



**San Luis Obispo County**  
**Department of Planning and Building**

**NOTICE OF EXEMPTION**  
**Pursuant to the California Environmental Quality Act**  
**(CA Public Resources Code §21000 et seq.)**

<b>TO:</b>	Office of the County Clerk County Government Center San Luis Obispo, CA
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**Title of the Action:**

Adoption of a Resolution by the San Luis Obispo County Flood Control and Water Conservation District (Flood Control District) making application to the Local Agency Formation Commission for the formation of a Paso Robles Basin Water District; ED 14-207

**Location of the Action – Specific:**

In northern San Luis Obispo County including all areas overlying the Paso Robles Groundwater Basin as mapped in the California Department of Water Resources Bulletin 118, excluding: areas within incorporated Cities, Community Services Districts, County Service Areas, and federally owned lands; and excluding the area overlying the portion of the Paso Robles Groundwater Basin located west of the Rinconada Fault, otherwise described as the Atascadero sub basin.

**Location of the Action – County:**

San Luis Obispo

**Description of Nature, Purpose, and Beneficiaries of the Action:**

The proposed action involves the adoption of a Resolution, pursuant to section 37905(a) of the California Water Code:

*“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. . .”*

The Resolution will accompany an application to the San Luis Obispo County Local Agency Formation Commission for the formation of a Paso Robles Basin Water District. The application proposes a new groundwater district as described in Assembly Bill 2453 (Section 37900 et seq. of the California Water Code), including the composition of, and method of election by landowners and registered voters for, the board of directors for the groundwater district, the boundaries of which are described above but which may be modified by the San Luis Obispo County Local Agency Formation Commission. The powers of the proposed groundwater district relate to the use and extraction of groundwater that the new groundwater district would be authorized to exercise, including, among others, collecting data, conducting investigations, and requiring conservation practices and measures.

The proposed groundwater district would develop, adopt, and implement a groundwater sustainability plan to control extractions from the Paso Robles Groundwater Basin. The new groundwater district may impose groundwater extraction charges, establish extraction allocations, and impose extraction surcharges to, among other things, discourage the use of groundwater beyond the extraction allocation.

The process of creating a new groundwater district also involves the provision of adequate funding, which the Local Agency Formation Commission will impose as a condition of district formation.

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Adoption of a Resolution making application to the Local Agency Formation Commission for the formation of a Paso Robles Basin Water District is not subject to the requirements of the California Environmental Quality Act (CEQA) for each of the following reasons:

#### Timing

CEQA applies only to discretionary government activities that are defined as “projects”. CEQA defines a “project” as the whole of action which has the potential for resulting in a direct or indirect change in the environment. At the same time, The State CEQA Guidelines (Title 14 California Code of Regulations) section 15004(b) state that:

*(b) Choosing the precise time for CEQA compliance involves a balancing of competing factors. EIRs and negative declarations should be prepared as early as feasible in the planning process to enable environmental considerations to influence project program and design and yet late enough to provide meaningful information for environmental assessment.*

*(1) With public projects, at the earliest feasible time, project sponsors shall incorporate environmental considerations into project conceptualization, design, and planning. CEQA compliance should be completed prior to acquisition of a site for a public project.*

*(2) To implement the above principles, public agencies shall not undertake actions concerning the proposed public project that would have a significant adverse effect or limit the choice of alternatives or mitigation measures, before completion of CEQA compliance. For example, agencies shall not:*

*(A) Formally make a decision to proceed with the use of a site for facilities which would require CEQA review, regardless of whether the agency has made any final purchase of the site for these facilities, except that agencies may designate a preferred site for CEQA review and may enter into land acquisition agreements when the agency has conditioned the agency's future use of the site on CEQA compliance.*

*(B) Otherwise take any action which gives impetus to a planned or foreseeable project in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review of that public project.*

Preparing an Environmental Impact Report or Negative Declaration at this time is premature because no meaningful information regarding the potential environmental effects of the actions of the proposed groundwater district can be provided. Although the boundaries of a future groundwater district are known, subject to change by the Local Agency Formation Commission, and the powers of the proposed groundwater district are listed, also subject to change by the Local Agency Formation Commission, the actions a new groundwater district may carry out are uncertain. A new groundwater district may implement some, or all, of the powers allocated to it by Water Code section 37900; while it is intended that a new groundwater district will undertake groundwater management activities within its powers and within its boundaries, it is not yet known where, when, or how particular actions will be implemented. The implementation of groundwater management within the boundaries of a new groundwater district is dependent upon other governmental agency regulatory decisions as well as on rainfall, land use, and community preferences, and is not predictable to the degree that meaningful environmental assessments can be prepared at this time. While the creation of a new groundwater district may contribute to the ability to ultimately conduct groundwater management activities, it in no way commits the new groundwater district to any particular course of action in that regard or influences the ultimate decisions which will affect the environment-where, when and how to manage groundwater. Further, groundwater management will have to be conducted to address the requirements of the Sustainable Groundwater Management Act regardless of whether the new groundwater district formation process succeeds. If the groundwater district formation process fails, the County or State will be obligated to conduct groundwater management pursuant to the Sustainable Groundwater Management Act. The only foreseeable impact from the groundwater district formation process is identifying what agency will represent the unincorporated area overlying the Paso Robles Groundwater Basin in the implementation of the Sustainable Groundwater Management Act. When the new groundwater district, or other agency, engages in making groundwater

management decisions, it will have to examine the environmental impacts and comply with CEQA, as required by California Water Code Section 10728.6:

*. . . Nothing in this part shall be interpreted as exempting from Division 13 (commencing with Section 21000) of the Public Resources Code a project that would implement actions taken pursuant to a plan adopted pursuant to this chapter.*

The Adoption of a Resolution making application to the Local Agency Formation Commission for the formation of a Paso Robles Basin Water District does not involve designing a public project or the acquisition of any site for a future project. If a new groundwater district is formed, and that new groundwater district chooses to develop a project that involves acquisition of property, that new groundwater district would be required to comply with CEQA prior to approving the project. However, as there are no current plans to develop any project or acquire any land, CEQA review at this time is premature.

The Adoption of a Resolution making application to the Local Agency Formation Commission for the formation of a Paso Robles Basin Water District will not foreclose alternatives or limit mitigation measures available to a future groundwater district as it implements groundwater management activities. A future groundwater district would have available to it all of the powers listed in section 37900 et seq., either as active or latent, depending on the future actions of the Local Agency Formation Commission. Further, should the new groundwater district choose to become, or join, a Groundwater Sustainability Agency as described in CA Water Code Section 10723 et seq., the new groundwater district would have available to it all of the powers listed in the Sustainable Groundwater Management Act. These powers should provide broad ability to implement alternatives and mitigation measures necessary to avoid significant environmental effects.

#### Government Funding Mechanism

As a condition of the formation of the Paso Robles Basin Water District, the Local Agency Formation Commission will require a successful Proposition 218 process to fund the new groundwater district. Section 15378(b)(4) of the State CEQA Guidelines concludes that the creation of government funding mechanisms or other fiscal activities which do not involve any commitment to any specific activity which may result in a potentially significant physical impact on the environment are not "projects". In the case of Kaufman & Broad-South Bay, Inc. v. Morgan Hill Unified School Dist. (1992) 9Cal.App.4th 464, it was determined that a resolution calling for creation of a Mello-Roos District, which also requires a vote of the electorate, was not a "project". In the same way, the mere act of forwarding an application to form a new groundwater district intended to carry out uncertain future actions related to the management of the Paso Robles Basin does not create a significant effect on the environment. The new

groundwater district may implement some, or all, of the powers allocated to it by Water Code section 37900; while the Flood Control District anticipates that the new groundwater district will undertake groundwater management activities, it does not yet know where, when, or how the actions will be implemented. Groundwater management within the boundaries of the new groundwater district is dependent upon other governmental agency regulatory decisions as well as on rainfall, land use, and community preferences, and is not entirely predictable. While the creation of a new groundwater district may contribute to the ability to ultimately conduct groundwater management activities, it in no way commits the new groundwater district to any particular course of action in that regard or influences the ultimate decisions which will affect the environment-where, when and how to manage groundwater. Further, groundwater management will have to be conducted to address the requirements of the Sustainable Groundwater Management Act regardless of whether the new groundwater district formation processes succeeds. If the groundwater district formation process fails, the County or State will be obligated to conduct groundwater management pursuant to the Sustainable Groundwater Management Act. The only foreseeable impact from the groundwater district formation process is what agency will represent the unincorporated are overlying the Paso Robles Groundwater Basin in the implementation of the Sustainable Groundwater Management Act. When the new groundwater district, if formed, makes or participates in making groundwater management decisions, it will have to examine the environmental impacts and comply with the California Environmental Quality Act, as required by California Water Code Section 10728.6:

*. . . Nothing in this part shall be interpreted as exempting from Division 13 (commencing with Section 21000) of the Public Resources Code a project that would implement actions taken pursuant to a plan adopted pursuant to this chapter.*

Nevertheless, this notice of exemption will not exempt future projects proposed by a Paso Robles Basin Water District that may arise from on-going groundwater management activities in the Paso Robles Groundwater Basin. Future activities that fall within the California Environmental Quality Act definition of "project" and are not otherwise exempt in their own right will require compliance with the California Environmental Quality Act.

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**Name of Public Agency Approving the Action:**

San Luis Obispo County Flood Control and Water Conservation District

**Name of Person or Agency Carrying Out the Action:**

San Luis Obispo County Flood Control and Water Conservation District

**Exempt Status:**

The activity is exempt from the requirements of the California Environmental Quality Act pursuant to:

1. State CEQA Guidelines section 15004(b) (EIRs and negative declarations should be prepared as early as feasible in the planning process to enable environmental considerations to influence project program and design and yet late enough to provide meaningful information for environmental assessment); and
2. State CEQA Guidelines Section 15378(b) (4) (Government Funding Mechanism).

**Reasons why the action is exempt:**

The Adoption of a Resolution making application to the Local Agency Formation Commission for the formation of a Paso Robles Basin Water District not subject to the California Environmental Quality Act because the activity in question is at an early stage where preparation of an EIR or Negative Declaration would be too early in the process to provide meaningful information for environmental assessment as described in State CEQA Guidelines Section 15004(b); and the activity includes the creation of a government funding mechanism or other fiscal activities which do not involve any commitment to any specific project which may result in potentially significant physical impacts on the environment as described in State CEQA Guidelines Section 15378(b)(4).

**Contact Person**

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**Approval by:**

Ellen Carroll  
Ellen Carroll, Environmental Coordinator  
County of San Luis Obispo

Date: 3-31-2015