas appliances will be banned for all new construction, and an ordinance will be adopted requiring the phase out of existing gas appliances over time (particularly at replacement).
8. Stack-and-pack dense housing will be promoted in permitting and land use regulations, while larger lot free-standing homes will be subject to many barriers and will pay much higher fees.
9. The Sheriffs and DA budgets will slowly be starved in favor of expansion of homeless and mental health programs. Civil disorder in the name of the societal reset will be encouraged in the City of San Luis Obispo, as crowd control tear gas and light dower and foam rubber munitions are banned.
10. Severe regulations related to climate change will be imposed in every aspect of County authority. For example the permitting of new or renovated gasoline and diesel fueling stations will be prohibited.
11. The Board will attempt to impose a wide variety of environmental and social equity restrictions on the SLO County Pension Trust's investment policies.
12. The County will adopt a broad policy of requiring contractors to be part of a regional program labor agreement. This will cut out most local contractors from County projects and will severely increase the cost. Paulding has received tens of thousands in campaign contributions from the large trade unions.
13. Significant expansion of homeless programs in the form of patronage grants to not-for-profits will take place.

Item 2 - San Luis Obispo County offshore wind project more difficult than shallower areas. Deeper water and lack of port facilities beget investor caution.

First-ever California offshore wind auction nets \$757 million

BY NADIA LOPEZ DECEMBER 6, 2022 UPDATED DECEMBER 7, 2022

IN SUMMARY

Several dozen companies competed for leases to build massive floating wind farms in deep ocean waters off Morro Bay and Humboldt County. The auction was the first major step toward producing offshore wind energy off the West Coast.

The first-ever auction for leases to build massive wind farms off California's coast netted final bids of \$757.1 million today, signaling the beginning of a competitive market for a new industry producing carbon-free electricity.

The auction — the first on the West Coast — included five sites about 20 miles off Morro Bay and Humboldt County, totaling 583 square miles of deep ocean waters. The leases from the federal government are the first step in a years-long regulatory process that could culminate in the nation’s first commercial-scale floating wind turbines off California’s coast.

The results of the auction offer the first key signs for gauging how strong the market is for producing offshore wind energy off California.

The total amount — to be paid by five energy companies — was considerably smaller than the record-breaking \$4.37 billion that companies paid for six offshore wind leases off New York and New Jersey’s coasts in February. That was the largest amount ever paid for U.S. offshore energy leases — including for oil and gas. The funds are paid into the U.S. Treasury’s General Fund.

While calling the lease sale a “huge success,” Adam Stern, executive director of Offshore Wind California, a trade group for the industry, said the lower lease sales could be due to the uncertainty companies may feel about offshore wind development on the West Coast. The lease area off New York/New Jersey also was 30% larger and will generate about 50% more electricity.

“Our state is not as far along in preparing for offshore wind in areas like port infrastructure, transmission and procurement policies,” Stern said.

Forty-three companies were eligible to bid on the leases offered by the U.S. Bureau of Ocean Energy Management, which oversees offshore energy and mineral projects. The winners were RWE Offshore Wind Holding, California North Floating, Equinor Wind US, Central California Offshore Wind and Invenergy California Offshore.

The offshore waters included in the auction have the potential to host several hundred turbines that produce more than 4.5 gigawatts to power about 1.5 million homes.

Offshore wind projects are considered critical to meeting California’s goals to provide a new source of electricity, end reliance on fossil fuels and battle climate change.

The auction is “great news for California’s offshore wind industry, workers, and electricity ratepayers,” Stern said. “It’s the most consequential milestone yet for the Golden State’s efforts to make offshore wind a key part of its diverse clean energy future.”

“There’s a lot of opportunities, but there’s also some challenges...California has deeper waters than any other areas with these floating turbines so far in the world.”

[HABIB DAGHER, UNIVERSITY OF MAINE](#)

Experts say construction is at least five to six years away, and an array of unknowns must first be addressed by the companies: the high costs of construction, the logistics of producing the energy and bringing it to shore, and the environmental risks to marine life and commercial fisheries.

“There’s a lot of opportunities, but there’s also some challenges,” said Habib Dagher, executive director of the University of Maine’s Advanced Structures and Composites Center, who is helping develop the first offshore floating wind turbines in the U.S.

“California has deeper waters than any other areas with these floating turbines so far in the world,” he said. “How do you protect the environment, protect local stakeholders, protect the fisheries, protect indigenous communities, while also speeding up permitting so we make a difference with global climate change?”

Unlike current offshore wind turbines fixed to the ocean floor off the East Coast, California’s turbines — the first of their kind in the nation — would float on platforms anchored by cables in waters reaching about half a mile deep.

The turbines are hundreds of feet tall with blades that are bigger than a football field, but they would largely be out of sight from the shore, about 20 miles away. The Morro Bay lease area covers 376 square miles, while Humboldt’s is 207 square miles.

The state’s ambitious offshore wind targets build off President Joe Biden’s 2021 pledge to deploy 30 gigawatts of offshore wind nationally by 2030. Gov. Gavin Newsom hopes to add between 2 to 5 gigawatts of offshore wind off California’s coasts by 2030.

The state’s ultimate goal is to produce at least 25 gigawatts from offshore wind sources by 2045 – the boldest commitment any state has made. That could supply electricity for 25 million homes.

“Offshore wind is a critical component to achieving our world-leading clean energy goals and this sale is an historic step on California’s march toward a future free of fossil fuels,” Newsom said in a statement. “Together with leadership from the Biden-Harris Administration, we’re entering a new era of climate action and solutions that give our planet a new lease on life.”

How do offshore wind farms work?

Offshore wind turbines work similarly to land-based ones. Wind makes the turbine's blades spin around a rotor, which then turns a generator to produce electricity. The turbines send energy through cables under the seabed to an onshore substation, where the energy is converted to a higher voltage before being fed into the grid that provides electricity.

California's offshore wind farms would be the first in the country constructed with floating platforms at a large scale. Europe has long been a leader in developing offshore wind technologies, including a few existing floating offshore wind farms.

The U.S. hopes to soon become another world leader in developing the technology, said Dagher of the University of Maine.

"The U.S. still has an opportunity to lead in floating technologies," he said. "But we need to move forward on the technology side and keep investing in research and development."

The first offshore wind turbines in the U.S. are rooted to the sea floor in relatively shallow waters on fixed structures, which are unsuitable for deep waters. California's floating turbines, however, will be located about 20 miles offshore and will need to be anchored by cables that reach to the ocean floor at depths of several thousand feet.

The federal government has held ten other competitive lease sales and issued 27 commercial wind leases in the Atlantic Ocean, spanning from Massachusetts to North Carolina, according to the U.S. Bureau of Ocean Energy Management.

The two U.S. offshore wind farms are capable of generating a combined 42 megawatts of electricity. The country's first offshore wind project, off the coast of Rhode Island, launched in 2016 with five turbines, followed by a project in Virginia with two turbines. More projects are on the way, including off the coasts of Massachusetts, New York and New Jersey.

Building and operating the nation's new offshore wind industry will be worth \$109 billion to supply chain businesses over the next 10 years, according to one report.

Costs for launching the projects have decreased by as much as 60% since 2010, according to a July report from the International Renewable Energy Agency. The cost of producing the energy in the U.S. averages about \$84 per megawatt-hour, more than most other types of energy, according to the U.S. Department of Energy.

Bigger and deeper carries more risks and higher costs

Today's auction is just one of many steps in the permitting and construction of commercial offshore wind development off California. Developers must submit plans detailing the cost and scale of the wind farms before going through an extensive environmental review. That process could take five to six years before construction, which could take a couple more years, begins, said Stern of Offshore Wind California.

The companies will have to seek approval or permits from several state and federal agencies, including the [California Coastal Commission](#).

The scale and size of the technology means California would need to rapidly build specialized port facilities and servicing vessels to construct and transport the gigantic turbines. To speed up deployment, he said it's critical that the state start now [investing in transmission and port infrastructure](#) and developing a clear roadmap on permitting and procurement.

“We know that we have to do something different. Offshore wind is different. That being said, we're also acutely aware that there are impacts on communities.”

DAVID CHIU, FORMER ASSEMBLYMEMBER

Wind power tends to be stronger in the ocean than on land, making offshore wind a particularly valuable renewable energy source that could help the grid during times when other renewables like traditional wind and solar can't produce energy.

Winds off the coast are strongest in the late afternoon and evening, which is exactly when – particularly in the summer – electricity demand surges as people go home and turn on appliances like air conditioners.

But several challenges exist with deploying the technology in deep ocean waters, including risks to marine life and concerns over natural disasters, such as earthquakes, said Dagher of the University of Maine.

The turbines off Eureka would be in waters 2,490 feet deep and for Morro Bay, 3,320 feet, he said. No project in the world exists in waters this deep. The deepest project to date is in Norway, in waters 721 feet deep, Dagher said.

“That adds costs and risk because no one's building anything this big or this deep yet,” he said.

At a climate summit hosted by the California Energy Commission on Monday, state leaders, public officials and companies gathered to discuss offshore wind deployment in California ahead of the lease sale.

San Francisco City Attorney and former Assembly member David Chiu said the burgeoning industry could help grow the state economy by adding thousands of good-paying union jobs in multiple sectors and helping fossil fuel workers transition into renewables.

Chiu authored AB 525, passed in 2021, requiring the state Energy Commission to establish offshore wind planning goals for 2030 and 2045 and develop a five-part strategic plan by 2023. He said strong workforce training programs and community benefit agreements, especially with Native American tribes, will be crucial to implementing the law. The potential impacts on commercial fisheries also must be considered.

“We know that we have to do something different. Offshore wind is different,” he said. “But that being said, we’re also acutely aware that there are impacts on communities.”

The federal government will offer bidding credits for developers who enter into community benefit agreements and invest in workforce training or supply chain improvements in communities. Companies that develop offshore wind projects in California also will be required to enter into labor agreements and work with Native American tribes before beginning construction.

Studying risks to dolphins, whales, fish and birds

While offshore wind is a climate-friendly resource, many environmental groups and researchers say floating wind turbines could pose environmental risks. Sea turtles, fish and marine mammals could become entangled in the cables, while birds and bats could get caught in the turbines, said Irene Gutierrez, an environmental attorney at the Natural Resources Defense Council.

“We want to make sure it’s done right,” she said. “There’s a lot that we don’t know about offshore wind in the West and what that means for various marine and coastal ecosystems.”

To reduce harm to these animals, Gutierrez said federal and state agencies, developers and researchers must work together to conduct more research and commit to regularly monitoring the effects on natural habitats once the projects launch.

“We want to make sure it’s done right. There’s a lot that we don’t know about offshore wind in the West and what that means for various marine and coastal ecosystems.”

[IRENE GUTIERREZ, NATURAL RESOURCES DEFENSE COUNCIL](#)

Brandon Southall, a scientist with the environmental group California Ocean Alliance and a research associate at UC Santa Cruz who studies the effects of noise on marine mammals, is performing a risk assessment on the lease areas for the federal government to assess how to avoid disruptions to endangered animals and noise-sensitive marine life.

“There’s a lot of uncertainty,” he said. “But there are a lot of tools that we have that are rapidly evolving, like listening and directional vector sensors to locate where animals are coming from, and we have some baseline data from other projects.”

He said the boats servicing and maintaining the turbines would pose some of the largest risks to dolphins and whales, which communicate over long distances and are sensitive to noise. To avoid being too disruptive to their communication patterns, Southall said the turbines should be installed with noise-reduction technology. Ship operators should also be required to follow a speed limit to avoid striking marine mammals, he added.

Despite the risks, Southall said they shouldn’t derail efforts to deploy the clean energy source given the severity of the climate crisis. He said it’s important that the federal and state governments develop a regulatory framework for companies to ensure they comply with environmental protections.

“I hope that when we're looking at these concerns about impacts, that we, as a scientific community and as a conservation community, don't lose sight of the fact that we need sustainable, alternative energy,” Southall said. “We need a balance of informed and conservative cautionary decision-making, but not so precautionary and so afraid of the uncertainty that we never get there.”

Note: Large wind energy projects will need to be matched with large industrial scale battery storage facilities since wind is intermittent and the ocean wind often quiets at night. See the article immediate below in COLAB In Depth for a perspective on this critical issue

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

BATTERY STORAGE IS A FANTASY

BY JOHN HINDERAKER

Wind and solar installations produce electricity well under 50 percent of the time, a fact that never will change. So, in a “green” world, how do you keep the lights on? Battery storage, liberals tell us. (The electric grid is not a storage device. Electricity on the grid must be consumed in the moment in which it is produced.) Amazingly, however, no environmentalist or liberal has made any effort to demonstrate that battery storage on the scale needed is possible, let alone affordable. In fact, it is not even remotely possible.

Francis Menton has just published a paper on energy storage. He summarizes his findings at his web site: *The main point of the paper is that an electrical grid powered mostly by intermittent generators like wind and sun requires full backup from some source; and if that source is to be stored energy, the amounts of storage required are truly staggering. When you do the simple arithmetic to calculate the storage requirements and the likely costs, it becomes obvious that the entire project is completely impractical and unaffordable. The activists and politicians pushing us toward this new energy system of wind/solar/storage are either being intentionally deceptive or totally incompetent.*

Thus, for example:

Consider the case of Germany, the country that has gone the farthest of any in the world down the road to “energy transition.” My Report presents two different calculations of the energy storage requirement for Germany in a world of a wind/solar grid and no fossil fuels allowed.... One of the calculations, by a guy named Roger Andrews, came to a requirement of approximately 25,000 GWh; and the other, by two authors named Ruhnau and Qvist, came to a higher figure of 56,000 GWh. The two use similar but not identical methodology, and somewhat different assumptions. Clearly there is a large range of uncertainty as to the actual requirement; but the two calculations cited give a reasonable range for the scope of the problem.

And against these projections of a storage requirement in the range of tens of thousands of GWh, what are Germany’s plans as presented in this “20-fold expansion” by 2031? From my Report:

In the case of Germany, Wood Mackenzie states that the planned energy storage capacity for 2031, following the 20-fold expansion, is 8.81GWh.

Rather than tens of thousands of GWh, it’s single digits. How does that stack up in percentage terms against the projected requirements?:

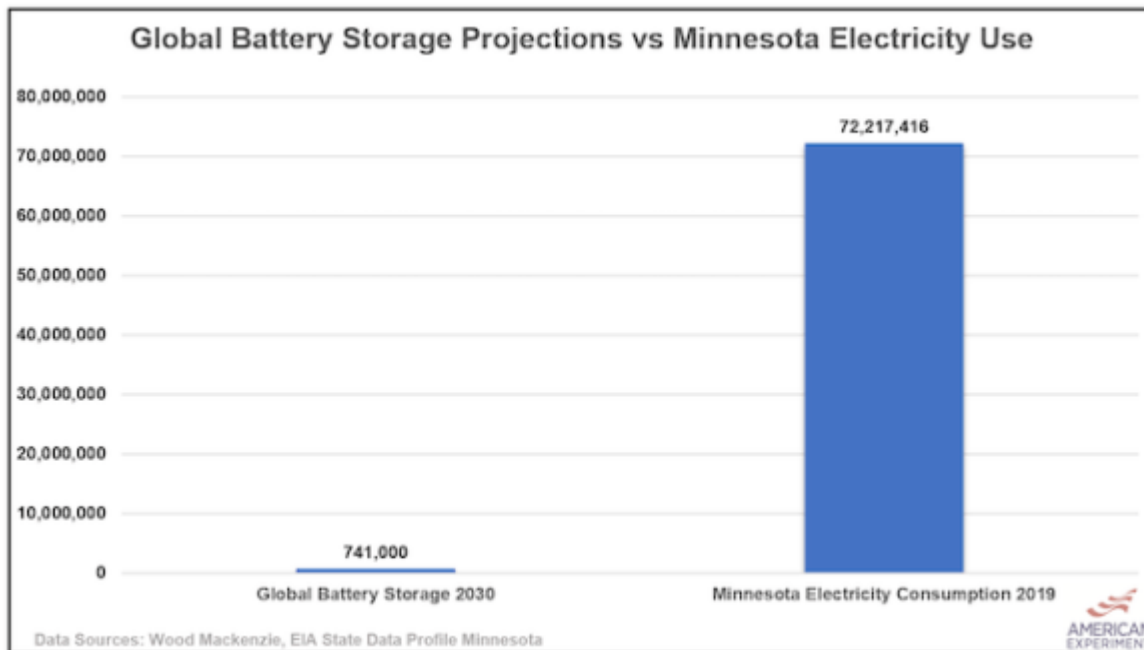
In other words, the amount of energy storage that Germany is planning for 2031 is between 0.016% and 0.036% of what it actually would need. This does not qualify as a serious effort to produce a system that might work.

This absurd situation is duplicated in every other jurisdiction that has purported to mandate wind and solar energy. For example, California:

The Report cites another article from Utility Dive stating that the California Public Utilities Commission has ordered the state's power providers to collectively procure by 2026 some 10.5 GW (or 42.0 GWh) of lithium-ion batteries for grid-scale storage:

The additional 10.5 GW of lithium-ion storage capacity, translating to at most about 42 GWh, would take California all the way to about 0.17% of the energy storage it would need to fully back up a wind/solar generation system.

This is a joke. There are nowhere near enough batteries in the world to back up the world's need for electricity, nor will there ever be. My colleague Isaac Orr prepared this simple graph, which shows the entire battery capacity of the world as projected in 2030 against the electricity consumption of a single state, Minnesota:



Is there a single place, anywhere in the world, that has actually satisfied its citizens' need for electricity through wind or solar energy, plus batteries, as liberals now demand for all of us? No, actually, there isn't:

Here's what tells you all you need to know: not only is there no working demonstration project anywhere in the world of the wind/solar/storage energy system, but there is none under construction and none even proposed.

The whole green energy project is a gigantic fraud. A handful of shysters are getting rich, along with some activists and politicians, while the rest of us will be left holding the bag. In the dark.

John Hinderaker is President of Center of the American Experiment. He spent 41 years as a litigator with Faegre & Benson and its successor Faegre Baker Daniels, during which time he tried 100 jury cases and appeared in courts in 19 states. Upon his retirement from the legal profession at the end of 2015, he became president of the Center of the American Experiment. John has had a long association with the Center, including co-authoring several papers

published by the Center and serving on the organization's Board of Directors. John was Chairman of the Center's board in 1998-2000.

In addition to his legal career, John is a long-time commentator and activist. He founded the website Power Line in 2002 and has been a prominent voice on the internet and elsewhere since that time. He has appeared as a commentator on NBC, CBS, Fox News, CNN, CNBC and Sky News Australia, and is a frequent guest and guest host on national radio programs. John has lectured at Dartmouth College, Harvard Law School, Carleton College, St. Olaf College, Macalester College and the University of Minnesota.

THE TYRANNY OF THE MINORITY

A few hundred super-rich elites and a powerful handful of woke and climate activist ringleaders now tyrannize America.

BY EDWARD RING

In the *Federalist*, James Madison famously warned against the “tyranny of the majority,” but it is unlikely he could have envisioned what we face today. Twenty-first-century America is dissolving before our eyes, as a tyrannical coalition of minorities steals our heritage and sovereignty. Not ethnic minorities—their American bequest is being stolen right alongside that of America's shrinking white majority. Nobody is exempt, and everyone should unite to resist.

“Minorities” in this context refers to the elite vanguard of what Californian political writer Joel Kotkin has called the “Upstairs-Downstairs Coalition,” a voting bloc, he says, “that brings together the most destitute with the most privileged parts of our society.”

At the top of the top are a few thousand of the super-rich. At the bottom are a few thousand hardened fanatics, many of them professionals. These two super-minorities, working in tandem, currently control the destiny of America. Expertly manipulating the voters in the upstairs-downstairs coalition, they're actively destroying everything we love and everything we need.

The minority occupying the top position in the upstairs-downstairs coalition are the plutocrats who run America. A 2017 analysis identified the top 0.01 percent (1 in 10,000 Americans) to have an average annual income of over \$30 million. A 2019 Stanford study found the top 0.1 percent (1 in 1,000 Americans) control a total net worth equal to the entire cumulative net worth of the bottom 90 percent of Americans. At the pinnacle, however, are America's billionaires, a scant 735 of them at last count.

This is a vanishingly small minority of people, roughly one in every half-million Americans. But their influence is decisive. Every year, these billionaires and the corporations they control disburse billions—often getting tax deductions for doing so—to maintain standing armies of activist groups that conduct lawfare, fund civil disobedience, run massive propaganda

campaigns, engage in targeted “get-out-the-vote” activities, prop up financially dependent media properties, and produce “expert” studies with paid-for ideas.

The minorities at both ends of this up-down coalition are groups identifiable not by their ethnicity or ideology, but by their behavior. In every case, they constitute a minute fraction of the population, but in the name of compassion, equity, diversity, and environmentalism they are undermining and, unless stopped, will destroy America.

The Weaponization of Mental Illness

Michael Shellenberger, a Californian and former progressive activist, has become one of America’s most astute critics of the failed policies that are sowing social and economic chaos across the nation. In a series of recent Substack articles with self-explanatory titles, including “Infantilization Of The Apocalypse,” “The Quiet Desperation Of Woke Fanatics,” and “Narcissism In Climate & Woke Victim Movements,” referring to militant climate activists, he argues that “global elites are encouraging them, which is exceedingly dangerous and irresponsible.” He’s right.

Co-opting potentially violent sociopaths, or as Shellenberger puts it, “weaponizing mental illness,” has long been a tool of authoritarian regimes. In the USSR during the Cold War, during the German Nazi era, and in police states throughout the 20th century, recruiting thugs and turning them on their own people was a common tactic—as it is still in Communist China today. What’s happening in America is only slightly more nuanced, and highly effective.

To further explain who controls America’s current upstairs-downstairs coalition in a historical context, it is helpful to recognize the false dichotomy represented by the supposedly left-wing establishment Democrats and the supposedly right-wing establishment Republicans. “Establishment” is the key word here.

Gary Allen, in his 1971 book, *None Dare Call It Conspiracy*, blew up the traditional paradigm whereby the “Left” is communism and the “Right” is fascism. In what he suggested is a more accurate political spectrum, *all* forms of authoritarian government, communism, fascism, and socialism, are to one extreme, anarchy is to the other extreme, and in the center is a constitutional republic with limits on government power.

The distinction explains how a shared agenda could exist between outwardly antagonistic capitalists and socialists. Allen writes, “The seeming paradox of rich men promoting socialism becomes no paradox at all. Instead, it becomes the logical, even perfect tool of power-seeking megalomaniacs. Communism, or more accurately, socialism, is not a movement of the downtrodden masses, but of the economic elite.”

Pressure from Above, Pressure from Below

Allen describes the upstairs-downstairs coalition as “pressure from above, pressure from below,” writing, “Radical movements are never successful unless they attract big money and/or outside support . . . the Left is controlled by its alleged enemy, the malefactors of great wealth.”

The hidden agenda is to sow chaos, triggering demands for more state control, and allowing governments and corporations to consolidate power and wealth further. This agenda is proceeding on schedule.

The public agenda, incessantly marketed as something to be desired, is to erase America as we know it, replacing it with what is enthusiastically portrayed as a transnational, transhuman utopia. According to this vision, every person on earth will have achieved “equity,” i.e., equal outcomes. At the same time, the footprint of human civilization will become ecologically benign, and the planet will be saved.

This is an impossible charade. What they are actually imposing on the overwhelming majority of Americans is a terrifying dystopia. Private financial independence will become all but impossible, the economy will be centrally controlled, productivity will be rationed, and, if anything, the health of planetary ecosystems will be worse, not better. Indoctrination campaigns escalate with every passing year. But if you question any of it, you are tarred as a divisive bigot.

For decades, intensifying with Obama’s presidency, establishment institutions in America have falsely condemned Americans as racist and sexist, despite American culture for all its flaws being the most inclusive culture in the history of civilization. This ongoing propaganda war on social stability wasn’t enough, however, when the MAGA movement began to attract Americans of all backgrounds in 2016. These MAGA Americans reject the narratives of systemic racism and sexism, and they reject climate doomsday scenarios.

To cope, the establishment began anointing the most troubled individuals among us as pioneering saints, destined to redefine what it means to be “normal.” American culture is now at a tipping point, because American institutions are now opportunistically validating behaviors that are clearly destructive and obviously pathological.

The riots of summer 2020 highlighted the individuals who now constitute the vanguard of the downstairs cohort of the upstairs-downstairs coalition. For months on end, Antifa and Black Lives Matter ringleaders, fêted by the media and funded by plutocrats, orchestrated murderous rampages in dozens of cities. Looters and vandals were described by establishment press and politicians as “mostly peaceful,” and “victims of racism.”

Other members of the downstairs cohort include homeless drug addicts, psychopaths, and predators, who in their uncontained thousands have made life unpleasant, unsanitary, and dangerous for millions of people in cities and towns across America. But they are not held accountable for their actions. They are no longer arrested for vagrancy, public intoxication, or even theft. In the name of compassion and equity, such laws are no longer

enforced. This disregard for the rule of law only encourages and multiplies the worse elements, and further harms the genuine victims.

Climate militants, also a minute fraction of the population, have made common cause with BLM and Antifa militants. They commit acts of performative vandalism, their protests block freeways, they harass targeted politicians and executives, they have shut down energy pipelines, and their attacks on vital energy infrastructure are escalating. Their actions are encouraged by every mainstream institution in America, despite the destructive essence of their agenda.

No description of the activist minorities bent on erasing America as we know it would be complete without delving into the sexual revolution, which has taken a form that even hippies in the hedonistic late 1960s would scarcely recognize. Do you think women have penises or that men menstruate? If you do not agree with those statements, American institutions ranging from Proctor and Gamble to the National Hockey League consider you to be a “divisive” individual, lacking empathy.

The preposterous extreme to which the woke gender warriors are trying to take America is incomprehensible to any sane person. Do you believe it’s appropriate for drag queens to recruit five-year-old children to learn how to twerk? Should states be boycotted because their legislatures had the courage to prohibit biological men from using a women’s restroom, or participate in women’s sports? Do you object to surgeons removing the sexual organs of children? Careful how you answer. Sanity is insurrectionary.

The public agenda of Antifa and BLM is “equity.” For the Homeless Industrial Complex, it’s “compassion.” For climate militants, it’s “saving the earth.” For gender warriors, it’s to end “discrimination.” But in all of these cases, their hidden agenda is to advance the power of the state, to divide and demoralize the population, to destroy conventional traditions and norms, and consolidate private property ownership in the hands of a small elite.

From outraged parents swarming in to be heard at school board meetings to individuals everywhere merely wanting to protect their families, their homes, and their businesses, those who defend order and normalcy are now the “divisive” ones. Worse, they are now deemed dangerous and are condemned by nearly every influential institution in the country.

A few hundred super-rich elites and a powerful handful of woke and climate activist ringleaders are the minorities that now tyrannize America. They are not defined by conventional ideological definitions, or by their faith, or by their ethnicity. With money and fanaticism, they control establishment institutions and grassroots armies. The wealthy faction is united by greed, the woke and climate populists by nihilistic hatred. It is an axis of evil.

This cannot stand. There are too few of them and too many of us. Resist.

Edward Ring is a senior fellow of the Center for American Greatness. He is also a contributing editor and senior fellow with the California Policy Center, which he co-founded in 2013 and served as its first president. Ring is the author of Fixing California: Abundance, Pragmatism,

Optimism (2021) and The Abundance Choice: Our Fight for More Water in California (2022).
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ADDENDUM I

See below on the next page

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December 5, 2022

VIA EMAIL (Boardofsups@co.slo.ca.us)

Board of Supervisors
COUNTY OF SAN LUIS OBISPO
1055 Monterey Street, Suite D430
San Luis Obispo, CA 93408

Re: SLO County Farm Bureau's Legal Objections to PBLUMA Planting Ordinance (Item No. 47, December 6, 2022, Hearing)

Dear Honorable Members of the Board of Supervisors:

Under separate cover dated December 3, 2022, San Luis Obispo County Farm Bureau submitted comments objecting to the proposed Paso Basin Land Use Management Area Planting Ordinance ("Ordinance") based on the serious economic and other adverse impacts the Ordinance would visit upon farmers and ranchers in the Paso Robles Groundwater Basin.

On behalf of Farm Bureau, we submit these supplemental comments to highlight the legal perils of adopting the Ordinance. Farm Bureau joins the broad spectrum of organizations and stakeholders who urge rejection of the Ordinance. Legal deficiencies in the Ordinance, associated General Plan amendments, and Final Program Environmental Impact Report ("FPEIR") have been cited in myriad comment letters. This letter highlights those legal deficiencies of special concern to Farm Bureau and its members, in a good-faith effort to avoid a legal challenge to the Ordinance.

As explained below:

- 1. The Proposed Ordinance directly conflicts with the Sustainable Groundwater Management Act, as well as the Amended Groundwater Management Plan Submitted to the State. Given the adverse impacts it would cause, the Ordinance risks heavy-handed *state* intervention in the management of the basin.**
- 2. The County's "Statement of Overriding Considerations," which is necessary for approval of the Ordinance give its Class I impacts, is fatally deficient.**
- 3. Property-rights concerns militates *against* adopting the proposed Ordinance given the unprecedented and burdensome regulations and mandates it purports to impose—for the first time in this County—on farmers and ranchers.**

I. The Proposed Ordinance Directly Conflicts with the Sustainable Groundwater Management Act (“SGMA”) Generally and the Amended Groundwater Management Plan (“GSP”) Submitted to the State in Particular

A. The Proposed Ordinance Conflicts with SGMA

In 2014, the Legislature and Governor enacted the Sustainable Groundwater Management Act (“SGMA”). Water Code § 10720, *et seq.* SGMA sets forth a statewide framework to help protect groundwater resources over the long-term. SGMA’s principal objective is to “provide for the sustainable management of groundwater basins” across the State, including by “establish[ing] minimum standards for sustainable groundwater management.” Water Code § 10720.1.

To that end, SGMA allows local agencies to form groundwater sustainability agencies (“GSAs”) for the high and medium priority basins such as the Paso Robles Groundwater Basin (“PRGB”). GSAs develop and implement groundwater sustainability plans (GSPs) to avoid undesirable results and mitigate overdraft within 20 years. Water Code § 10727.2(b)(1). As a GSA for the PRGB, the County has certain legal obligations under SGMA.

SGMA preempt local efforts that purport to ignore or override those obligations.¹ Under article XI, section 7 of the California Constitution, “[a] county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.” If otherwise valid local legislation conflicts with state law, it is preempted by such law and is void.” *Sherwin-Williams Co. v. City of Los Angeles* (1993) 4 Cal.4th 893, 897. “[L]ocal legislation is ‘contradictory’ to general law when it is inimical thereto.” *Id.* at 898. While SGMA recognizes local governments’ power to exercise traditional land-use authority consistent with the Act, “SGMA is a comprehensive statutory scheme reflecting the Legislature’s intent to occupy the field of groundwater management.” *Environmental Law Foundation v. State Water Resources Control Bd.*, 26 Cal. App. 5th 844, 864 (2018).

Below are examples² SGMA-imposed mandates that the County, as the local land-use regulator and a GSA, must comply with—as well as a discussion of how the proposed Ordinance conflicts with said mandates:

- **State Mandate:** SGMA requires that a GSP “be developed and implemented for each medium- or high-priority basin by a groundwater sustainability agency to meet the sustainability goal established pursuant to this part [i.e., pursuant to SGMA].” Water Code § 10727(a). The GSP must contain “[m]easurable objectives, as well as interim milestones in increments of five years, to achieve the sustainability goal in the basin within 20 years of the implementation of the

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² The citation to specific provisions of SGMA and/or the Paso Robles GSP is intended only to demonstrate some ways in which the proposed Ordinance conflicts with those materials. The list of provisions discussed is not exclusive.

plan,” as well as a “description of how the plan helps meet each objective and how each objective is intended to achieve the sustainability goal for the basin for long-term beneficial uses of groundwater.” Water Code § 10727.2(b)(1)-(2) (emphasis added).

As to the “sustainability goal,” implementing regulations require each GSA to “establish in its Plan a sustainability goal for the basin that culminates in the absence of undesirable results within 20 years of the applicable statutory deadline. The Plan shall include a description of the sustainability goal, including information from the basin setting used to establish the sustainability goal, a discussion of the measures that will be implemented to ensure that the basin will be operated within its sustainable yield, and an explanation of how the sustainability goal is likely to be achieved within 20 years of Plan implementation and is likely to be maintained through the planning and implementation horizon.” 23 C.C.R. § 354.24.

Underscoring the importance of achieving the sustainability goal *within 20 years*, state law authorizes the Department of Water Resources (“Department”) to grant very limited extensions on the 20-year deadline, and only upon a showing by the GSA of “good cause.” Water Code § 10727.2(b)(1)-(3).

- **Ordinance’s Conflict with State Mandate:** The proposed Ordinance would result in a net *increase* of groundwater use over the term of its life.³ *See, e.g.*, Impact HYD-6 (“The proposed planning ordinance would allow increased groundwater extraction that would conflict with the GSP’s goal of sustainable groundwater management and with the GSP’s projections for groundwater extraction within the Paso Robles Subbasin.”); proposed Resolution amending Policy WR 1.14 from “Avoid net increase in water use” to “*limit* net increase in water use” (admitting to “net increase” in water use). Thus, it would impede the GSA’s (including the County’s) obligation to implement a GSP that “meet[s] the sustainability goal” established by SGMA “within 20 years.” Water Code § 10727.2(a), (b)(1)-(2). At a minimum, the Ordinance’s adoption would require extensions to the state-law deadline for meeting the sustainability goal. Enactment of this Ordinance—which has no ascertainable benefits and extraordinary environmental, economic, and other costs—likely would not be “good cause” for extensions of the 20-year deadline.
- **State Mandate:** SGMA requires GSAs to submit their adopted GSPs for review and approval by the Department. The Department has broad authority to review the GSPs for compliance with SGMA. Both SGMA and the Department’s

³ This assumes that the Ordinance’s 25 AFY exemption will be utilized given the unprecedented and burdensome land-use and environmental requirements that the exemption triggers.

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implementing regulations set forth the criteria for review of GSPs. Among other things, a GSA “shall have the responsibility for adopting a Plan that defines the basin setting and establishes criteria that will maintain or achieve sustainable groundwater management, and the Department shall have the ongoing responsibility to evaluate the adequacy of that Plan and the success of its implementation.” 23 C.C.R. § 350.4(e). Further, a “Plan will be evaluated, and its implementation assessed, consistent with the objective that a basin be sustainably managed within 20 years of Plan implementation without adversely affecting the ability of an adjacent basin to implement its Plan or achieve and maintain its sustainability goal over the planning and implementation horizon.” *Id.* § 350.4(f).

- **Ordinance’s Conflict with State Mandate:** These provisions reinforce the state-law requirement under SGMA and implementing regulations that GSAs, including the County with respect to the Paso Robles GSP, maintain and achieve sustainable groundwater management within 20 years of implementation. The proposed Ordinance doesn’t have as its stated objective compliance with that state-law requirement. To the contrary, by causing a net increase in groundwater use, it undermines achievement of the sustainability goal within the timeframe set by SGMA and implementing regulations, and as otherwise provided for in the adopted GSP.
- **State Mandate:** GSAs, like the County, “shall consider the interests of all beneficial uses and users of groundwater, as well as those responsible for implementing groundwater sustainability plans. These interests include, but are not limited to, all of the following: (a) Holders of overlying groundwater rights, including: (1) Agricultural users, including farmers, ranchers, and dairy professionals. (2) Domestic well owners,” as well as “(i) Disadvantaged communities, including, but not limited to, those served by private domestic wells or small community water systems” (among others). Water Code § 10723.2.
 - **Ordinance’s Conflict with State Mandate:** While well-intentioned, the proposed Ordinance imperils the GSA’s ability—through implementation of a more flexible GSP—to take into account *all* the beneficial uses and users of groundwater. For example, the proposed Ordinance would limit smaller-scale famers to only 25 AFY of irrigation water until 2045, even though the GSP process would allow for greater flexibility. Further, the unprecedented and burdensome regulatory burdens associated with the Ordinance’s purported benefits would last through 2045, meaning all farmers and ranchers in the Paso Robles Basin would be prevented from expanded plantings for the next *22 years* even if GSP actions *improved* groundwater conditions—and allowed for expanded plantings—many years before 2045. These unintended consequences impede the GSP’s goal

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of ensuring flexible and equitable treatment of all groundwater uses and users in the basin.

B. The Proposed Ordinance Conflicts with the Amended GSP Currently Under Review by the Department

The proposed Ordinance also conflicts with the assumptions and commitments contained in the Paso Robles GSP (Amended June 13, 2022), which the County and its co-GSAs submitted to the Department for review and approval in July 2022.

For example, the GSP states: “To stop persistent declines in groundwater levels, achieve the sustainability goal before 2040, and avoid undesirable results as required by SGMA regulations, *reducing groundwater pumping will be needed. Reductions in pumping will be required* in amounts and locations which will prevent groundwater level declines that would result in undesirable results. *A reduction in groundwater pumping will occur as a result of management actions*, except where a new water supply becomes available and is used in lieu of pumping groundwater.” Amended GSP at 9-1 (emphasis added). The proposed Order is intended to (and admittedly will) cause a net *increase* in groundwater use and thereby interferes with the management actions committed to in the GSP to reduce groundwater pumping.

Further, the SGMA and implementing regulations require a full description of the GSP area, including information about existing water resource monitoring and management programs, “how [they] may limit operational flexibility in the basin, and how the Plan has been developed to adapt to those limits.” 23 C.C.R. § 354.8(c). The Amended GSP references the Agricultural Offset Ordinance (codified at section 22.030.205) and even incorporates that “important tool for controlling new land uses dependent on groundwater until groundwater management controls can be finalized as part of GSP implementation.” Amended GSP at 3-31. But the plan omits reference to the County’s well-publicized and concrete efforts—*since April 2021*—to substitute a planting ordinance (like the proposed Ordinance) for the Agricultural Offset Ordinance.

If the proposed Ordinance is adopted, a major assumption in the Amended GSP will no longer hold. Because the Amended GSP doesn’t even mention efforts to substitute the Agricultural Offset Ordinance with the proposed Ordinance, the Amended GSP fails to disclose possible changes to the basin’s operational flexibility—as described above, with respect to small-scale farmers who are threatened to be subject for the next 23 years to the Ordinance’s restrictions. And, of course, the GSP has *not* been developed to adapt to the proposed Ordinance’s substantial impacts on groundwater usage.⁴

The California Environmental Quality Act (“CEQA”) Findings and Statement of Overriding Considerations (“Findings”) readily admit that the proposed Ordinance, if adopted,

⁴ If the proposed Ordinance is adopted, it is likely the County and co-GSAs will be compelled to negotiate a further amendment to the GSP and re-submit it to the Department. See, e.g., 23 C.C.R. § 355.10.

would conflict with the GSP. The Findings state that the Ordinance “would allow increased groundwater extraction that would conflict with the GSP’s goal of sustainable groundwater management and with the GSP’s projections for groundwater extraction within the Paso Robles Subbasin.” Findings at 35-36 (Impact HYD-6). The Findings admit that the Ordinance “would decrease groundwater supplies such that sustainable groundwater management of the Paso Robles Subbasin would be impeded.” Findings at 35 (HYD-3). They also admit that Ordinance “may result in water quality impacts within the Paso Robles Subbasin that conflict with goals reducing water quality pollution, achieving water quality objectives, and maintaining beneficial uses identified in the Basin Plan.” Findings at 35 (Impact HYD-5); see also Findings at 36 (Impact UTIL-2) (same).

C. The Proposed Ordinance Risks State Intervention, Stripping the County and Co-GSAs of Substantial Local Control Over Groundwater Use

SGMA threatens “state intervention . . . when necessary to ensure that local agencies,” such as the County, adequately “manage groundwater in a sustainable manner.” Water Code § 10720.1. Specifically, the State Water Board (“SWB”) will designate a basin “probationary”—and take over the basin’s groundwater management—if the Department deems a GSP to be “inadequate” or the GSP is not being implemented in a manner that will likely achieve SGMA’s sustainability goal. Water Code § 10735.2. As explained above, the Ordinance conflicts with various provisions of SGMA and the Amended GSP. Further, the Ordinance risks substantially interfering with the GSA’s ability to achieve compliance with SGMA’s sustainability goal. This, in turn, threatens the basin with “probationary” status.

The State’s designation of a basin as “probationary” has undesirable consequences, both for the County (in the loss of local control) and for farmers and ranchers. Water Code § 10735.4(a)-(b). During probation, pumpers in the basin are required to measure and report groundwater extractions and pay associated fees. The SWB may also require groundwater extractors to install meters and conduct investigations and gather other data necessary for sustainable groundwater management. If the issues identified in the probationary determination are not fixed, the SWB may develop and implement an interim plan to manage groundwater use in the basin. Water Code § 10735.4(c). That “interim plan” must include: “(1) Identification of the actions that are necessary to correct a condition of long-term overdraft or a condition where groundwater extractions result in significant depletions of interconnected surface waters, including recommendations for appropriate action by any person. (2) A time schedule for the actions to be taken. (3) A description of the monitoring to be undertaken to determine effectiveness of the plan.” Water Code § 10735.8(b). Further, the “interim plan” may include: “(1) Restrictions on groundwater extraction. (2) A physical solution. (3) Principles and guidelines for the administration of rights to surface waters that are connected to the basin.” *Id.* § 10735.8(c).

That kind of heavy-handed management by the State is an outcome that can and should be avoided. Local groundwater management at the GSA level is the best means of responding to local concerns and conditions, while achieving SGMA’s sustainability goal. But the proposed

Ordinance seriously threatens the GSAs' ability to achieve SGMA's overarching sustainability goal for the Basin. And it risks both the timing and outcome of the Department's review of the Amended GSP, which—again—reflects current assumptions, conditions, and a regulatory baseline that would be dramatically altered by the Board's adoption of the proposed Ordinance.

II. The Proposed Statement of Overriding Considerations Is Inadequate to Support Approval of the Ordinance

CEQA requires the County to prepare a “statement of overriding considerations” in order to approve the proposed Ordinance because of the significant adverse environmental effects (Class I impacts) identified in the FPEIR that are “not avoided or substantially lessened.” Pub. Res. Code § 21081(b); 14 Cal. Code Reg. § 15093(b). CEQA requires that the County's statement of overriding considerations describe the benefits of a proposed project that “outweigh” the negative impacts. 14 Cal. Code Reg. § 15093(a). Overriding considerations are “[s]pecific economic, legal, social, technological or other considerations, including provision of employment opportunities for highly trained workers” that justify approval despite the unavoidable significant impacts. Pub. Res. Code § 15091(a)(3). A statement of overriding considerations must be supported by “substantial evidence in the record” to survive a judicial challenge.⁵ *Sierra Club v. Contra Costa County*, 10 Cal. App. 4th 1212, 1222–1224 (1992). The “substantial evidence” relied on must “demonstrate the balance struck” by the agency in weighing the proposed project's benefits against its unavoidable adverse impacts. *Concerned Citizens of South Central L.A. v. Los Angeles Unified School Dist.*, 24 Cal. App. 4th 826, 849 (1994); *see also Woodward Park Homeowners Assn., Inc. v. City of Fresno* (2007) 150 Cal. App. 4th 683, 720 (finding of shopping center's economic benefit not supported by substantial evidence); *Sierra Club v. Contra Costa County* (1992) 10 Cal. App. 4th 1212, 1223 (finding of jobs/housing balance benefit not supported by substantial evidence).

The Statement of Overriding Considerations in the record lacks substantial evidence in the record.

⁵ “Substantial evidence . . . must be of ponderable legal significance, which is reasonable in nature, credible and of solid value.” *JKH Enterprises, Inc. v. Dept. of Indus. Relations* (2006) 142 Cal.App.4th 1046, 1057. “Speculation is not substantial evidence.” *People v. McCloud* (2012) 211 Cal.App.4th 788, 807. Further, in applying the “substantial evidence” test, “the court reviewing the agency's decision cannot just isolate the evidence supporting the findings and call it a day, thereby disregarding other relevant evidence in the record.” *La Costa Beach Homeowners' Assn. v. Cal. Coastal Comm.* (2002) 101 Cal.App.4th 804, 814. Instead, “the court must consider all relevant evidence, including evidence detracting from the decision, a task which involves some weighing to fairly estimate the worth of the evidence.” *Id.*; *see also Bowman v. Cal. Coastal Comm.* (2014) 230 Cal.App.4th 1146, 1150 (reiterating that the “substantial evidence” test involves “some weighing of the evidence” and reversing the Commission's decision for lack of substantial evidence).

The first category of “benefits” purporting to override the Ordinance’s unmitigated adverse impacts is titled, “Legal and Environmental Benefits.” The findings for that category rest on the assumption that, unless the Ordinance is adopted, “the agricultural offset requirements will expire on August 31, 2023,” allowing “growers to plant without any limitations” and allegedly producing additional environmental impacts. Findings at 36-37 (“Legal and Environmental Benefits”). But that assumption is faulty, including because it speculates about a worst-case scenario—expiration of the Agricultural Offset Ordinance next year—that the County easily can avoid. If the Ordinance is rejected, the County has a wide range of alternatives at its disposal, including extending the Agricultural Offset Ordinance and thereby preserving the *status quo* until such time that the Department approves the GSP.

The second category of “benefits” that purportedly override the Ordinance’s unmitigated adverse impacts is titled, “Economic and Social Benefits.” The findings under that category state that the proposed Ordinance would “encourage[] the protection and use of agricultural land,” and “support the rural economy, locally-based commercial agriculture, and scenic rural landscapes.” Findings at 37 (paragraph (a)). The findings also state that the Ordinance is “more flexible for agricultural operations than the existing agricultural offset requirements” because of the differing “lookback period,” the “automatic annual extension for drought years,” and the “25-AFY exemption instead of 5-AFY exemption.” Findings at 37 (paragraph (b)). The findings further state that the Ordinance’s “ministerial streamlined permitting process” will “encourage and facilitate smaller production agriculture operations in the PBLUMA to plant irrigated crops using up to 25 AFY per site of groundwater.” Findings at 37-38 (paragraph (c)). Finally, the findings claim that the Ordinance “will support and promote a healthy and competitive agricultural industry in the PBLUMA” because it will “cap the increase in groundwater production for existing agricultural operations to allow new smaller operations to establish using 25 AFY per side.” Findings at 38 (paragraph (d)).

All the “Economic and Social Benefits” findings rest on a single and unsupported assertion: The Ordinance will benefit agricultural producers, big and small. But the record contains no “substantial evidence” to support that assertion. Indeed, the record is replete with the testimony of agricultural producers and their organizational representatives that the Ordinance will only *hurt* them and their operations. Among the opponents of the Ordinance are the SLO County Farm Bureau, SLO County Cattlemen’s Association, Grower-Shippers Association of Santa Barbara and SLO Counties, Paso Robles Wine Country Alliance, and SLO County Agricultural Liaison Advisory Board.

The reason for the near-unanimous opposition to the Ordinance from agricultural producers is simple: The proposed Ordinance introduces *five unprecedented and cumbersome “Mitigation Measures” (i.e., regulations) on farmers and ranchers* that fundamentally redefine the relationship between local agriculture and County government, setting a dangerous regulatory precedent for the agricultural industry. Anyone who is subject to and/or seeks the limited benefits of the Ordinance must comply with a raft of new regulations: (1) new 50-foot setback from riparian and wetland areas (including intermittent blue-line streams), (2) mandatory

reporting to County government of monthly irrigation water usage, and (3) a new dust control regulation that includes a requirement to pave farm roads and install speed bumps along fields.

Smaller-scale farmers who might otherwise benefit from the exemption have it worse. The Ordinance would freeze in time—for 22 years, until 2045—the maximum-25-AFY-per-site exemption, even though SGMA and the GSP process allow for much greater flexibility over the years, allowing GSAs to respond to ever-evolving groundwater conditions. They would be subject to a so-called “Greenhouse Gas and Carbon Sequestration” mandate to plant crops. And they would be subject to a costly new requirement to hire a geologist to perform a hydrology report before planting crops.

It is not at all clear from the record that, given these new regulatory burdens, *any* small-scale farmer could afford to invoke the 25-AFY exemption. In other words, the findings for “Economic and Social Benefits” only *speculates* that the Ordinance will benefit small (and other) farmers and ranchers. But it does not *show*, with evidence, that they will.

In sum, the evidence in the record—including in the overwhelming comments from those farmers and ranchers who would be subject to the Ordinance—supports the conclusion that the Ordinance will impose economic and social *costs*, not benefits.

III. Property-Rights Concerns Militate Against Adoption of the Ordinance

The new and unprecedented regulatory burdens that the Ordinance would introduce into agricultural practices, including crop rotations, are described above and in Farm Bureau’s December 3, 2022, letter. There is an independent reason why the Ordinance—and its accompanying regulations, innocuously described as “Mitigation Measures”—should be rejected: Because of “regulatory creep,” the Ordinance would set a dangerous precedent for farmers, ranchers, and property owners generally.

The County historically has shunned heavy-handed regulation of agricultural practices within its jurisdiction. The County’s Agriculture Element states the following goal: “Develop agricultural permit processing procedures that are rapid and efficient. Do not require permits for agricultural practices and improvements that are currently exempt. Keep the required level of permit processing for non-exempt projects at the lowest possible level consistent with the protection of agricultural resources and sensitive habitats.” Ag. Element at 2-14. This approach has served the County, its community, and the agriculture industry well, allowing it to flourish with minimal regulatory oversight.

The proposed Ordinance would change that framework, introducing a permit process encumbered by so-called “Mitigation Measures” that are intrusive, burdensome, and costly. The introduction of such regulations in a sector or industry that historically has seen little, if any, control, almost guarantees more and costlier regulations in local agriculture in the future. “[R]egulation begets regulation.” *District Intown Props. Ltd. Pshp. v. District of Columbia*, 198 F.3d 874, 887 (1999) (Williams, J., concurring).

Significantly, the introduction of government regulation in an otherwise largely unregulated industry like local agriculture makes it difficult, if not impossible, for farmers, ranchers, and property owners to stave off *future* regulations, including the courts. In constitutional challenges to burdensome regulations, courts often will consider the baseline of regulation in the industry in question. If the industry has a history of regulation, courts tend to write off newer ones as the mere costs and burdens of doing business—and impervious to constitutional challenge. *See, e.g., Campanelli v. Allstate Life Ins. Co.*, 322 F.3d 1086, 1098 (9th Cir. 2003) (“If the industry has been heavily regulated, then the impairment [to constitutional rights] is less severe.”); *see also Elmsford Apt. Assocs., LLC v. Cuomo*, 469 F.Supp.3d 148, 171-72 (S.D.N.Y. 2020) (“Because past regulation puts industry participants on notice that they may face further government intervention in the future, a later in time regulation is less likely to violate the contracts clause [of the United States Constitution]” (cleaned up)); *S. Cal. Rental Hous. Ass’n v. Cty. of San Diego*, 550 F. Supp. 3d 853 (S.D. Cal. 2021) (same).

The proposed Ordinance represent a significant break from the County’s historic and laudable policy of forswearing costly rules and regulations that would impede the flourishing and competitiveness of the local agricultural industry. It would set the stage for further regulation of the industry by future Boards. For this reason alone, the Ordinance should be rejected.

Conclusion

The Board should reject the Ordinance and associated plan amendments. While well-meaning, the Ordinance does not achieve its stated end—namely, restoring equitable access to groundwater, especially for small-scale farmers. The Ordinance does just the opposite, by imposing unprecedented regulatory burdens on farmers and ranchers, and impeding the work of the GSAs in implementing a flexible and predictable GSP that serves all water users.

Given the broad and diverse opposition to this Ordinance, its adoption is likely to be met with legal challenge. The Board therefore is urged to accept its Planning Commission’s recommendation and decline to approve the proposed Ordinance.

Very truly yours,



Paul Beard II, Esq.
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