



**COLAB SAN LUIS OBISPO COUNTY**



**WEEK OF OCTOBER 19-25, 2014**



THE COALITION OF LABOR,  
AGRICULTURE, AND BUSINESS

**COLAB**  
San Luis Obispo County

**NORTH COUNTY  
MIXER 2014**



**Guest Speakers**

**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.**



**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.

**RSVPs appreciated by Friday, October 24th.**

**Email: [colabslo@gmail.com](mailto:colabslo@gmail.com) or call (805) 548-0340**

**SUPERVISORS DIRECT STAFF TO PREPARE WATER  
DISTRICT LAFCO APPLICATION  
AND  
REJECT CITIZEN PETITION PROCESS  
(GIBSON TELLS STAFF TO HURRY - BRING IT BACK BY  
JANUARY)**

**BOARD SCHEDULING MANY LAND USE AND  
REGULATORY ITEMS PRIOR TO END  
OF 2014 - SEE PAGE 8  
(LOS OSOANS, PASO BASIN FARMERS, AND HOME BUILDERS  
SHOULD PAY CLOSE ATTENTION)**

**Board of Supervisors Meeting of Tuesday, October 14, 2014 (Completed)**

**Item 3 - Planning and Building Department Priorities.** The Board confirmed its push to make the so-called Paso Basin “moratorium” permanent and to spread it to other parts of the County on a 4/1 vote, with Supervisor Arnold dissenting. Arnold requested that the one-size-fits-all effort to lock down agriculture and home/estate development be removed from the priority list. She reminded the Board members that they had told the public that the moratorium was a “time out.” Arnold further indicated that she would prefer a system where people could have choices about how to save water.

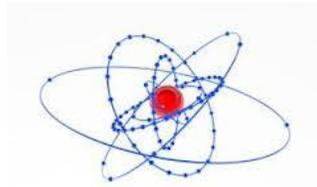
Gibson countered that, “the priorities are all right as they are.”

**Item 5 - Presentation of Current Drought Conditions, Related Management Actions, and Response Plans.** The staff presented the extensive report that included several PowerPoint presentations which, of course, had not been included with the agenda materials. One especially interesting piece of information was presented by the County’s Emergency Service Director, who stated that the County “has no idea how many wells have gone dry, are going dry, or are at risk.” Remember, this is after the elapse of 15 months from when the Board adopted the urgency ordinance moratorium for the Paso Basin. Four Board members found that there was an imminent threat to public health, safety, and welfare. They still have no meaningful data on which to make such a finding.

It was also pointed out during the presentation that PG&E’s Diablo Power Plant has a desalination plant which generates 70,000 gallons per day. Supervisor Hill stated that it has a much higher capacity. According to Hill, PG&E would work with the County to provide water. There would need to be a way to get it from the plant site to some part of the public water system. There was no information provided with respect to distance or preliminary cost.

Theoretically, the plant could both serve its own needs and provide extra water to counter the drought.

Again, all this raises the question about the feasibility of the coastal communities, including the City of San Luis Obispo, and the county getting together to assess the feasibility of developing a desalination scenario as backup in case the drought becomes permanent. (After all, the current Board majority believe that global warming and climate change are settled science.) The current board majority is strongly supportive of the International Communities for Local Environmental Initiatives (ICLEI) Resilient Communities Strategy because they believe global warming is transforming the climate. What would be a better way to become more “resilient” and sustainable?



On the other hand, what has the Board majority done to promote the relicensing of Diablo and its continued operation? Just think about it. Here in San Luis Obispo County, we have a nuclear power plant that has a huge and unusable surplus of electricity every night with a desalination plant sitting on the same property. What if it could be expanded to industrial scale?

Instead, the Board majority chooses restrictions, retrogression, and ultimately techno-societal suicide.

**Item 6 - Update on Federal and State Water Legislation.** The Board received 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, which 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. There was a good deal of rhetoric about how SB 1168 reinforces the need for the County to support the formation of a Paso Basin water management district.

**Item 7 - Submittal of a Report and Solicitation of Board Direction Regarding Formation of a Paso Robles Basin Water District.** The Board on a 4/1 vote (Arnold dissenting) directed staff to prepare an application for approval by the Board of Supervisors and ultimate submittal to the Local Agency Formation Commission (LAFCO) to create a Paso Basin Water Management District. The hearing was lengthy and lasted well past 5 PM. There were 38 speakers of which 16 supported the district formation and process, 20 were opposed to either the formation or the process, and 2 who were incomprehensible. The Paso Basin Water Advisory Committee endorsed formation of the district. Paso Robles Agricultural Alliance for Groundwater Solutions (PRAAGS) and the remnants of Pro Water Equity endorsed formation of the district, as did the Paso Robles Wine Country Alliance. The Farm Bureau expressed a number of concerns. As of this time COLAB has not taken a position on the desirability of a district because the boundaries, powers, functions, regulatory scheme, potential cost, and financing mechanisms have not been

detailed. COLAB did express grave concerns about the process, some of which are detailed in the **Background** section below.

It was clear that the 4 Board members who voted to prepare the LAFCO application had their minds made up well in advance and that the hearing was simply held pro forma for the purpose of meeting legal requirements. Some “highlights”:

**The Money:** The Board members rationalized the expenditure of \$350,000 in general Flood Control District funds on the basis that it would have to spend it for some sort of alternative organizational design pursuant to the drought problem, the need to manage the basin, and the SB 1168 mandate. If the ultimate citizen vote fails, the County will have to eat the cost. If the district is approved, LAFCO could include a provision in the conditions of formation which would stipulate that the new district would have to pay the County back. Of course LAFCO will have to assess the feasibility of such a provision in terms of the overall impact on the new district’s budget and operational feasibility. We bet, and after watching Sherman’s march on this one, that the current Board would forgive the debt in a New York minute, if in fact LAFCO includes it at all.

**Criticism of Quiet Title:** Several Board members used the occasion to cast aspersions on the Protect Our Water Rights (POWR) group, the landowners who are seeking the court to confirm quiet title to the beneficial use of water under their land. Their attitude was: “how dare you do this and cause us to expend funds in our County Counsel’s office (and perhaps for special counsel) when we could be spending it on the proposed district formation?” Of course the real question is: why doesn’t the Board of Supervisors support the quiet title action instead of opposing it? Perhaps they are afraid that the court will require real analysis and measurement to justify requiring water reductions, use fees, meters and other impedimenta attendant to managing the basin.

**Revealed Law:** Board members feigned surprise and confusion about the AB 2453 (the enabling legislation which allows them to steamroller the formation of a Paso Robles basin water district). Staff and Board members kept referring to the new law as “Assembly Member Achadjian’s bill,” as if it had all been Assemblyman Achadjian’s idea, which had been revealed on the top of some mountain and then given to them as a mandate, as opposed to an enabler. Did the Board forget, as COLAB pointed out, that the bill had been developed at their own request and that they had numerous meetings, lobbying trips to Sacramento, and discussions about it?

**Who Requested the Short Circuit Provision?** COLAB asked which officials or official had requested that the bill include a late and suddenly inserted provision to allow the Board of Supervisors to become the applicant before LAFCO for district formation. Of course no one will answer this question because it had never been discussed by the Board in public and would tarnish the reputation of its sponsor in many quarters. The fact that four board members steamed ahead to implement this provision will come back to haunt them forever. In effect: they requested (or allowed) the draft bill to be amended at the last minute with a clause (and without public discussion or disclosure) that constitutes a major departure from the principle that proposers of a new government entity be required to obtain signatures to demonstrate popular

support. As voters absorb this abject disrespect for a long standing democratic process embedded in prior state Law, the supporting Board members will have some ‘splaining to do.



**If Katcho only had a beard.**

Relatedly the Board submissively received SB 1168 and related legislation (collectively the Groundwater Management Act) as immutable higher law and as a hammer, which they can use as an excuse to push whatever policies they have in mind. They constantly assert that unless there is a water district the State will force some sort of structure on the County. Not if the basin is adjudicated.

The Board’s current “apology” is, when the final version of the district is approved by LAFCO, the people can vote it up or down. Of course since the County is fronting the currently estimated \$350, 000 cost on behalf of the proponents, the proponents will be able to use the funds they would have otherwise expended on the application process for the political campaign to secure the votes to approve the district. Presumably, those Board members who support the short circuit process will be out in front supporting the district formation.

As we said at the time, it wasn’t clear if Tuesday’s Board matinee performance was *Alice in Wonderland* or *Gone Girl*. Most of the Board was playing Exodus.

**Background:** As predicted, the true purpose of the so-called “Water Summit” was to solicit (the staff’s word choice) a vote 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.*

**Note: COLAB and several speakers complained about the noticing. The Board ignored it.**

a. Did 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?

**Note: The Board provided no direction with respect to substance or the process of public engagement.**

d. The staff report indicated that the application process, including the ultimate election, could cost \$350,000. The staff suggested 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?
- **Note: Four members of the Board answered this with a resounding “yes”.**
- 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.
- **Note: The issue of project budget and the transfers should come back for public Board consideration.**
- Such transfers will need to be separately noticed on a future agenda.
- **Note: The Board did not give direction on financing but approved the project.**
- 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 wishes 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 kind 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?

**COLAB NOTE: The County Administrator, County Counsel, and Acting Public Works Director did not provide a formal recommendation to the Board of Supervisors on whether the County should be the applicant for the formation of the district. They simply described 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.**

**Supervisor Gibson tried to direct the County Administrative Officer (CAO) to prepare all of the extensive analysis and the actual application documents by January 2015. The CAO stated that it would be impossible. The discussion was never completed. One can only imagine the pressure that will be exerted on the CAO and staff to revise the project time schedule, which is now about 9 months. Skip the Thanksgiving, Christmas, and New Year's holidays and work 7 day per week 12 hour days and anything is possible.**

**“HAPPY” HALLOWEEN**



**Board of Supervisors Meeting of Tuesday, October 21, 2014 (Scheduled)**

**Item 14 - Continuation of Nacimiento Pipeline Emergency Repair Authorization.** The proposed action is to continue the authorization for staff to hire contractors to investigate the leaks and repair them. No additional funding is requested this week.

**Item 17 - Presentation by the Coastal San Luis and the Upper Salinas Las Tablas Resource Conservation District on San Luis Obispo Creek Watershed Activities in the County.** The district staff is working on the Paso Basin permanent moratorium groundwater agricultural offset program. Given the title of this item, we assume that this is an unrelated and benign presentation. Rumor says the agricultural offset program is slated for the October 28<sup>th</sup> meeting.

**Board of Supervisors Stacks Schedule for the Balance of 2014.** After the October 21<sup>st</sup> meeting there are only 6 meetings remaining in calendar year 2014. With the potential of a change in the 4<sup>th</sup> District, the current majority appears to be expediting many “smart growth” and regulatory policy matters. To enhance your Holiday season, the following have been teed up so far:

**October 28<sup>th</sup>:**

**Paso Basin Mandatory Agricultural Offset Program**

As noted above, rumor suggests that the Paso Basin AG Offset program is scheduled for October 28<sup>th</sup>.

**November 25<sup>th</sup>:**

**Los Osos Mandatory Retrofit On Sale Program**

*Hearing to consider a request by the COUNTY OF SAN LUIS OBISPO to amend Section 8.91*

*(Retrofit of Plumbing Fixtures Upon Sale in the Los Osos Groundwater Basin) of the Health and Sanitation Code (Title 8 of County Code) to revise the existing program that requires homes and businesses in the Los Osos Groundwater Basin to retrofit plumbing fixtures at time of sale.*

*Hearing to consider a request by the COUNTY OF SAN LUIS OBISPO to amend Section 19.07042 (Water Conservation Provisions) of the Building and Ordinance (Title 19 of County Code) to revise the existing program that requires new homes and businesses in the Los Osos Groundwater Basin to retrofit fixtures in existing homes and businesses to offset new water use.*

## **December 2<sup>nd</sup> and December 16<sup>th</sup>:**

### **Adoption of a higher Housing In lieu “Fee” (Tax)**

*Hearing regarding a request by the COUNTY OF SAN LUIS OBISPO that the Board of Supervisors consider amending Title 29 – Affordable Housing Fund, by adopting an annual adjustment of the residential in-lieu fee and commercial housing impact fee schedules. Also, a request by the COUNTY OF SAN LUIS OBISPO that the Board consider the Affordable Housing Fund Annual Report and Annual Action Plan, which have been submitted by the Director of Planning and Building in conformance with Title 29 – Affordable Housing Fund. These reports and ordinance amendments affect all planning areas of the county that are outside of the jurisdictions of the incorporated cities.*

### **Adoption of the Resource Management System**

*Hearing to consider a request by the COUNTY OF SAN LUIS OBISPO to amend Chapter 3, Resource Management System, in the Inland and Coastal Framework for Planning documents, Part I of the Land Use and Circulation Elements of the San Luis Obispo County General Plan. The Coastal Zone Framework for Planning document is also part of the Local Coastal Program. The amendment includes: 1) recalculating lead times for responding to Levels of Severity for certain resources, 2) adding highway interchanges as a monitored resource, 3) revising or establishing criteria and recommended actions for Levels of Severity for water supply and systems, wastewater treatment, schools, roads, air quality, and parks, 4) reorganizing text and tables, and 5) updating and clarifying processes, references and other language. This amendment also includes minor clean-up revisions to Chapters 1 and 8 of the Inland and Coastal Framework for Planning to remove outdated references to the Master Water and Sewer Plan and to change reporting of information by agencies to the County from “annually” to “biennially.”*

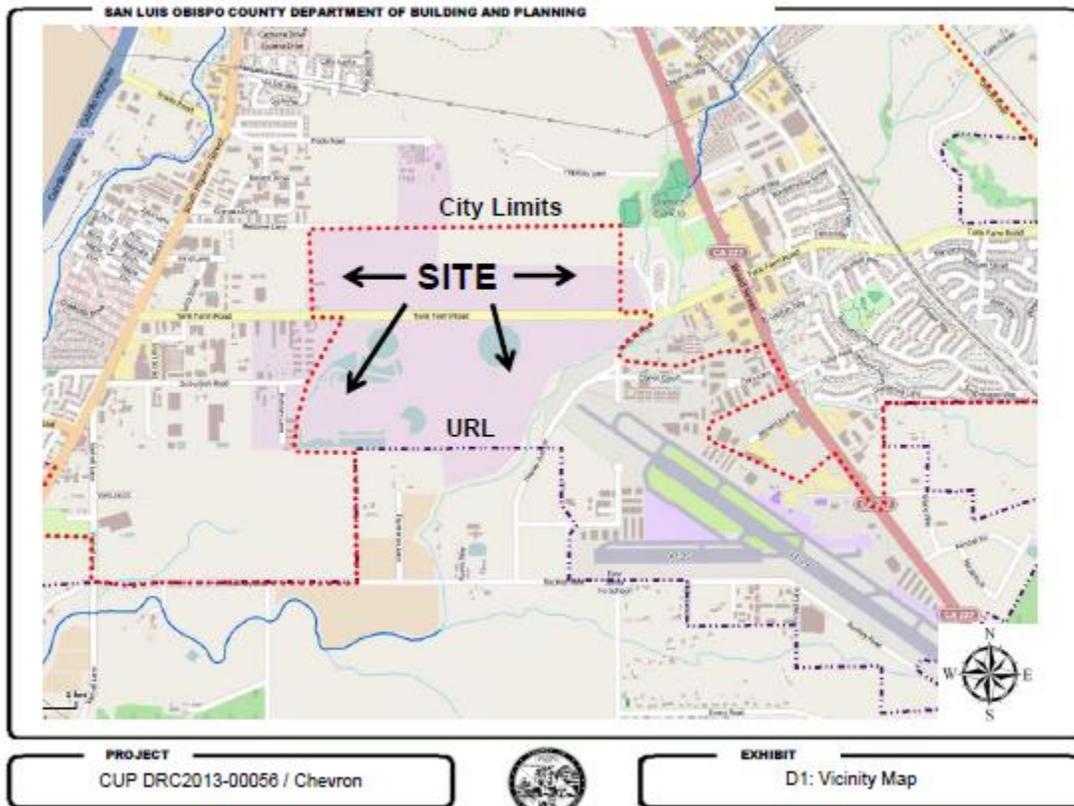
## **Planning Commission Meeting of Thursday, October 23, 2014 (Scheduled)**

**Item 4 - A request by the Chevron Environmental Management Company for a Conditional Use Permit to conduct remediation and restoration of the San Luis Obispo tank farm site. The project would result in the disturbance of approximately 136 acres of the 332 acre site to address soil and groundwater contamination that have been identified as potential human health or ecological risks. Restoration is required for wetland and rare**

plant habitats affected by the contamination or potentially affected by implementing remedial actions. The project is located on both sides of Tank Farm Road adjacent to the San Luis Obispo city limits and the San Luis Obispo County Regional Airport, in the San Luis Obispo planning area.

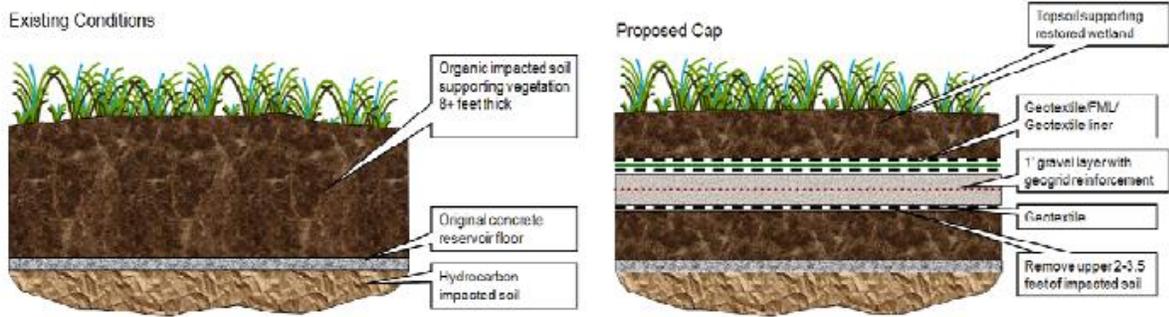
This is a very large project which would restore the former Chevron tank farm site and enable its use for a large open space park and some mixed use commercial and residential. The project is important for the future economic and recreational development of the City of San Luis Obispo. Its approval and completion would enable a number of traffic and circulation improvements and would turn a large unusable site into a productive tax and income generating part of the community. It is intended that the city ultimately annex the site. The County staff report is 200 pages long and the EIR is 777 pages long. There are no letters of opposition in the file as of this writing. COLAB is a supporter of this project.

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More on the next page.

### Cap Example



Source: Chevron Tank Farm Remediation and Development Project Final Environmental Impact Report



Vote and Don't Forget to mail or turn in your vote by mail ballot

