



COLAB SAN LUIS OBISPO COUNTY



WEEK OF OCTOBER 12-18, 2014



THE COALITION OF LABOR,
AGRICULTURE, AND BUSINESS

COLAB
San Luis Obispo County

NORTH COUNTY MIXER 2014



DISRUPTING THE REGIME

SUPPORTING YOUR MISSION

Wednesday, October 29, 2014

5:30-7:30 p.m.

**Taft Barn
9990 Santa Clara Rd.,
Atascadero**

**(El Camino Real to Santa Clara
Rd. Located at the very end of
Santa Clara Rd., over the bridge)**

**Appetizers and Beverages
will be served.**

RSVPs appreciated by Friday, October 24th.

Email: colabslo@gmail.com or call (805) 548-0340

Guest Speakers



**Debbie
Arnold**



**Andy
Caldwell**

Join us to hear Fifth District Supervisor Debbie Arnold and COLAB Santa Barbara Executive Director Andy Caldwell slice and dice the current schemes to steal the farmers' water, drive the oil industry and jobs out of both SB and SLO Counties, and the latest on the proposed Paso Robles Basin water management district. This will be a fact filled and energizing tag team presentation.

COUNTY BOARD MAY SPEND \$350,000 TO PREPARE WATER DISTRICT LAFCO APPLICATION (SEE ITEM 7 ON PAGE 7) ¹

Board of Supervisors Meeting of Tuesday, October 7, 2014 (Completed)

Item 2 - Monthly Drought Report. There was no Board comment on the monthly drought report.

Item 19 - Mission Gardens Cultural Resources Settlement and Consulting Contract Award \$415,000. The Board approved the contract, and staff assured the audience and Board that concerns of Native Americans would be incorporated by the consultant.

Background: Back in 2006 a developer bulldozed a site at the Mission San Miguel, next to his project. The site reportedly contains important cultural resources related to Native Americans who lived at the Mission. As a result, the developer was required to undertake mitigation activities, including providing funding both to conduct archeological studies of the site and to pay for restoration and preservation activities. He agreed, but subsequently went bankrupt, and the Coast National Bank, which held the mortgage, foreclosed. The Bank was intending to sell the property to another developer. The County insisted that the Bank make good on the mitigations and demanded \$900,000. The County refused a compromise offer by the Bank. The Bank then sued because it believed the mitigation cost was excessive. The case was settled for \$415,000. The County is now contracting with the not-for-profit California Missions Foundation to manage the mitigation work, which is the subject of this item.

Item 31 - General Public Comment For Matters Not on the Agenda. During the public comment period north county grower/vintner Cindy Steinbeck raised issues about the Board's water policies, the proposed water district, and an updated report on the condition of the basin (the Todd Report). We have seen charts from that report last November that indicate that the basin may not be in as severe imbalance as has been asserted. At that time there was no published report available on which the charts were based. We were told that the report would come out in February or March. Staff indicated that delays in publishing the report were due to the need for peer review and analysis. Now a more than 300-page draft report is being circulated to various County sponsored advisory committees. Steinbeck eloquently and thoughtfully questioned the process and substance. The Board did not respond. Is it possible that the report and/or its conclusions are not to the liking of the Board majority and are being suppressed or manipulated?

After public comment ended, Supervisor Arnold asked that the Board consider extending the comment and review period for the Todd Report. Arnold was particularly concerned that the 300-page plus draft document did not contain a summary or synthesis of conclusions. There is concern that a subcommittee of the Paso Basin Advisory Committee (a lay citizen committee) may actually have a hands-on role in writing such a section. The County paid hundreds of

¹ This would include the cost of conducting the election to form the district according to the report.

thousands of dollars for a policy-neutral, apolitical report. Why wouldn't that report be completed by the professionals and then be subjected to comment? Several of Arnold's colleagues belittled the idea and accused her of not understanding the process.

Item 35 - Breakup of the General Services Department. The Board approved the reorganization unanimously. The CAO told the Board that he hoped the reorganization would be as cost neutral as possible, but that its main purpose is to promote "service improvements," not cost savings. The prospective service improvements were not elaborated. The CAO indicated that the issues concerning the provision of internal fiscal, clerical, and support services to the four new departments would be detailed at a future Board meeting. The Board accepted all this with praise.

Background: Previously COLAB suggested that more operational analysis of the expected benefits be provided. We also suggested that the costs attendant to providing support staff to what amounts to three new departments be reported. The County Administrative Officer responded that the purpose at this point is to process the ordinances necessary to create the new departments legally and to raise the salaries of those division heads (they currently hold the rank of deputy director) who are being promoted to full directors. The operational details, benefits, and other potential costs would be worked out in the future.

Board of Supervisors Meeting of Tuesday, October 14, 2014 (Scheduled)

Item 1 - Public Comment for Items Not On the Agenda. Note that general public comment for items not on the agenda is set as the very first item of the day.

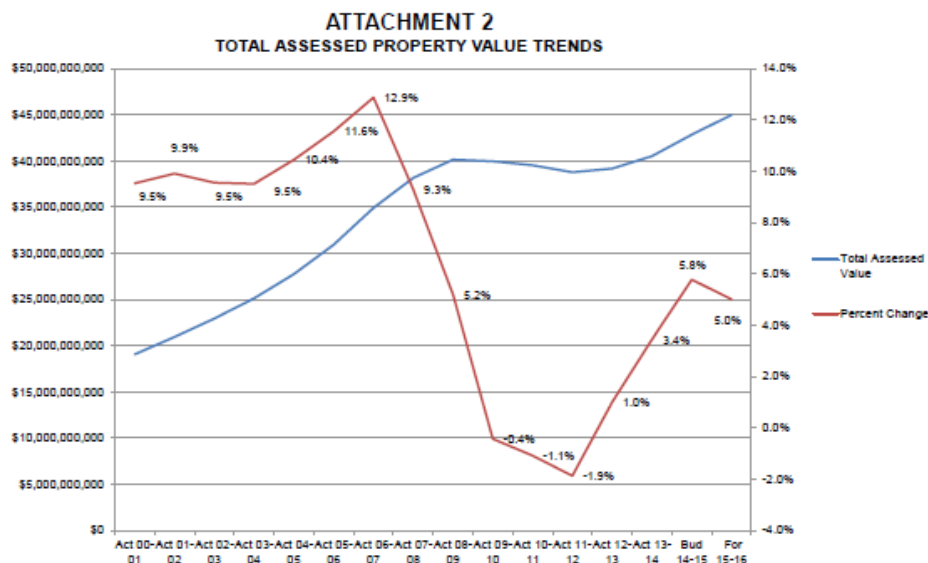
Item 2 - Consideration of a report regarding the County's Fiscal Year 2015-16 financial forecast. This report projects revenues and expenditures for the next budget cycle (FY 2015-16). It forecasts modest growth in key local revenues, including the property tax, sales tax, and transient occupancy tax. The County Administrative Officer (CAO) recommends a status quo approach (no staffing increases or decreases). One significant note is that he points out that in order to keep everything in balance, there cannot be any general salary increases. The write-up states, in part, that one of the assumptions built into the expenditures forecast includes:

No salary and benefit increases. Given a total forecast between \$4 and \$7 million, any salary and benefit increases granted to employees will result in less funds being available to increase contingencies or allocate towards programs. To illustrate this point, a 1% increase in salaries for General Fund employees would cost approximately \$2.4 million annually.

Separately, the report contains a section on national, state, and local economic trends. This section is a good tutorial on the bad consequences of current State and national policies.

a. An opportunity would be for the County to provide a year-over-year, 5-year financial forecast, which would begin to expose risks such as the non-renewal of Proposition 30 tax overrides.

b. One of the most interesting parts of the report is an addendum containing a series of historical charts. For example Assessed Valuation:



Note that the chart time interval is from 2001 thru 2016, a 15-year period. This would appear to show considerable growth but focus on the ten-year period 2006-2016. The rate actually declined and now has started growing again. Some of the new “growth” represents existing properties that received lower assessments in the recession being restored, not new growth.

The full report and the attached charts can be accessed at the link:
<http://agenda.slocounty.ca.gov/agenda/sanluisobispo/Proposal.html;jsessionid=9AB575E1015043560FFE257?select=3880>

Item 3 - Report on Department of Planning and Building Priorities. The item provides a recap of some of the policy projects which Planning and Building (P&B) Department is working on at the direction of the Board of Supervisors. It also provides some statistics on permitting volumes and other workload indicators for the Department.

The two top priority projects of the Department collectively embrace implementing the Paso Water Basin urgency ordinance moratorium, making key provisions of that ordinance permanent after it expires in August 2015, and spreading some provisions of the ordinance to other parts of the County. Specifically, as quoted from the write-up:

Proposed Top Priorities

Based on direction from your Board, the department proposed the “Priority List” and update as follows:

□ *Complete Paso Robles Groundwater Basin (PRGWB) Urgency Ordinance Implementation. Status: In Progress. On August 27, 2013, your Board adopted an Urgency Ordinance covering a majority of the PRGWB that requires new uses to offset their water demand at a ratio of 1:1 and new wells to be metered and monitored by the property owner. On October 1, 2013, your Board*

took action to provide direction to staff relative to implementation of the ordinance. Implementation includes preparation of a County Approved Conservation Program for both new development (residential and commercial) and agricultural offsets. The new development offset program was approved by your Board on February 25, 2014 and began in April 2014. The agricultural offset program is being completed by the Upper Salinas-Las Tablas Resource Conservation District and will be ready for review by your Board on October 28, 2014. Implementation of the ordinance, including vested rights determinations, is ongoing.

And

□ Complete the Public Review Drafts of Various General Plan and Ordinance Amendments Relating to Water Demand and Supply.

Status: In Progress. In May 2014, your Board directed staff to begin work on five water programs: retrofit on sale, new landscape requirements, water neutral new development in Level of Severity III basins (including new irrigated agriculture), water waste prevention, including agricultural water waste, and providing incentives for reductions in outdoor water use. In July 2014, your Board directed the department to prioritize these programs so that water neutral new development and water waste prevention ordinances are brought to the Board prior to the expiration of the Paso Robles Groundwater Basin Urgency Ordinance on August 27, 2015.

In line with the Board majority's over-arching "smart growth" (stack-and-pack) strategic plan policy, two projects are listed at very high priority:

□ □ Prepare Ordinance Amendments to Revise Standards to Encourage In-Fill Development.

Status: In Progress. The department received a grant to complete amendments that would evaluate and revise existing ordinances to facilitate development in-fill sites in urban areas in compliance with the County's strategic growth policies. A Request for Proposal process was completed and a consultant was chosen. Public outreach has occurred. The consultant and staff prepared a phased set of ordinance amendments to encourage infill development that fits in with existing neighborhoods and community character. The first phase of amendments focuses on permit streamlining for infill development. The consultant also prepared a "Great Communities Design Toolkit" that illustrates a range of "development types," along with examples of planning and design recommendations. The toolkit contains guidelines and is an informational document. It is already being used as a public outreach tool as part of the San Miguel and Los Osos Community Plan updates.

And

□ Complete Workforce Housing Policy Amendments

Status: In Progress. Amendment by the County of San Luis Obispo of Title 22 of the County Code, and the Land Use Ordinance, to incorporate a Workforce Housing Ordinance. The requested modifications include the creation of a pilot program encouraging the development of housing that is affordable to San Luis Obispo County's workforce. This is accomplished through reduced minimum lot sizes and flexible development criteria for standard subdivisions. Workforce housing subdivisions are meant to facilitate the creation of small fee-simple lots to accommodate infill housing within existing communities. Workforce housing subdivisions would

be a development tool available in Residential Single-Family or Residential Multi-Family land use categories within the Inland areas of the County.

The report continues by pointing out that the existing staffing is insufficient to perform the required functions of the department and also to develop and implement all the new restrictive policies. To this end, consider the muddled and confusing statement below:

Currently the department estimates that in order to complete the revenue generating items on Table 1, 44.75 FTE (full time equivalent) positions are needed. The mandated and budgeted programs on Tables 2 and 3 require an approximate additional 50.75 FTE positions. The department currently has 95.5 FTE positions on the Position Allocation List (PAL) and at this time, six of these positions are vacant.

This would suggest that 44.75 FTE's are engaged in permit processing, building inspection, code enforcement, plan review, and other current planning activities. Does this mean that the other 50.75 are engaged in generating all the new water restrictions, land use restrictions, barriers to farming and business, general plan updates, new plans, etc.?

Here is a strategic budgeting opportunity!

MATTERS TO BE HEARD AFTER 1:30 PM (Water Summit)

Item 5 - Presentation of Current Drought Conditions, Related Management Actions, and Response Plans. There is really nothing new in this report that has not been included in the regular monthly drought reports. The new information is in other separate reports, included as attachments.

County Water Systems A One Year Look Ahead: This report appeared a number of months ago in connection with another Board item as an attachment. It was not discussed at the time, and COLAB strongly suggested that it be brought back for a full discussion. We are glad it's here.

The report describes those actions which are being taken currently and which can be taken if the drought continues into 2015 (essentially it doesn't rain). It breaks down the condition and potential future condition of each reservoir within the County. It also details the current conditions in each unincorporated community that has a problem (some don't). The bottom line is that the County and most communities could get through 2015 with various combinations of very strict conservation, starting up some old wells, and moving water around (between systems).

We expect that we will learn more from various departmental presentations that are likely to be accompanied by PowerPoint slides during the meeting. The slides, per usual, are not included as part of the agenda package.

San Luis Obispo County Cooperative Extension Report: This is a very extensive and informative report on the impact of the drought on agriculture in the county. It contains excellent

charts and illustrations. It presents information on economic and physical impacts. The chart below, related to forage, is an excellent example:

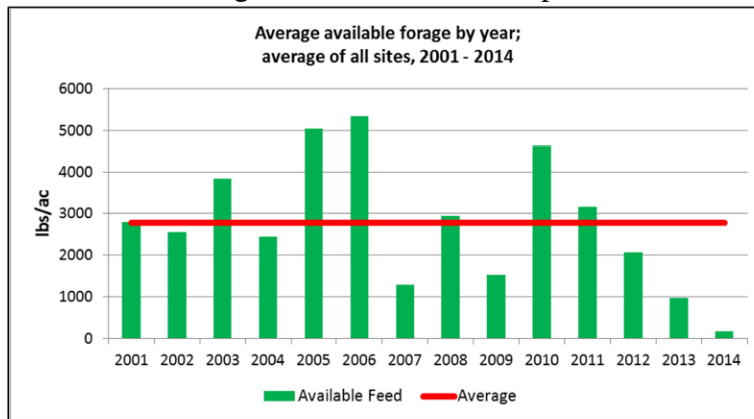
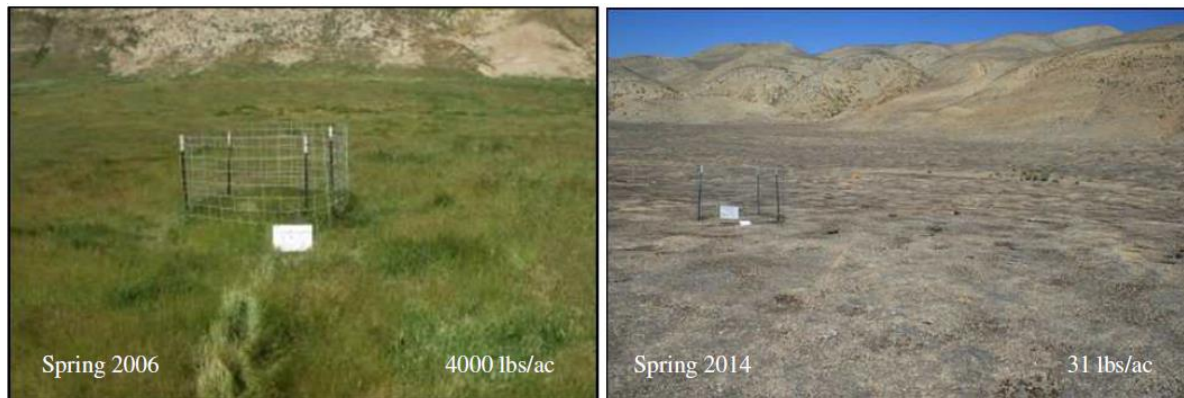


Figure 8. Available forage for livestock in San Luis Obispo County; average of all sites and years monitored. Source: Royce Larsen

The report also provides excellent illustrations which drive home the meaning of the data. See the two side-by-side illustrations below.



The report also discusses various State and Federal programs that are available to assist farmers and ranchers.

To see the full Cooperative Extension report, go to:

<http://agenda.slocounty.ca.gov/agenda/sanluisobispo/3885/QXR0YWNoZWVudCA1LUltcGFjdHMgb24gU2FuIEx1aXMgT2Jpc3BvIENvdW50eSBBZ3JpY3VsdHVyZS5wZGY=/12/n/34581.doc>

Item 6 - Update on Federal and State Water Legislation. This item contains reports from the County’s Washington Lobbyists, its State Lobbyists, and the County Counsel, with respect to the content of recent water related legislation. The focus is on SB 1168 (requires management of water basins that are at risk) and AB 2453, which enables the formation of a Paso Robles water management district with various customized local provisions. County Counsel Rita Neal provided a nice summary, which we have included at the end up this update as Addendum A.

Item 7 - Submittal of a Report and Solicitation of Board Direction Regarding Formation of a Paso Robles Basin Water District. As predicted, the true purpose of the so-called “Water Summit” is to solicit (the staff’s word choice) a vote of at least three Supervisors for

authorization for the County to prepare and submit the application for a Paso Basin Water Management District per AB 1453, enabling legislation to the SLO County Local Agency Formation Commission (LAFCO).

It is important to note that the Board item states that the purpose of the item is for *the Board, acting as the Board of Supervisors for the San Luis Obispo County Flood Control and Water Conservation District, receive a report related to the formation of a Paso Robles Basin Water District and provide direction to staff.*

- a. Does this statement provide sufficient notice for the Board to take an action directing the staff to prepare an application?
- b. Presumably the Board would want to see and approve the completed application before it is submitted to LAFCO. Would they circulate it in advance for public comment and hold a hearing?
- c. What powers and functions does the Board wish to see contained in the design of the district?
- d. The staff report indicates that the application process, including the ultimate election, could cost \$350,000. The staff suggests that this be funded from balances in the Flood Control District Budget. The general zone of the district covers the entire county and is funded by a small piece of the property tax.
 - Should the general countywide taxpayers pay for the formation of the district in the Paso Basin?
 - Are countywide taxpayers paying for legal, surveying, and financial analysis and other consultant costs for design of the district, preparation of an application, processing of an application, and conducting election proper expenditures of the County Flood Control District?
 - From what accounts would the funds be transferred for these purposes? A general reserve? What is the balance in the reserves?
 - Transfers from reserves during the year generally require a 4/5ths vote. Will the Board honor that requirement here? If it were a transfer from General Fund reserves or contingency, it would require a 4/5ths vote. Is the County Flood Control District simply a slush fund for the Board majority to do anything it wants? Or will the Board avoid a 4/5ths vote and take the money from accounts designated for water studies? Would this subterfuge be legal? This is not a study.
 - Such transfers will need to be separately noticed on a future agenda. Will the Board give direction now without a firm vote on the financing?
- e. A substantial number of citizens and voters who live in the district oppose the formation of the district as currently proposed. Some of them (hundreds representing thousands of acres of land)

have joined the action requesting a court judgment of quiet title. The County has filed its opposition to that action, which may trigger an expensive adjudication process. If the Board actually advances the funding for the design and application for the district and becomes the applicant before LAFCO, is it not using public funds to politically support one group at the expense of another? At the same time, it is already using public funds (its legal costs to oppose another group). Where is the Board's sense of fairness? If the quiet title group must fund its costs, why doesn't the group that wishes to form a water management district fund its costs?

f. If the Board or some majority wish to fund the design of the district and the application process, why don't they use some of their budgeted contingency instead of raiding the taxpayers' flood control and water project development money?

g. Recently enacted SB 1168 sets up stringent requirements for the structure and functions for the kinds of district being proposed here. This law requires a comprehensive management of water basins in order for the district plan to be approved by the state. This means that cities, community service districts, water districts, and areas that wish to be excluded from the proposed district must somehow be part of the plan. The proposed solution is to create a joint powers authority (JPA) of the jurisdictions that sits parallel to the proposed water district. The joint powers authority will have a board representing all the participants who must be included. This in turn means that the cities and urban water districts will have a say in what happens in the rural areas of the basin. Will they be able to out-vote rural representatives, as they often do on SLOCOG and the APCD?

h. Collaterally, there will be an organization and financial costs necessary to run the JPA. How much will this be? Do only the district residents and farms pay this cost or will the city and special districts share? How much will it cost?

i. By law, two members of LAFCO are County Supervisors, in this case and at present, Supervisors Gibson and Mecham. The duty of LAFCO is to assess the structural, functional, and financial feasibility of the proposed district. Since both Gibson and Hill have already endorsed the formation of a district, how can they sit as objective reviewers? They will have developed and approved the application that is being submitted. Moreover, they will have used County funds to develop that application. Isn't this a huge conflict of interest?

The staff report continues:

RECOMMENDATION

It is recommended that the Board, acting as the Board of Supervisors for the San Luis Obispo County Flood Control and Water Conservation District, receive a report related to the formation of a Paso Robles Basin Water District and provide direction to staff.

COLAB NOTE: The County Administrator, County Counsel, and Acting Public Works Director have not provided a formal recommendation to the Board of Supervisors on whether the County should be the applicant for the formation of the district. They simply describe the option. On key matters of public policy, the Board should request their recommendation and any independent analysis which they would provide, even if the

Board is unanimously for or against the particular proposed policy or action. In this case the residents and agriculturalists overlying the Paso Basin are divided. Moreover, the proposed district is likely to require significant financial assessments and is also likely to be the creator and enforcer of potent and potentially costly regulatory schemes.

The discussion section of the staff report is quoted at some length below because it is so important.

Assembly Bill No. 2453 (Achadjian) (Attachment 2), provides for the formation of the Paso Robles Basin Water District.

The bill amended the California Water Code to read:

37905(a). On or before January 1, 2019, 10 percent of landowners may petition for, or an affected local agency within the county, including the county and the San Luis Obispo County Flood Control and Water Conservation District, may apply for by resolution, the formation of a district, consistent with the agency within the county, including the county and the San Luis Obispo County Flood Control and Water Conservation District, may apply for by resolution, the formation of a district, consistent with the following definitions:

Options

1. Should the Board determine to make application to the Local Agency Formation Commission (LAFCO) for the formation of a Basin Water District, staff would prepare the necessary resolution and initial application materials and return to the Board for specific direction on key issues including boundaries, powers of the new district, and methods for determining special benefits for the purposes of a proposition 218 election to fund the new district.

2. Any other affected local agency within the county could make application by resolution, or a petition of 10 percent of landowners could initiate the LAFCO process.

3. Partner with one or more existing non-profit organizations or another affected local agency to support that group's resolution or petition with funding and technical support.

The following discussion is germane to option 1 above, where the Board of Supervisors adopts a resolution on behalf of the Flood Control and Water Conservation District. However, the majority of the processing steps and considerations are applicable to any of the above options.
LAFCO Application Process

An application to LAFCO to form the new district would begin with the adoption of a resolution by the Board. The resolution or petition must contain specific information including a description of the external boundary of the affected area and a map showing that boundary. The resolution must be accompanied by a Plan for Services. The Plan for Services must include the following:

1. Description of Service(s)

2. An identification of existing service providers, if any, and the potential fiscal impact to the customers of those existing providers.

3. A plan for financing the establishment of the new district.

LAFCO policy for the formation of new districts is that the formation is dependent on both an affirmative formation vote and an affirmative funding vote. Therefore, an application to LAFCO would also include a proposition 218 Assessment Engineer's Report, describing the operating costs of the new district, the method by which those costs are to be apportioned to landowners in the new district, and the total and individual assessments.

COLAB NOTE: The work to develop this information is part of the cost that the County would pay under this proposal.

Assembly Bill 2453, in chapters 3, 4, 5, and 6 (Water Code sections 37920 - 37969), describes the powers of the new district, under the general headings of Groundwater Management Authority, Groundwater Management Plans, Groundwater Management, and Groundwater Extraction Charges. Section 37920 states that "All powers in this part are subject to review and approval by the San Luis Obispo County Local Agency Formation Commission, upon formation, change of organization, or reorganization . . ." Therefore, as part of the application, the Board may identify, as part of the application, which of the powers set forth in chapters 3, 4, 5, and 6 it wishes the district to possess. As with the boundaries of the new district, LAFCO would make the final determination(s) on available powers.

COLAB NOTE: How will the Board decide which powers to include? What process will be used? Will staff make a recommendation or various advisory committees or what? Who is the real scrivener who will control the content?

The application must also include a reimbursement agreement, as all costs associated with the processing of the application by LAFCO would be borne by the applicant.

COLAB NOTE: LAFCO's costs would have to be paid by the County under this proposal.

Application Review Period

The initial review period for the application is 30 days. LAFCO staff will review the application materials and request additional information, if needed. As noted above, the application must include an adequate Plan for Services and an Assessment Engineer's Report to fund the cost of the initial set up and operation of the district in order to be accepted as complete.

LAFCO Public Hearings

The public forum for making decisions regarding the details of all aspects of the new district is the LAFCO public hearing process. A staff report with informational attachments is prepared for consideration by the public, key stakeholders and the Commission. LAFCO's decision to approve, modify or deny the application is based on the Commission's independent judgment in light of the record. LAFCO may add conditions of approval to the proposal.

Time Frames

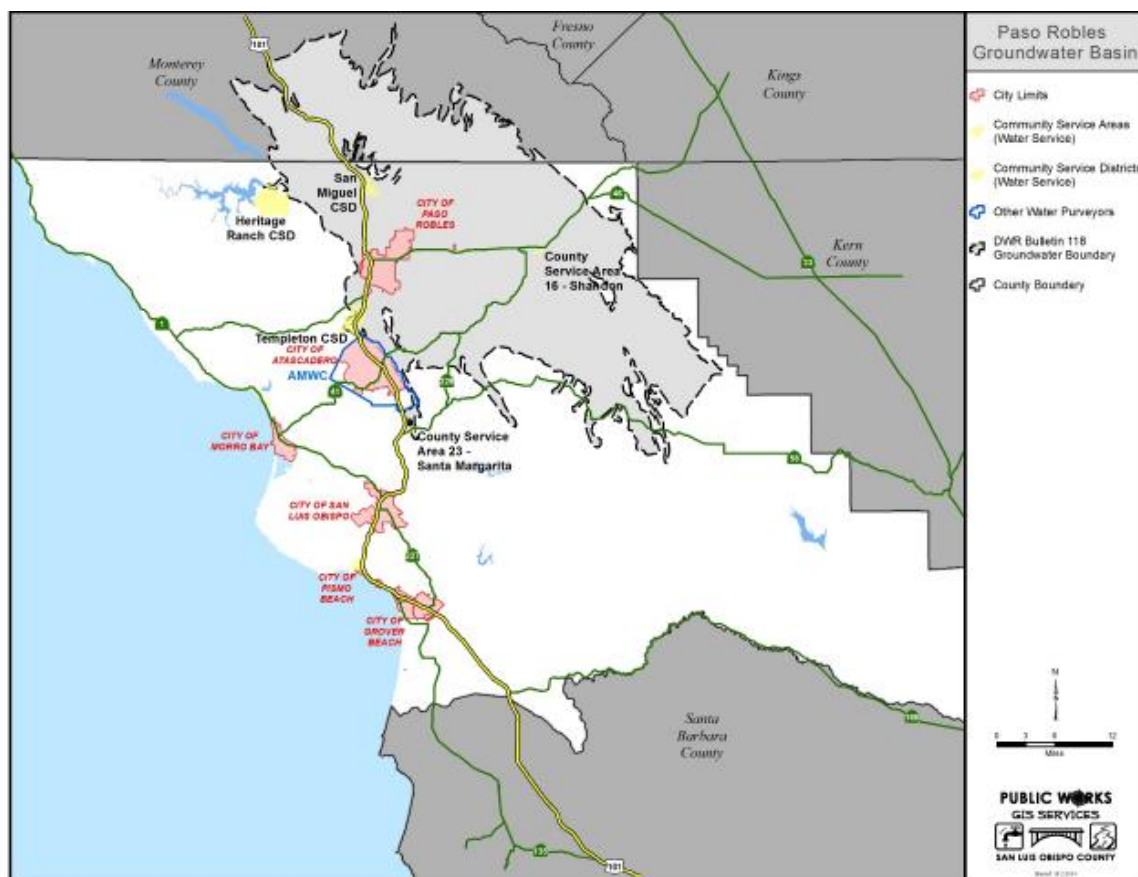
Preparation of a complete application for LAFCO consideration would require several actions by the Board at subsequent Board Business Meetings, including: confirmation of proposed district boundaries; determination of proposed powers of the new district; contracting with the

Assessment Engineer; determination of proposed funding methods; and approval of the final application package and adoption of the associated resolution. On an accelerated basis these tasks may be completed in a little as 120 days. Consideration of other competing issues related to water supply and the ongoing drought would argue for a time frame in the 6-9 month range.

Processing of the application through LAFCO leading to an election should reasonably be expected to require at least 6 months to accomplish. However, given the high level of public interest in the issue additional time for public involvement and appropriate consideration should be budgeted.

FINANCIAL CONSIDERATIONS

All costs associated with the processing of the application by LAFCO would be borne by the applicant. Initial estimates include: Plan of Services - \$25,000; Assessment Engineer's Report - \$100,000; Legal description of district boundary - \$25,000; Contract election services - \$200,000. Total initial estimated costs equal \$350,000. Funding may be provided from Flood Control District Reserves. It is not definitively known if it is possible or desirable to structure the new district such that these funds could be recovered over time.



Planning Commission Meeting of Thursday, October 9, 2014 (Cancelled)

The meeting was cancelled. No reason was provided.

SLO County Local Agency Formation Commission (LAFCO) Meeting of Thursday, October 16, 2014

The meeting has been cancelled. The next regularly scheduled meeting is set for Thursday, November 20, 2014, one week before Thanksgiving Day. It is probable that this meeting (unless a special intervening meeting is scheduled) will be focused on how LAFCO will process the County's application for the formation of the Paso Robles Water Management District. (See BOS item 7 above for details).

**ADDENDUM A
MEMO OF THE SLO COUNTY COUNSEL ON WATER RELATED
LEGISLATION IMPACTING THE COUNTY**

I. Introduction

On September 16, 2014, Governor Brown signed a three-bill package creating a statewide system for managing groundwater resources that includes Senate Bill 1168 (Pavley), Assembly Bill 1739 (Dickenson) and Senate Bill 1319 (Pavley). Also on September 16, 2014, Governor Brown signed Assembly Bill 2453 (Achadjian) that provides for the establishment of the Paso Robles Basin Water District. The combined length of these bills is approximately seventy five pages and detailed summaries of the statewide bills are available online. Consequently, this memorandum will focus on the local impacts of the legislation.

II. Statewide Legislation

Most of the statewide legislation is devoted to the creation of the Sustainable Groundwater Management Act (Water Code Section 10720 et seq.) (SGMA). The SGMA applies to all (twenty two) groundwater basins within the County, as identified in Bulletin 118, with the exception (or conditional exception) of the Santa Maria Valley Groundwater Basin and the Los Osos Valley Groundwater Basin, basins which have been (or are in the process of being) adjudicated. Any portion of either basin in which groundwater rights have not been (or are not) determined as part of the adjudication action does not fall within the exemption.

Although the SGMA generally applies to all groundwater basins within the County, it imposes groundwater management requirements only on groundwater basins that the Department of Water Resources (DWR) has designated as high- or medium-priority pursuant to the California Statewide Groundwater Elevation Monitoring (CASGEM) Program. In its 2014 Final Basin Prioritization, DWR categorized five groundwater basins within the County as high- or medium-priority, the Santa Maria Valley Groundwater Basin, the Los Osos Valley Groundwater Basin, the Paso Robles Area Groundwater Basin, the San Luis Obispo Valley Groundwater Basin and the Cuyama Valley Groundwater Basin.

a. Governance Requirements and Deadlines

The SGMA permits the State Water Resources Control Board (SWRCB) to designate a high- or medium-priority basin as a "probationary basin" unless one of the following has

occurred on or before June 30, 2017: (a) a local agency has elected to be a groundwater sustainability agency (GSA) that intends to develop a groundwater sustainability plan (GSP) for the entire basin; (b) a collection of local agencies has formed a GSA or prepared agreements to develop one or more GSPs that will collectively serve as a GSP for the entire basin; (c) a local agency has submitted an alternative that has been approved or is pending approval by DWR (e.g. management pursuant to adjudication) (see below regarding consequences of probationary designation).

As multiple local agencies overlies most (if not all) of the high- or medium-priority basins within the County, the local agencies overlying each basin will need to create a single GSA through a joint powers agreement or other legal agreement that will implement a single GSP or enter into an agreement pursuant to which the local agencies will collectively implement one or multiple coordinated GSPs.

If there is an area within a basin not covered by a GSA, the County will be presumed to be the GSA for that area.

The SGMA grants significant powers and authorities to GSAs, including, the power to: (a) require registration of groundwater extraction facilities; (b) impose spacing requirements on new groundwater well construction and reasonable operating regulations on existing groundwater wells to minimize well interference; (c) control groundwater extractions; and (d) impose groundwater extraction charges.

b. Sustainable Groundwater Management Plan Requirements and Deadlines

The SGMA permits SWRCB to designate a high- or medium-priority basin as a probationary basin unless one of the following has occurred on or before January 31, 2022: (a) a GSA has adopted a GSP for the entire basin; (b) a collection of local agencies has adopted GSPs that collectively serve as a GSP for the entire basin; (c) DWR has approved an alternative (e.g. management pursuant to adjudication).

For high- or medium-priority basins which DWR determines are “subject to critical conditions of overdraft,” the GSP deadline is shortened, and SWRCB may designate such a basin as a probationary basin unless (a), (b) or (c) has occurred on or before January 31, 2020.

The SGMA identifies a number of items that must be included within a GSP, including measurable objectives, as well as interim milestones in increments of five years, in order to achieve the sustainability goals in the basin within twenty years of implementation of the GSP.

A GSA may adopt or amend a GSP after a public hearing, held at least ninety days after providing notice to a city or county within the area of the proposed plan or amendment. The SGMA requires DWR to review each GSP upon adoption and periodically thereafter to determine whether it is likely to achieve the sustainability goal.

After adoption of a GSP, a GSA must submit annual reports to DWR containing, among other things, groundwater elevation data and annual aggregated data identifying groundwater extraction for the preceding water year.

c. Consequences of Probationary Designation

If a basin is designated as a probationary basin or if a GSA has not otherwise been established for a high- or medium-priority basin within the time prescribed, the SGMA imposes annual extraction reporting requirements on all persons within the basin with limited exception. In addition, subject to certain noticing and cure periods, SWRCB may adopt an interim plan for the basin which may include, among other things, restrictions on groundwater extraction and a physical solution.

d. Land Use Planning Requirements

The SGMA also imposes certain land-use planning requirements on counties. For example, before adopting or substantially amending its general plan, a county must review and consider any groundwater management plan adopted pursuant to Water Code Section 10750 (commonly known as an AB 3030 Plan), a GSP, an adjudication of water rights or an interim order by SWRCB.

e. County Regulation of Groundwater

The SGMA makes clear that the legislative intent in adopting the SGMA is not to preempt the authority of cities and counties to manage groundwater pursuant to their police powers.

III. Paso Robles Area Groundwater Basin Legislation

Assembly Bill 2453 (AB 2453) permits, on or before January 1, 2019, ten percent of landowners or an affected local agency within the county, including the County and the County Flood Control District, to petition (apply to) the Local Agency Formation Commission (LAFCO) for the formation of the Paso Robles Basin Water District (District). Although AB 2453 sets forth an extensive list of District powers (e.g. regulation of the use and extraction of groundwater), the powers of the District (as well as its boundaries) would be established by LAFCO. For purposes of the petition (in the event of submission by landowners) and for purposes of the formation vote, each voter (who must be a landowner) may cast one vote. For purposes of the election of directors, AB 2453 divides voters into two general classes (landowner and resident) and three landowner subclasses (small, medium and large)

With respect to County and County Flood Control District authority, AB 2453 provides that the creation of the District is not intended to and shall not modify their powers to manage and protect groundwater resources within the County, including within the Paso Robles Area Groundwater Basin.

If the District is formed, it is anticipated that it will be one of the GSAs (or a part of a single GSA) for the Paso Robles Area Groundwater Basin, in combination with other local agencies overlying the basin (e.g. the City of Paso Robles). If the District is not formed, the County will be presumed to be the GSA for all areas overlying the basin and outside of existing local agency boundaries.

IV. Conclusion

As five basins within the County have been designated as high- or medium-priority by DWR, some of which may be further designated by DWR as subject to critical conditions of overdraft, the statewide legislation imposes significant new requirements regarding the regulation of groundwater within the County. In order to meet these requirements, coordination among the various local agencies that overlie each affected basin will be critical.