

# COLAB SAN LUIS OBISPO COUNTY

WEEK OF SEPTEMBER 1-7, 2013

## COLAB

*San Luis Obispo County*

**YOU'RE INVITED!**

Thursday, September 19, 2013  
5:30 to 7:30 pm

Guest Speaker – Michael Manchek, President & CEO of EVC  
REINFORCING THE RECOVERY – NEXT STEPS

Updates by Mike Brown and Andy Caldwell  
THE SUMMER OFFENSIVE OF 2013  
(The Empire Slinks Back)

COLAB SLO COUNTY IS NOW IN ITS 5<sup>TH</sup> YEAR  
REINFORCING OUR SUCCESS  
(Analysis and Action)

Location: Holland Ranch Barn

2275 Carpenter Canyon Road, San Luis Obispo, CA

From SLO: Just past the Cold Canyon Landfill entrance, on the right.  
From AG: Just before the Cold Canyon Landfill entrance, on the left.

**RSVP** appreciated by Monday, September 16, 2013

Call (805) 548-0340 or email [colabslo@gmail.com](mailto:colabslo@gmail.com)

Barbequed appetizers, beer and wine will be served.

**PASO BASIN DEVELOPMENT MORATORIUM NOW LAW**

**BOARD OF SUPERVISOR'S MEETING  
SEPTEMBER 3, 2013 CANCELLED**

**SLOCOG MEETING WEDNESDAY SEPTEMBER 4, 2013**

**APCD SPECIAL MEETING  
THURSDAY SEPTEMBER 5, 2013**

**(THE DUNES DUST FEE ISSUES WHICH HELPED TRIGGER THE  
ATTACKS ON MAYOR PETERSON ARE BACK)**

**Board of Supervisors Meeting of Tuesday, August 27, 2013 (Completed)**

**Item 13 - Paso Robles Water Basin Water and Development Moratorium.**

Starting at about 8 PM on Tuesday, August 27, 2013 the moratorium became law and is in full force and effect. The Board of Supervisors voted 4/0 to approve the 45 day version (as required by the enabling law) and will very likely convert it into a full 22 month (maximum) moratorium at the end of the 45 day period. The language of the moratorium may not be changed and must be extended as is or abandoned.

**The Seeds of Its Own Destruction:** Before you move to Winnemucca, be aware that the ordinance and its companion cafeteria of solutions (really research items - not actions) contain substantial risks and potential future backlash for Supervisors Gibson and Hill, its proponent champions. Fast forward another two years, (assuming Gibson survives the next election and Hill is still loose on the prowl), and these two Supervisors could well be wounded in the wreckage of a failed policy, especially as its victims (the supposed beneficiaries of the moratorium) realize that it did not save any substantial water or diminish the decline in water levels in some parts of the basin. At best it is a symbolic gesture and at worst simply a ploy by smart growth proponents to shut down development in the rural and suburban north county and force growth into the cities and unincorporated villages (URL's).

It's pretty clear that one of the ordinance's first impacts will be to convert many law abiding citizens into violators as they try to finish projects that are in progress. The County lacks the inspectional resources (staff, cars, systematic plans, or other tools) to carry out enforcement. It is also unlikely that the elected District Attorney will be enthusiastic about diverting limited resources to prosecute otherwise upstanding, productive voting citizens for planting grapes instead of prosecuting bank robbers and child abusers. The Planning staff pointed out to the Board that since it lacks the resources to "patrol" the north county looking for violators, it will have to rely on

complaints. This in turn could generate a cadre of snitches who drive around taking pictures of people planting grapes.

One form of protest would be for growers to simply carry on as before and test the County's ability and will to actually enforce the ordinance. The result would be something like the failure of prohibition in the 1930's or the current failure of authorities to control the use of marijuana.

One grower told us he had a large shipment of plants coming in this week, had prepared the fields, and was ready to turn on a well which had been idled for some time. He did not intend to send the plants back or incur the delays and probable complications which would result from asking the Planning Department for a ruling on whether the project was a permitted "pipeline" project.

During the hearing, a number of speakers (including some who obviously attorneys were laying groundwork) warned the board about various flaws in the ordinance and its vulnerability. The Board pointedly ignored these comments and there was no discussion.

Supervisor Mecham had been sending signals in the weeks leading up to the hearing that he might support some version of the ordinance. As deliberations opened he stated he would be supporting the ordinance with some changes to make it less severe. While Gibson and Hill did not agree with or support Mecham's modifications, they knew that they needed four votes to pass the urgency ordinance. After offering some token resistance and attempts to bargain, they eventually agreed.

Supervisor Arnold tried to obtain agreement on further "concessions" from the two proponent supervisors. After a contentious and confusing discussion, most of her suggestions were rejected. Her motion to include further revisions was rejected 3/1. Mecham indicated that he "got what he wanted." Mecham then moved for adoption of the version which included his "got what he wanted" items to which Hill and Gibson had already agreed. This left Arnold with a choice of rejecting the ordinance altogether or accepting it with the concessions which had been obtained to that point. The fact that the Paso Robles Agricultural Alliance for Groundwater Solutions (PRAAGS) spokesmen and other growers publicly abandoned their previously stated opposition and now expressed support for the ordinance during public comment left little reason to delay its passage for a few weeks until the Governor appoints a new Supervisor. Three of the four candidate applicants that we know of have expressed support for the ordinance. A new Board super majority, including Mecham on this issue, could actually craft a more severe ordinance if the current version had been rejected.

One of the arguments made by proponents of the ordinance is that large, out-of-County, evil capitalist corporations and owners are at the crux of the water depletion problem. The proponents believe that the ordinance can forestall their expansion and use of more water. In fact, it could be that these highly capitalized and technologically sophisticated entities will be best positioned to take advantage of the 1:1 water replacement exemption provision. It is these companies, which have been vilified, that could be of greatest assistance in helping to develop and implement solutions (and much faster than the

County). After all, they can put in infrastructure to move water around, store water, make long-range investments, and implement the latest water saving techniques.

Tellingly, there is nothing in the public record to show that Hill and Gibson (or staff) ever approached them prior to proposing the urgency ordinance. If these officials truly believe that the large out-of-County vineyard corporations are at the root of the problem, why has no one talked to them?

It is possible that the urgency ordinance plays right into the hands of large, highly capitalized corporations (if one believes the accusations that they are nefarious) over the long run. Falling property values provide an opportunity for those with capital. At this point some properties overlying the basin have water issues. All the properties are now financially redlined by their County government. Property appraisers are already speculating about the impact of the ordinance on values. Is an acre that was worth \$10,000 on Monday, August 26, 2013 (under the assumption that it could be irrigated) now worth only \$1,500? Should the County Assessor, using computerized mass appraisal software, order an extensive reduction in the values on parcels overlying that portion of the basin subject to the ordinance? Would the County and its Board members be liable for damages if the moratorium substantially reduces the values? After all, their staff told them in writing, on the record, as part of the agenda item that the Board did not give them time to conduct a proper economic impact study of the potential consequences of the moratorium.

**Key Provisions of the Ordinance:** Key provisions of the ordinance are quoted below:

*Section 4. Limitations on Uses.*

*A. Limitation on Use – None of the following uses shall be established, commenced or initiated, and no applications filed pursuant to Chapter 8.40 of the County Code to construct, repair or modify a water system proposed to serve any of the following uses or applications for a construction permit in connection with the establishment of any of the following uses shall be approved, except in conformance with this Ordinance:*

- 1. New or Expanded Irrigated Crop Production.*
- 2. Conversion of Dry Farm or Grazing Land to New Irrigated Crop Production.*
- 3. New Development dependent upon a well in the groundwater Basin*

*Section 7. Offset Clearance*

*A. Offset Clearance. New or Expanded Irrigated Crop Production, Conversion of Dry Farm or Grazing Land to New Irrigated Crop Production, and New Development dependent upon a well in the groundwater Basin shall be required to obtain an Offset Clearance prior to the issuance of a permit filed pursuant to Chapter 8.40 of the County Code to construct, repair or modify a water system, issuance of a construction permit or the use being established, commenced or initiated whichever is applicable. An Offset*

*Clearance is a ministerial permit and may be granted if the following requirements are met.*

*1. Application content. Requests for an Offset Clearance shall be accompanied by the following:*

*a. Evidence that the net new water demand (based on actual water data or by approved assumptions about the water demand for that use) has been offset (based on actual water data or by approved assumptions about the water demand for that use) at a ratio of at least 1:1 through verifiable evidence or participation in an Approved County Water Conservation Program. The offset must occur before, or at the same time as, the new water use is developed.*

*2. Metering and Monitoring. The following requirements apply to all issued Offset Clearances.*

*b. Within 30 days of installation of a well for which a permit has been issued pursuant to Chapter 8.40 of the County Code, or prior to final building inspection, whichever is applicable, evidence shall be submitted to the Public Works Director that the property owner has installed a meter on the well serving the use to measure all groundwater used from that well. The configuration of the installation shall conform to a drawing prepared by the property owner and shall conform to the technical standards set forth by the Public Works Director.*

*c. On or near the first day of each month the property owner or other person designated by the property owner shall read the water meter and record the data. These records shall be maintained by the property owner.*

*3. Discretionary Permits. In approving a Site Plan, Minor Use Permit, Conditional Use Permit, Variance or other discretionary application, the Review Authority shall impose reasonable conditions as needed to satisfy the requirements of this ordinance, including proposed offset requirements for the proposed use that would be equivalent to offsetting the net new water demand at a ratio of at least 1:1 and metering and monitoring consistent with this Ordinance.*

The full text of the ordinance can be seen at the link:

<http://www.slocounty.ca.gov/Assets/CR/New+Codes/3246.pdf>

<b>Planning Commission Meeting of Thursday, August 29, 2013 (Cancelled)</b>
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The meeting was cancelled. Either there were an insufficient number of items or the Planning staff was so busy working on the urgency water ordinance that it did not have time to work on items for this meeting.

**San Luis Obispo County Council of Governments (SLOCOG) Meeting of  
Wednesday, September 4, 2013 at 8:30 AM (Scheduled)**

There is a short agenda and there appear to be no major policy items. Curiously, there is no agenda item on the status of the Highway 1 chip seal dilemma, which is of such concern to bicyclists, sports car clubs, and the hospitality industry. Perhaps it will be covered in the verbal report of the Cal Trans District Director.

**Special Air Pollution Control District (APCD) Meeting of Thursday September 5,  
2013 at 9AM (Scheduled)**

**Item B-1: Air Pollution Control Officer's (APCO) Report.** This portion of the agenda provides for the APCO Larry Allen to make verbal reports on matters he believes are relevant. One item to be discussed is a letter from the Federal Environmental Protection Agency (EPA) to a committee of citizens concerned with dunes dust. They had asked that the EPA declare the area where blowing dust occurs (PM<sub>10</sub>) as a non-attainment area. The EPA declined to do so and said that the APCD was handling the matter very "proactively".

One interesting note in the EPA letter is that the EPA states that PM<sub>10</sub> exceeded National Ambient Air Standards only four times during the three year period 2010 - 2012. So what is the big deal?

The EPA letter suggests that it be brought in to help enforce whatever rules (the potential off highway vehicle [OHV] riding ban) that are eventually adopted by the APCD. A portion is quoted below:

*As you are aware, the San Luis Obispo County APCD has been very proactive in identifying potential sources of windblown dust and, as noted in your letter, the APCD has adopted local rules to control windblown dust from those sources, including the Oceano Dunes. These local rules, if effectively implemented, could reduce air pollution below the NAAQS. One option for the APCD to consider is to submit their local rules to EPA for formal public review and incorporation into California's Air Quality SP. Upon incorporation into the SIP by EPA, these rules would become federally enforceable by both EPA and citizens. Meanwhile, we will continue to work with the APCD on timely implementation of the local dust control rules. We will also ensure air quality monitoring continues so we can evaluate how effective the local rules are in reducing PM<sub>10</sub> levels below the NAAQS and determine whether EPA needs to take additional action.*

Perfect: The Feds and dunes dust vigilantes.

**Item B-2: Fees.** This is an item that was continued from the July meeting to September 25, 2013. Instead, a special meeting has been called to deal with the budget and the fees prior to September 25<sup>th</sup>. There were questions (especially from Mayor Peterson of

Grover Beach). In the end, the APCD Board ran out of time and the fees and the Budget adoption were continued. As our readers and the community will well remember, Mayor Peterson's questions on this subject were one of the key motivations behind Supervisor Hill's attempt to maneuver the removal of Mayor Peterson from the APCD.

**Be ready for more hanky panky as this item resurfaces.**

The proposed fees are as follows:

*Basic facility fee for Rule 1001 compliance verification: \$920*

*Fee for Rule 1001 control site or activity area monitors @ \$4,080 each, w/ minimum of 2: \$8,160*

*Ambient air monitoring station (only one, existing CDF site): \$40,160*

*Total \$49,240*

- The \$920 fee is to cover a base amount of APCD periodic and annual inspections of the facility.*
- The \$4,080 fee is for APCD oversight of State Parks onsite monitoring operations and data verification, review and reporting for each monitor installed by State Parks; they are required to install at least 2 monitors (downwind of a riding area and a comparable non-riding area); they may choose to install more.*
- The \$40,160 fee only applies to operation and maintenance of the CDF monitoring station owned and operated by APCD. That station was installed for the sole purpose of monitoring ambient particulate concentrations on the Nipomo Mesa caused by the dust plume from the ODSVRA. Source-specific monitoring is required of major emission sources in the County with the potential to significantly impact downwind receptors, with the source required to pay for the monitoring; an example is the Mesa 2 monitoring site, which is operated by APCD, but owned and paid for by the Philips 66 refinery to monitor downwind air pollution impacts from their facility. The District has funded the full cost of the CDF station for the past 3 years, but this is rightfully the responsibility of State Parks.*

**Item B-3: Operating Budget.** The APCD Board of Directors will hold a special meeting on Thursday, September 5 at 9:00 AM in the Board of Supervisors Chambers, 1055 Monterey Street, San Luis Obispo. This meeting is being held to discuss some of the items that were continued from the July meeting agenda, including the APCD's 2013/2014 [proposed budget](#)

The Budget should have been adopted before July 1, 2013, the start of the fiscal year. We are now approaching 3 months into the fiscal year.

**A question: Is the special meeting for the purpose of adopting a budget (are they at risk of being in violation of State statute for operating without a budget?) OR is the purpose of the special meeting to lay a trap for Mayor Peterson?**

**Item B-4: Appointment to the Sustainable Communities Committee.** The write up states:

*The San Luis Obispo Council of Governments (SLOCOG) has initiated efforts to develop the 2014 Regional Transportation Plan. This Plan will include elements to comply with SB 375, the state law requiring development of a Sustainable Communities Strategy to better link transportation and land use planning. At its August 7, 2013 meeting, SLOCOG Board approved the formation of an Ad-Hoc SCS Policy Committee comprised of seven representatives total: five from SLOCOG’s Board, and one member each from the LAFCO Commission and APCD Board. To avoid a quorum of the County Board of Supervisors, a city representative from the APCD Board is needed to participate on this committee.*

AND:

*The Regional Transportation Plan (RTP) is the primary mechanism used in California to conduct long-range regional transportation planning. The purpose of the RTP is to encourage and promote safe and efficient transportation networks and intermodal transportation systems that serve the mobility needs of people and goods in the region. In 2008, SB 375 was signed into law to build on the existing RTP planning process and connect reductions of greenhouse gas emissions from passenger cars and light-duty trucks to land use and transportation policies. The Sustainable Communities Strategy (SCS) is a tool that demonstrates how the region will meet its greenhouse gas reduction target through integrated land use, housing and transportation planning. In 2010, SLOCOG developed and approved an RTP that included a Preliminary SCS component. The current RTP update effort will build off the Values, Goals, Objectives, Policies and Strategies contained in the 2010 RTP-Preliminary SCS. B*

Once again we see the interweaving of the stack and pack “smart growth” doctrine in yet another Plan. In this case conformance with the plan will be required for the County and the seven cities to compete for Federal and State transportation funding. Tens of millions of dollars will be at stake.



Dense, walkable, “smart growth”, living.