



COLAB SAN LUIS OBISPO COUNTY



WEEK OF JANUARY 11-17, 2015

SAVE THE DATE
6th ANNUAL
DINNER &
FUNDRAISER
COLAB SLO  **2015**

Thursday, March 26, 2015 • Alex Madonna Expo Center
Social 5:15 p.m. • Dinner 6:15 p.m.

Keynote Speaker Ben Shapiro is a Shillman Fellow at the David Horowitz Freedom Center, as well as a nationally syndicated columnist, a *New York Times* bestselling author and a graduate of Harvard Law School. Ben Shapiro has been endorsed and honored by Political and cultural leaders. Currently, Ben Shapiro is an editor-at large of *Breitbart News* and the host of *The Morning Answer* on KRLA in Los Angeles.

2 MAJOR WATER MANAGEMENT ITEMS

- Creation of More New Water Management Agencies and Expansion of the County Water Management Bureaucracy (See item 22)-**
- Release of Paso Basin Water Inflow and Outflow Model Which Beckons Permanent Rural Restrictions and Severe Growth Controls (See Item 25)-**

**LAS PILITAS QUARRY HEARING CONTINUED
AGAIN TO THURSDAY FEBRUARY 5, 2015
(AFTER ANOTHER 5 HOUR HEARING)**

**STATE ANTI- GRAZING HEARING SPARKS REVOLT
(SEE PAGE 10)**

Special Board of Supervisors Meeting of Monday, January 5, 2015, 11:55 AM (Completed)

Item 1- Swearing in of elected and re-elected Officials.

Item 2- Reorganization of the Board of Supervisors: Election of Chairperson and Vice-Chairperson. The Board voted 5/0 to appoint Supervisor Mecham as Chairman for 2015 and 4/1 (Arnold dissenting) to appoint Supervisor Hill as Vice-Chairman for 2015.

Board of Supervisors Meeting of Tuesday, January 6, 2015 (Completed)

There were no significant policy actions on this agenda. There were appointments to several Boards and Commissions. Please see last week's update for details.

In comments concerning his upcoming year as Chairman, Supervisor Mecham seemed to encourage public participation. Separately, he encouraged Board members to request the addition of agenda items on subjects of interest and or concern to be scheduled for those meetings which have short agendas and are therefore adjourned by noon.

Board of Supervisors Meeting of Tuesday, January 13, 2015 (Scheduled)

Item 14 - Well Information Release Requirement. It turns out that a condition for State approval of the recently conditionally approved IRWM (Integrated Regional Water Management program) \$6.3 million Emergency Drought grant is that the County undertake a stronger effort to collect and report well monitoring data. The write-up states in part:

There are no financial impacts as a result of today's recommended actions. However, had staff not taken the actions they did in September 2014, the drought grant application would have been disqualified, and the San Luis Obispo County IRWM Region would not have been conditionally awarded \$6.3 million via the 2014 IRWM Drought grant.

The write-up explains the purpose of the release authorization form:

Participation in the CASGEM (the California Statewide, Groundwater Elevation Monitoring) program requires that the District (the County Flood District) present well location and well construction details in a public format (internet site). The source of this information is the State's confidential Well Completion Reports, and the information cannot be released to the public without written consent from the well owner. Additionally, the locations of public supply wells are not released without consent of the well owner in accordance with agreements with the California Department of Public Health and due to infrastructure security concerns. Execution of the Well Information Release Agreement gives the District the permission to use County well data as part of the District's well measuring program as well as the CASGEM program if desired, subject to certain terms and conditions.

a. Does this pertain to private wells?

b. Again, this is more confirmation that the County never had any statistically valid information on which to base the moratorium findings of imminent threat to public health, safety, and welfare.

Item 22 - Board Adoption of a Sustainable Groundwater Management Strategy and Direction to Staff to Implement Said Strategy. This item contains a comprehensive staff recommendation for the Board to adopt a strategy to implement the provisions of the Sustainable Groundwater Management Act (SGMA) of 2014. The Law is made up of 3 separate Bills, including SB 1168, which require jurisdictions overlying certain categories of water basins to develop long-range plans and implementing regulations to bring the basins into balance.

a. Insofar as we can recall, the Board of Supervisors never requested or authorized, by a publicly adopted motion or resolution, the staff to prepare such a strategy. Essentially the staff has undertaken to design and recommend a major piece of public policy in a complete and adoptable form.

b. The strategy document evinces substantial effort, time, and preparation cost.

c. The full document can be accessed at the link:

<http://agenda.slocounty.ca.gov/agenda/sanluisobispo/4221/MjAxNC4xMi4yMiBTR01BIFN0cmF0ZWd5IERvY3VtZW50IDAwNCxMI8zMV8xNCBtaCBURVNUMi5wZGY=/12/n/38572.doc>

The staff report summarizes the following bills:

California Senate Bills 1168 (Pavley) and 1319 (Pavley), and Assembly Bill 1739 (Dickinson), signed by the Governor in September 2014, together comprise the "Sustainable Groundwater Management Act" (SGMA). SGMA is ground breaking in that it requires local agencies to manage groundwater "...in a manner that can be maintained during the planning and implementation horizon without causing undesirable results"1. SGMA, which took effect on January 1, 2015, provides for the preparation and implementation of Groundwater Sustainability Plans for all water basins in the State2, with High and Medium priority basins placed on a statutory schedule for identification of a Groundwater Sustainability

Agency/Agencies (GSA), development of a Groundwater Sustainability Plan/Plans (GSP), and achieving sustainability. Based on the 2014 Final Basin Prioritization by the State Department of Water Resources (DWR), there are five high and medium priority groundwater basins mapped in San Luis Obispo County:

- 1. Paso Robles (High)*
- 2. Santa Maria (High)*
- 3. Los Osos (High)*
- 4. San Luis (Edna) Valley (Medium)*
- 5. Cuyama Valley (Medium)*

Groundwater Sustainability Agencies

A key provision of the proposed plan is for the County to facilitate the creation of groundwater sustainability agencies (GSAs). COLAB forecast, back when SB 1168 was approved by the Legislature, that a new layer of agencies would have to be created to coordinate among the existing agencies. As the staff report indicates, each water basin is served/governed by a variety of water districts, community service districts, cities, and the County itself. Each agency has the responsibility to contribute to bring whichever basin it overlies into long-term sustainability. The problem is that some of the agencies overlie only a small portion of a basin. The cities and water districts have independent authority to control their portions of the basins. They are not subject to County water policy. But the SGMA requires that each basin be brought into sustainability, which in turn requires some method of uniform governance to allocate extraction quotas so that the ultimate basin sustainability goals can be met.

A New Layer of Government

To achieve the required coordination, the County is proposing the use of joint powers authorities (JPAs) between the various entities overlying the subject basins. Thus and for example, in the Paso Basin, the City of Paso Robles, the City of Atascadero, the Templeton CSD, the San Miguel CSD, Shandon, Creston, various small water purveyors, and the County of Monterey (about 1/3rd of the Paso Basin is in Monterey County) will have to create a JPA (a new limited purpose government entity – a new layer of government) to coordinate the required sustainability plan and operation. Consider the impacts:

- a. Ultimately, the operation and management of the Paso JPA (as well as the others) will have to be funded out of taxes, water rate increases, extraction fees, or some combination of these.
- b. Of course, if the proposed Paso Basin Water Management District is approved by the voters, it will overlap a substantial portion of the County's jurisdiction. What if the County and the District disagree about extraction limitations?

c. What if the County and the City of Paso or one of the other entities disagree on the distribution of exaction limitations among the jurisdictions?

d. From a public policy cost and efficiency standpoint (not to mention property rights, water rights, and property values), consider the mess with which the Board of Supervisors (aided and abetted by the State) has burdened the residents of the Paso Basin (and which it intends to spread to other basins):

1) It has imposed a de facto moratorium on new groundwater use and development of homes and agriculture.

2) It has endorsed and vigorously supported the creation of a new government – the proposed Paso Basin Water Management District.

3) It has supported a process which short circuits the normal process for creating such a district by obtaining special legislation that allows the Board of Supervisors to be the applicant in front of LAFCO for the district.

4) It has agreed to fund the cost of its application.

5) While stating that it supports the creation of the proposed district to promote local control, it specifically crafted the language in the enabling legislation to reserve to itself all current powers that exist in its role as County Water Management District.

6) It now proposes the creation of a set of new government entities (the Basin groundwater sustainability agencies).

7) It is driving the staff forward to bring forth ordinance and Plan amendments that would essentially make many aspects of the Paso Basin Moratorium permanent.

8) The Board has not publicly examined the plusses and minuses of the use of the quiet title/adjudication process as an alternative to this complicated and expensive layering of new government agencies.

9) Creston, Shandon, Templeton, and Atascadero were promised that they would be excluded from the Paso Basin Water Management District. Now, even if they are structurally excluded, they may become subject to restrictions as part of the required JPA.

Will the GSA's have the power to overrule the position of their member agencies with respect to extraction limitations? To this question consider:

The staff report contains an attachment (analysis) provided by the California Association of Water Districts (the districts' lobbying organization) to explain the basic provisions of the Act. It states:

a. The act requires the formation of local groundwater sustainability agencies (GSAs) that must assess conditions in their local water basins and adopt locally-based management plans. The act provides substantial time – 20 years – for GSAs to implement plans and achieve long-term Groundwater Sustainable Management Act.

b. *It protects existing surface water and groundwater rights and does not impact current drought response measures. But is that consistent with the very next set of statements?*

The Sustainable Groundwater Management Act provides local GSAs with tools and authority to:

- *Require registration of groundwater well.* Why would you do this if you were not contemplating potential restrictions?

- *Measure and manage extractions.* OK, here it is in the very intent. What if the County as the big dog in the Paso Basin GSA tries to force Paso or Atascadero to reduce their ground water extractions? Maybe Paso will have to stop approving new hotels, event venues, and sprawl subdivisions.

- *Require reports and assess fees.*

- *Request revisions of basin boundaries, including establishing new sub-basins.*

Staff Must Concur:

The Board letter repeats the analysis from the California Association of Water agencies Analysis verbatim:

The Sustainable Groundwater Management Act provides local GSAs with tools and authority to:

- *Require registration of groundwater wells*

- *Measure and manage extractions*

- *Require reports and assess fees*

- *Request revisions of basin boundaries, including establishing new sub basins*

One Consequence: More County Staff and Cost?

The Board letter states in part:

Analysis of existing Public Works staffing resources shows a deficit when compared to existing and future water resource management needs. Public Works will present an organizational and funding plan for the Board of Supervisors, designed to establish adequate staffing levels within an appropriate organizational framework. These issues will be considered within the context of the Board's existing strategic planning and budgeting framework, and are therefore not a part of this SGMA strategy.

Could a New Department Be in the Works?

Is it possible that this is an opening for a discussion to remove the water management agency and activities from the Public Works Department? The recently appointed Director (who replaced Gibson confidant Pavo Ogren) may be too professional and straight to be relied upon by the forces driving the whole water mess.

What about a Timeout Here?

Given the impacts of the SGMA, the Board should declare a timeout (moratorium?) on the whole water policy program and reassess. They keep throwing more logs on the water policy fire. Sometimes this can actually smother a fire.

- a. Hold up on the district application to LAFCO.
- b. Hold up on the work to make the Paso Basin Moratorium permanent.
- c. What about adjudication? Are they afraid to hold a hearing on its pluses and minuses and to discuss it in public?

Matters After 1:30 PM

Item 25 - Paso Basin Groundwater Model. This is a request by the staff to extend consultant contracts to further “refine” the model. The basic purpose of the model is to develop an accurate analysis of the extent to which more water is extracted from the basin than flows into the basin. The model also contains a 29-year comparative forecast which presents a no-growth scenario and a growth scenario. Obviously the growth scenario uses more water than the no-growth scenario, so by prohibiting growth it supports the County’s “smart” growth plan to concentrate further development into the cities and inside the unincorporated urban limit lines.

Back in December of 2013, the consultants presented data which showed that the current inflow/outflow deficit was between 1500 and 2500 acre feet per year depending on which decades were used in the averaging analysis. Obviously, the then Board majority didn’t like that data because the problem did not seem so serious in a basin which in wet years may receive up to 400,000 acre feet of recharge. Annual outflow in that analysis was around 89,000 acre-feet per year.

Accordingly, the analysis suddenly disappeared and has never seen the light of day. Some power point slides escaped and portrayed the data. It had to be “refined.” Now the refined analysis has come back, and, surprise, the current outflows are a much worse 111,000 acre-feet per year against inflows of 105,000 acre-feet per year.

The Board letter requests that an additional \$155,000 be appropriated to enhance and refine the model for a total cost so far of \$386,000.

It would appear that some portions of the new analysis might look at some sources of “new” water, which would be beneficial.

Updated “Baseline with Growth” run for “status quo” comparison purposes

10% Demand Reduction Scenario

Salinas River Recharge with Surplus Nacimiento water

Offset Basin Pumping with Recycled Water

- Offset Water Demand in Estrella Sub-Area
- Additional Releases to Huero Creek System
- Additional Releases to Estrella Creek System
- Offset Pumping in Creston Sub-Area with Supplemental Water
- Offset Pumping in Shandon Sub-Area with Supplemental Water

The chart below presents the current “refined” data.

Flux Terms		Unit	Model Run 1	Model Run 2
Inflow	Deep Percolation of Direct Precipitation and Return Flow from Applied Irrigation Water	AFY	22,311	24,916
	Deep Percolation of Streambed Seepage	AFY	27,938	27,537
	Subsurface Inflow	AFY	47,612	37,590
	Nacimiento Reservoir Water Project Supplies	AFY	139	5,451
	Deep Percolation of Discharged Treated Wastewater Effluent	AFY	6,789	7,909
	Deep Percolation of Urban Water and Sewer Pipe Leakage	AFY	398	464
	<u>Average Annual Total Inflow</u>	AFY	105,187	103,867
Outflow	Groundwater Pumping	AFY	95,749	110,742
	Evapotranspiration by Riparian Vegetation	AFY	3,453	3,453
	Groundwater Discharge to Rivers	AFY	10,133	11,937
	Subsurface Outflow	AFY	1,444	1,447
	<u>Average Annual Total Outflow</u>	AFY	110,779	130,027
Average Annual Change in Groundwater Storage (Total Inflow – Total Outflow)		AF	-5,592	-26,159
Cumulative Changes in Groundwater Storage Over the 29-Year Modeling Period		AF	-162,163	-758,621

In a broader policy context and for the sake of future planning, what if growth in the basin is prohibited? What if the County proves this case?

- a. What are the economic impacts (Shouldn't there be an economic model developed for that scenario?)
- b. What are the impacts on Paso Robles, Atascadero and Templeton in particular in a permanent 10% reduction scenario, as noted in the bullet highlighted in red above? Note and as pointed out in item 22 above concerning the State Groundwater Sustainability Act, these jurisdictions can no longer escape and could become subject to County control through a County dominated Groundwater Sustainability JPA.

The executive summary of the report derived from the model can be accessed at the link:

<http://agenda.slocounty.ca.gov/agenda/sanluisobispo/4223/UFJHQiBBbWVuZG1lbnQgQXR0IDEgLSBFegVjdXRpdmUgU3VtbWFyeSB0ZXN0LnBkZg==/12/n/38596.doc>

Planning Commission Meeting of Thursday, January 8, 2015 (Completed)

Item 3 - Continued Hearing to consider a request by LAS PILITAS RESOURCES LLC for a Conditional Use Permit and Reclamation Plan to allow mining and the phased reclamation of 41 acres on an approximately 234 acre site. The Commission held a lengthy hearing, which was a continuation of the hearing which began on December 11th. There were 80 speakers on the 11th, some of whom could not be heard as the time ran out. During the January 8th hearing there were 49 speakers, of whom 20 supported the project and 29 were opposed. The January 8 hearing has been continued to February 5, 2015. That hearing will most likely include a very detailed parsing and discussion by the Commissioners of the EIR, which is extensive.

Chairman Topping was cordial and went out of his way to accommodate the speakers.

Sue Harvey of North County Watch carefully placed objections to the project in the record and grounded in her assertions that the project violates the plan of Development and CEQA. She also raised the issue of piecemealing, since the application only deals with 42 acres of the 234-acre site. It sounded as if she was salting the record for a future lawsuit.

Some Interesting Factoids From the January 8th Hearing:

- The State Surface Mining and Reclamation Act may provide some support for approval of the project in that the area is listed as a mineral resource. Local agencies have to pay attention to this designation and may have to make a special finding if they determine to deny a project in such areas.
- The Public Works Department does not believe the truck, traffic, and road capacity issues are as bad as has been asserted by the Planning Department.

Background: The Planning and Building Department, in a 64-page staff report, recommended back in December that the project be denied by the Planning Commission.

The key reason for the staff recommendation for project denial is that large trucks transporting the gravel must transit the village of Santa Margarita on State Highway 58. It is estimated by staff that there may be 273 truck trips per day (a number which the applicants dispute), which will pass through the residential neighborhood on the northeast corner of the village, cross the railroad, and then turn left onto the highway. The highway then passes through the commercial section of Santa Margarita on its way to Highway 101. The Planning staff, Santa Margarita

residents, and project opponents cite the heavy traffic, noise, and contention with bicyclists as problems.

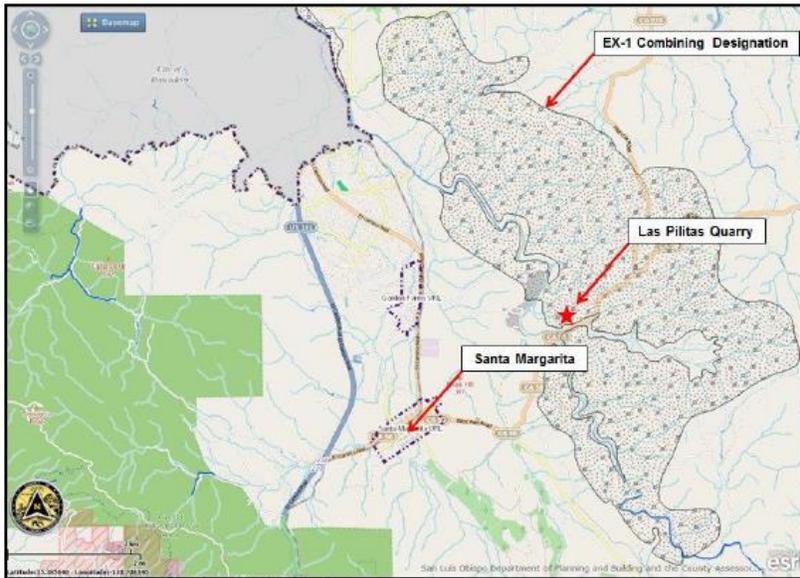


Figure 1 - Project Location Map with EX1 Overlay

B. Project Location – The proposed quarry / surface mine is located approximately three miles northeast of the community of Santa Margarita on the north side of State Route 58, immediately east of the Salinas River. The project site is located at 6660 Calf Canyon Highway (SR 58) which is approximately 234 acres in size (APN 070-141-070 and 071). The project site is located within, but near the western boundary of the Extractive Resource Area (EX1) combining designation (refer to Figure 1).

Local Agency Formation Commission (LAFCO) Meeting of Wednesday, January 15, 2015 (Scheduled)

Item C-1: Annual Report and Proposed Annual Work Program. The agenda contains no new work related to the formation of the Paso Basin Water Management District. Item C-1 projects that there will be future work for LAFCO in this regard:

Formation of Paso Robles Basin Water District - The County will consider whether to submit an application to form a District to manage the Paso Robles groundwater basin. LAFCO has provided information to agencies and the public about how this process works and what are the next steps. An information guide has been prepared to help understand and clarify the formation process. Study Sessions have been completed.

California State Water Board Presentation on the STATEWIDE GRAZING REGULATORY ACTION PROJECT (GRAP) Friday, January 9, 2015, 9AM (Completed)

State Water Board staff made a turgid and uninformative presentation about the GRAP. There was the usual bureaucratic planner rhetoric about stakeholder participation. The room was overflowing with cattle ranchers (perhaps 140)plus). When it came time for public comment,

speakers ripped the proposal. SLO County Supervisors Mecham and Compton were present and spoke against the GRAP. Mecham cautioned the State staffers about the economic risks and requested that they prepare an economic impact study. Most State and central coast cattle and agricultural associations were represented and spoke against the process and potential substance.

The bottom line is that no one believes that the State has any really interest in protecting the cattle ranchers. The GRAP is simply another step to weaken private land ownership through regulation and fees.

There were at least 50 speakers. Their key questions:

- a. What is the problem that the State is supposedly solving?
- b. Why is the State proposing a police power regulatory solution without having first attempted a voluntary cooperative educational process first?

Background: The State Water Quality Control Board (the Water Board) and its local franchise, the Central Coast Regional Water Quality Control Board (CCRWQCB) are launching a major regulatory initiative to control cattle ranching through an elaborate scheme of water regulation. This is the next step in regulating and constraining agriculture. Readers may recall that the State Water Board and the Regional Board have imposed severe and costly regulations on irrigated agriculture. The Water Board is pretending that ranchers and others will have a say in how the regulations are developed and administered.

COLAB Challenged the Water Board Staff to undertake a voluntary program first and promise not to adopt legal regulations which would:

- a. Restrict how many cattle a ranch is are allowed to run.
- b. Dictate when cattle can be allowed on various sections of the land.
- c. Regulate where cattle will be allowed to graze.
- d. Force ranchers to set up costly structures to “protect” streams, vernal pools, dry watercourses, stream embankments, etc.
- e. Regulate what supplements can be fed and what medicines and vaccines can be used, etc.
- f. Lock out large areas called environmentally sensitive habitats from grazing (because some listed plant, reptile, bird, fish, or other species may be in the area).
- g. Treat runoff and percolated water from grazed land to the quality of drinking water.
- h. Require ranchers to prepare and submit expensive annual plans describing the details of ranch operations and listing all mitigation activities.

i. Require ranchers to allow badge-carrying police-power-equipped inspectors onto their land and leases to verify conformance with the annual plan.

j. Subject ranchers to fines for non-compliance.

COLAB also challenged the State to fund any grazing program from General Fund tax dollars instead of fees levied on the victim ranchers. If the people of California desire such a program, they should pay for it with tax dollars- not exactions from ranchers.

Finally, COLAB argued that if the State and its staffers are sincere about supporting ranching and grazing, the State should financially indemnify each rancher for any costs, losses, or going out of business as a result of the program.

Back at the County Level:

Compton and Mecham should:

a. Place a Resolution on the agenda for adoption by the full Board of Supervisors condemning the GRAP and filing the County's opposition with the Governor, legislative delegation, and State Water Board.

b. Place a strong plank in its 2015 State Legislative Program exhorting its legislative delegation to adopt legislation mandating no regulatory program and supporting a voluntary and locally tailored program (if any).

c. Direct County Counsel to research legal options for defending County ranchers against the State Board if the program moves forward.

d. Develop a statewide alliance opposing the GRAP at the California State Association of Counties and setting up a CSAC committee to fight the program, mobilize County opposition statewide, and to support legislation forbidding the State Water Board from imposing a regulatory program on grazing.