

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Works	(2) MEETING DATE 1/27/2015	(3) CONTACT/PHONE John Diodati, Department Administrator (805) 788-2832	
(4) SUBJECT Discussion of Paso Robles Basin Water District Formation and Consideration of District Formation Topics. Districts 1 and 5.			
(5) RECOMMENDED ACTION It is recommended that the Board, acting as the Board of the San Luis Obispo County Flood Control and Water Conservation District (Flood Control District): <ol style="list-style-type: none"> 1. Receive a status update on preparation of the Paso Robles Basin Water District (Water District) formation application and Local Agency Formation Commission (LAFCO) application requirements; and 2. Provide direction to staff on the following: <ol style="list-style-type: none"> a. Water District Boundaries b. Water District Powers c. Mechanism to fund Water District d. Water District Formation Process Schedule 			
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT N/A	(8) ANNUAL FINANCIAL IMPACT N/A	(9) BUDGETED? N/A
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. ___) <input checked="" type="checkbox"/> Board Business (Time Est. <u>90 min.</u>)			
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input checked="" type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A <input type="checkbox"/> 4/5 Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input type="checkbox"/> N/A Date: <u>10/14/14, #7</u>	
(17) ADMINISTRATIVE OFFICE REVIEW <i>Nikki J. Schmidt</i>			
(18) SUPERVISOR DISTRICT(S) District 1, District 5			

Reference: 15JAN27-BB-1

County of San Luis Obispo



TO: Board of Supervisors

FROM: Public Works
John Diodati, Department Administrator

VIA: Wade Horton, Director of Public Works

DATE: 1/27/2015

SUBJECT: Discussion of Paso Robles Basin Water District Formation and Consideration of District Formation Topics. Districts 1 and 5.

RECOMMENDATION

It is recommended that the Board, acting as the Board of the San Luis Obispo County Flood Control and Water Conservation District (Flood Control District):

1. Receive a status update on preparation of the Paso Robles Basin Water District (Water District) formation application and Local Agency Formation Commission (LAFCO) application requirements; and
2. Provide direction to staff on the following:
 - a. Water District Boundaries
 - b. Water District Powers
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 - d. Water District Formation Process Schedule

DISCUSSION

Throughout 2014, there was ongoing discussion regarding increased management of the Paso Robles Groundwater Basin (Paso Basin).¹ The primary topics of discussion were: (1) whether the Paso Basin needs increased management; (2) the mechanism for providing such management; and (3) the entity to implement the selected mechanism.

Two stakeholder groups, the Paso Robles Agricultural Alliance for Groundwater Solutions and PRO Water Equity, proposed and supported the formation of a California Water District with a modified Board of Directors.² Assemblyman Katcho Achadjian introduced legislation reflective of this proposal (AB 2453) that was signed by the Governor on September 16, 2014 and became effective on January 1, 2015 (AB 2453 is attached as Attachment A).³ In addition to providing for a modified Board of Directors, AB 2453 authorizes the Water District to exercise a number of groundwater management powers, subject to approval by LAFCO in accordance with the Cortese-Knox-Hertzberg

¹ On March 27, 2012, the Board adopted the Paso Robles Groundwater Basin Management Plan pursuant to Water Code Section 10750 *et seq.* (AB 3030).

² As discussed in more detail below, in its final iteration, AB 2453 provides that the Board of Directors shall consist of six directors elected by landowners and three directors elected by registered voters.

³ Application must be made by January 1, 2019 (Water Code § 37905(a)).

Local Government Reorganization Act of 2000 (Government Code Section 56000 *et seq.*) (Cortese-Knox).

Concurrently, Senator Pavley and Assemblyman Dickinson sponsored a three-bill package (Sustainable Groundwater Management Act or SGMA) creating a statewide system for managing groundwater resources that was also signed by the Governor on September 16, 2014 and became effective on January 1, 2015. The SGMA imposes groundwater management requirements on basins that the Department of Water Resources (DWR) has designated as high- or medium-priority basins pursuant to the California Statewide Groundwater Elevation Monitoring Program (CASGEM). The SGMA permits the State Water Resources Control Board (SWRCB) to designate a high- or medium-priority basin as a “probationary basin” if a Groundwater Sustainability Agency(ies) (GSA) and a Groundwater Sustainability Plan(s) (GSP) for the basin are not established or adopted within certain specified time frames.

More specifically, the SWRCB may 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 GSA that intends to develop a 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.⁴ In addition, the SWRCB may 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 the *entire* basin; (c) DWR has approved an alternative.⁵

In its 2014 Final Basin Prioritization, DWR categorized the Paso Basin as a high-priority basin. DWR may additionally categorize the Basin as “subject to critical conditions of overdraft” when it updates Bulletin 118. Thus, in order to avoid a potential probationary basin designation, a GSA covering the entire Paso Basin or an agreement between local agencies to adopt GSPs covering the entire Paso Basin must be established on or before June 30, 2017 and a GSP or GSPs must be adopted on or before January 31, 2022 (or potentially January 31, 2020).

As discussed in more detail below, AB 2453 provides an opportunity for Paso Basin stakeholders to consider if they want increased management, including management required under the SGMA, to be provided by the Water District in accordance with the powers and procedures set forth therein.

Due to the critical timelines contained within the SGMA, your Board received a report on the Paso Basin on October 14, 2014 and directed staff to prepare the necessary Water District formation application materials, including a Resolution of Application, for submission to LAFCO. Staff has initiated this work effort and returns today for discussion of and potential direction on the following:

- a. Water District Boundaries
- b. Water District Powers
- c. Mechanism to fund Water District
- d. Water District Formation Process Schedule

⁴ Water Code § 10735.2(a)(1).

⁵ Water Code § 10735.2(a)(4). For high- or medium-priority basins which DWR has designated in its report entitled California’s Groundwater: Bulletin 118 (Bulletin 118), as may be updated or revised on or before January 1, 2017, as “subject to critical conditions of overdraft,” the GSP deadline is shortened, and the SWRCB may designate such a basin as a probationary basin unless (a), (b) or (c) has occurred on or before *January 31, 2020* (Water Code § 10735.2(a)(2)).

In order to aid this discussion, this staff report outlines the components of an application to LAFCO, the formation and election process and a proposed project schedule.

LAFCO Application

The LAFCO application process would be initiated with the approval of a Resolution of Application and associated application materials by your Board.⁶ The following is a brief summary of the three primary components of the LAFCO application (LAFCO's detailed Formation Guide – Paso Robles Basin Water District is attached as Attachment B):

1. *Resolution of Application.* A proposal for the formation of the Water District by the Board of Supervisors. The Resolution must contain:
 - (a) A statement that the proposal is made pursuant to Government Code Section 56654;
 - (b) A statement regarding the nature of the proposal;
 - (c) A statement of the reason(s) for the proposal;
 - (d) Boundary map and description;
 - (e) The stated proposed terms and conditions;
 - (f) A statement whether any city and/or district Sphere(s) of Influence must be amended or adopted; and
 - (g) A request that proceedings be undertaken pursuant to the Resolution of Application.

2. *Plan for Services.* Provides information about the proposed Water District's level and range of services, projected costs of those services, and revenues needed to fund the proposed services. It must discuss the following:
 - (a) Description of services/powers;
 - (b) Identification of, and potential impacts to, existing service providers; and
 - (c) A plan for financing the proposed Water District

3. *Funding Mechanism.* Pursuant to Government Code Section 56886, LAFCO typically conditions a change of organization on approval of a funding source. The LAFCO application must contain anticipated costs to fund the Water District and a preliminary funding plan.

Formation and Election Process

If the Board files an application with LAFCO and LAFCO approves the application, LAFCO will inform the Board (as the Board of the County) that a determination has been made that requires an election to be conducted and will request that the Board direct the County elections official to conduct the necessary election.⁷

Water District Formation Election. AB 2453 provides that “[e]ach voter, who shall be a landowner as defined in this section, may cast one vote on the matter of [...] an election to form the district. Ownership of multiple parcels of land, in full or in part, shall not entitle any voter to more than one

⁶ AB 2453 permits “an affected local agency within the county, including the county and the San Luis Obispo County Flood Control and Water Conservation District,” to apply to form the Water District by resolution.

⁷ Water Code § 57000(d).

vote.⁸ For land jointly held, owners collectively get one vote. Nothing in this section should be construed to indicate that multiple owners of a property get more than one vote.”⁹ If a majority of the votes cast at the election are in favor of the formation of the Water District, the formation will be complete subject to the satisfaction of any conditions (e.g. funding) imposed by LAFCO.¹⁰

The Board of Directors elected to fill the offices of the proposed Water District if it is formed will be elected in accordance with the modified voting structure referenced above.¹¹ There will be a total of nine directors. Six of the directors (who must be landowners) will be elected by landowners in accordance with the following:

- Landowners owning less than forty acres (small landowners) elect two Directors;
- Landowners owning forty acres or more but less than four hundred acres (medium landowners) elect two Directors; and
- Landowners owning four hundred acres or more (large landowners) elect two Directors.

All Directors elected by landowners must reside within the proposed Water District or within certain identified surrounding areas. The Directors need not fall within the landowner category from which they are elected.

The remaining three directors (who must be registered voters) will be elected by registered voters within the proposed Water District.

If the Board files the application and LAFCO approves the application and requests the Board to direct the County elections official to conduct the necessary election, staff will return to your Board (as the Board of the County) for consideration of the request.¹²

Water District Boundaries

Early proponents of the Water District worked to define the boundaries of the proposed Water District based on the Phase 1 Study of the Paso Basin prepared by Fugro and Cleath (2002) (Phase 1 Study). However, the boundaries defined in the Phase 1 Study differ from those set forth in Bulletin 118. This is significant given that the SGMA requires management of an entire basin as identified in Bulletin 118.¹³ Although the SGMA sets forth a general process by which a local agency can request that DWR revise the boundaries of a basin, including the establishment of new subbasins, regulations regarding the information necessary to support such a request will not be promulgated until January 1, 2016. Based on the foregoing, staff is currently working on developing Water District boundaries that track the DWR boundaries subject to the following:

⁸ Water Code § 37905(c)(1). Water Code Section 37905(a)(1) defines “landowner” as any person who holds title to land within the boundaries of the proposed district as shown on the last assessment roll prepared by the county assessor, or a legal representative of a landowner who holds title to land within the boundaries of the proposed district as shown on the last assessment roll prepared by the county assessor.”

⁹ Water Code § 37905(c)(2).

¹⁰ Water Code § 37905(c)(6).

¹¹ Water Code § 37910.

¹² If the Board does not timely direct the elections official to conduct the election, Government Code Section 57000(e)(2) provides that the elections official shall place the item on the ballot in accordance with certain procedural requirements.

¹³ Water Code § 10721(b) defines “basin” as a groundwater basin or subbasin identified and defined in Bulletin 118 or as modified pursuant to Chapter 3 (commencing with Section 10722).

Spheres of Influence

In consultation with LAFCO, staff is exploring the possibility of designating a Negative Sphere of Influence *within* the DWR boundaries that tracks the boundaries identified by Fugro and Cleath. LAFCO would identify these areas as areas for potential detachment in the event that an application to revise the Paso Basin boundaries in accordance with the Phase 1 Study is submitted to and approved by DWR. Attachment C depicts the areas falling within the DWR boundaries as well as areas within a potential Negative Sphere of Influence (areas in red). Staff is also exploring the possibility of treating the Atascadero Subbasin differently than other areas falling within the DWR boundaries but outside of the Phase 1 Study boundaries based on its identification as a subbasin with partial hydraulic separation by Fugro and Cleath. More specifically, the Atascadero Subbasin could be excluded from the Water District boundaries but designated as a (positive) Sphere of Influence. The Subbasin would be considered for potential inclusion in the event that it is determined that the Subbasin cannot be separately managed, because e.g. certain purveyors cannot serve as a GSA or new information challenges prior conclusions. Attachment D depicts the Atascadero Subbasin as described in the Phase I Study.

Water District Powers

AB 2453 authorizes the Water District, if formed, to exercise a broad range of powers, subject to review and approval by LAFCO in accordance with Cortese-Knox. Staff anticipates including all authorized powers in the application that are consistent with the following provisions of AB 2453:

- *Water Code Section 37902. The creation of the district is not intended to and shall not modify the powers of the County of San Luis Obispo and the San Luis Obispo County Flood Control and Water Conservation District, carried out consistent with applicable law, to manage and protect groundwater resources within the County of San Luis Obispo, including the Paso Robles Groundwater Basin.*
- *Water Code Section 37903. If formed, the district shall not involve itself in activities normally and historically undertaken by the county, the San Luis Obispo County Flood Control and Water Conservation District, or other local agency, without the agreement of the agency.*

Attachment "A" to the LAFCO's Draft Formation Guide provides a detailed list of all of the powers identified in AB 2453.

Funding

Current costs associated with SGMA compliance are not fully known at this time. However, initial estimates indicate that the identity of the GSA (the Water District or e.g. the Flood Control District) would not significantly affect the costs. When staff returns to your Board with the completed LAFCO application, a detailed budget and cost estimate (e.g. per parcel or per well user) will be known and discussed. As indicated above, it is anticipated that any approval by LAFCO will be conditioned on the establishment of adequate funding.

Staff is currently working with a government finance consultant, NBS, to explore potential funding mechanisms, including, without limitation, a special tax, a property-related fee and a regulatory fee. The approval process will vary depending on the mechanism selected, which at the time of this

report, appears to be either a property-related fee or special tax. It is anticipated NBS will have a draft report prior to the meeting, allowing staff to present a pro/con analysis of the viable funding mechanisms and obtain direction from your Board if a specific funding mechanism is desired.

Schedule

It is difficult for staff to create a concrete schedule at this time given the number of uncertainties associated with the process, including, without limitation, the duration of the LAFCO hearing, whether a Request(s) for Reconsideration is filed with LAFCO, the funding mechanism selected in addition to the coordination required between multiple County departments and outside agencies to schedule up to four potential voter actions. Most items on the schedule follow a statutory timeline on a linear path. However, the funding decision is a process which does not have to be timed with the formation and Board of Director elections. The funding decision can occur before, at the same time, or after the formation and Board of Director elections. Staff will also be seeking direction on the timing of the funding decision.

Other Relevant Topics

Environmental Review

As outlined in LAFCO's Draft Formation Guide, the formation of the Water District is subject to the California Environmental Quality Act (CEQA). The CEQA process involves reviewing the potential environmental effects of an action and documenting, for public consideration, the results of that review. Actions may be found exempt, that is, having no potential for significant environmental effects, or may require more extensive review and documentation in an Environmental Impact Report, or Initial Study/Negative Declaration.

Education and Outreach

Education and outreach is an important component of the Water District formation work effort. The requirements imposed by the SGMA will be the underlying theme of all education, as the Paso Basin is subject to its requirements regardless of the identity of the GSA(s). Staff anticipates that the Education and Outreach Plan will have three basic components: print material, social media and public meetings.

Staff Direction

Staff is seeking direction on the proposed Water District boundaries, powers and funding mechanisms/timing.

OTHER AGENCY INVOLVEMENT/IMPACT

Other agencies that would be involved in the formation of the Water District are as follows:

County: County Clerk (Formation Vote and Board of Director Vote), County Assessor (Formation Vote and Board of Director Vote), County Counsel, County Administrative Office

Non-County: LAFCO (formation proceeding), Paso Basin Advisory Committee

Others related to SGMA: City of Paso Robles, City of Atascadero, Atascadero Mutual Water Company, Templeton CSD, San Miguel CSD, Camp Roberts, County of Monterey, Garden Farms Community Water District, and other small water suppliers.

FINANCIAL CONSIDERATIONS

\$350,000 from Flood Control District reserves has been allocated to fund the application process through this fiscal year.

RESULTS

Approval of the recommended action will allow staff to develop the Paso Basin Water District Formation Application for your Board's future consideration.

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ATTACHMENTS

1. AB 2453
2. Formation Guide - Paso Robles Basin Water District
3. Phase 1 Study Detachment Example
4. Atascadero Subbasin Map