

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

(1) DEPARTMENT Public Works	(2) MEETING DATE 11/10/2015	(3) CONTACT/PHONE John Diodati, Project Manager/Department Administrator (805) 788-2832	
(4) SUBJECT Hearing to consider a resolution establishing Zone 19 of the San Luis Obispo County Flood Control and Water Conservation District and find that the project is exempt from Section 21000 et seq. of the California Public Resources Code (CEQA). Districts 1 and 5.			
(5) RECOMMENDED ACTION It is recommended that the Board, acting as the Board of Supervisors for the San Luis Obispo County Flood Control and Water Conservation District (Flood Control District) hold a public hearing and adopt the attached resolution establishing Zone 19 of the San Luis Obispo County Flood Control and Water Conservation District and find that the project is exempt from Section 21000 et seq. of the California Public Resources Code (CEQA).			
(6) FUNDING SOURCE(S) San Luis Obispo County Fund 19 (Fund 1304000000)	(7) CURRENT YEAR FINANCIAL IMPACT \$314,400.00	(8) ANNUAL FINANCIAL IMPACT N/A	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT { } Consent { } Presentation <b>{X}</b> Hearing (Time Est. <u>50 mins</u> ) { } Board Business (Time Est.____)			
(11) EXECUTED DOCUMENTS <b>{X}</b> Resolutions { } Contracts { } Ordinances { } N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A { } 4/5 Vote Required <b>{X}</b> N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY { } N/A Date: 4/21/15, #26	
(17) ADMINISTRATIVE OFFICE REVIEW David E. Grim			
(18) SUPERVISOR DISTRICT(S) District 1 District 5			

Reference: 15NOV10-H-1

# County of San Luis Obispo



TO: Board of Supervisors

FROM: Public Works  
John Diodati, Project Manager/Department Administrator  
Wade Horton, Director of Public Works

DATE: 11/10/2015

SUBJECT: Hearing to consider a resolution establishing Zone 19 of the San Luis Obispo County Flood Control and Water Conservation District and find that the project is exempt from Section 21000 et seq. of the California Public Resources Code (CEQA). Districts 1 and 5.

## **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 (Flood Control District) hold a public hearing and adopt the attached resolution establishing Zone 19 of the San Luis Obispo County Flood Control and Water Conservation District and find that the project is exempt from Section 21000 et seq. of the California Public Resources Code (CEQA).

## **DISCUSSION**

### *Background*

On January 27, 2015, your Board directed staff to return with a resolution of application and related material within approximately ninety (90) days for the potential formation of the Paso Robles Basin Water District (Water District) as described in Assembly Bill 2453 (2014) (AB 2453) in the unincorporated portions of the Paso Robles Groundwater Basin (Basin).

On April 21, 2015, staff returned to your Board with an application to the Local Agency Formation Commission (LAFCO) which your Board approved. Approval and submission of the application commenced LAFCO's official review process.

On June 25, 2015, LAFCO sent its 30-Day Initial Review Letter to the Public Works Department in which it requested submittal of, among other things, "the Phase II NBS funding report that provides for a more detailed analysis of the revenues and the funding mechanisms to be used to fund the Water District."

On August 18, 2015, your Board approved the Phase II NBS Funding report which recommended a special tax levied by the Flood Control District as the mechanism to fund Sustainable Groundwater Management Act (SGMA) compliance activities.<sup>1</sup> Your Board further directed staff to return to the Board at the appropriate time to initiate special tax proceedings.

On August 20, 2015 and on September 17, 2015, LAFCO conducted public hearings on the formation of the Water District. At its September 17th hearing, LAFCO adopted a resolution establishing the boundaries of the proposed Water District and approving the formation of the Water District subject to, among other things, “approval of a Proposition 218 proposal capable of funding the activities of the [Water] District.”

On October 6, 2015, in order to initiate Proposition 218 proceedings and the establishment of Zone 19, your Board adopted a resolution specifying its intention to establish Zone 19 and fixing November 10, 2015 as the date of the public hearing (Resolution of Intent). The Resolution of Intent is included as Attachment A.

### Public Hearing

The purpose of today’s action is for the Board to hold the public hearing necessary to establish Zone 19. This action will permit the Board of Supervisors to hold a subsequent hearing on the establishment of the special tax within Zone 19. Notice of the public hearing was published in a newspaper of general circulation and a copy of the Resolution of Intent (which includes a map showing the outline and location of Zone 19 and a resolution of establishment to be considered on November 10, 2015 (Resolution of Establishment)) was made available for review in the Creston Public Library, according to statute. Additionally, staff made a copy of the Resolution of Intent available for inspection at other public libraries in the Basin. The Resolution of Establishment is also attached.

### Zone 19 Boundaries

The proposed boundaries of Zone 19 are coterminous with the boundaries of the proposed Water District established by LAFCO on September 17, 2015. As part of its consideration of the proposal to form the Water District, LAFCO accepted requests to be excluded from the Water District (proposed Water District boundary was coterminous with the FUGRO Boundary as defined in the 2002 study). In order to assist in processing the requests, LAFCO hired a third-party geological firm, Cleath-Harris Geologists, Inc. (Cleath) to determine if the parcels for which exclusion requests were submitted are within the FUGRO Boundary.

A total of 548 parcels were submitted for exclusion. Cleath reviewed all 548 parcels and determined that 409 are within the FUGRO Boundary. A total of 86 parcels were determined to be outside of the FUGRO Boundary. At total of 53 parcels were on the edge or split by the FUGRO Boundary.

In considering the exclusion requests, LAFCO determined to: (a) include (reject exclusion requests for) all parcels located within the FUGRO Boundary; (b) exclude (grant exclusion requests for) all parcels located outside of the FUGRO Boundary and (c) include 36 parcels that are on the edge or split by the FUGRO Boundary.

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<sup>1</sup> The Flood Control District is authorized to establish a zone and levy and collect a special tax within said zone by the authority of Section 5-11 and Section 13-3 of the San Luis Obispo County Flood Control and Water Conservation District Act and in accordance with Government Code Sections 53720 et seq. and 50075 et seq. and Articles XIII A and XIII C of the California Constitution.

LAFCO based its determination on each exclusion request exclusively on the parcel's relationship to the FUGRO Boundary because:

*“The FUGRO boundary identified in the 2002 study is the best science available in terms of characterizing and defining the extent of the Paso Robles groundwater sub-basin in San Luis Obispo County.*

*AB 2453 defines the Districts' purpose in WC 37901 ‘...to balance the supply to and consumption of groundwater within the basin underlying the district and thereby pursue stabilizing that basin and sustaining its resources for the beneficial use of all who use water within the district.’ Excluding the parcels within the FUGRO boundary would make the District less effective at achieving its purpose.*

*Based on geology and local circumstances parcels within the FUGRO Boundary would have a greater connection to the basin management and those should be included within the Service Area. The equitable approach is to include those parcels that are connected to the basin geologically or hydrological [sic] within the FUGRO Boundary.*

*“The new State Law (Sustainable Groundwater Management Act-SGMA) requires management of groundwater resources in the Paso Robles Groundwater Sub-Basin. Leaving islands or holes in the District's service area leaves those areas unmanaged and subject to County (if they choose to manage the area) or State intervention. A contiguous service area for the District is a logical boundary that provides clearer jurisdictional roles and responsibilities.”<sup>2</sup>*

The Cleath analysis is included as Attachment B.

Section 3.1 of the Flood Control District Act requires that the Board consider during the hearing all written and oral objections to the creation of Zone 19 and all written requests for exclusion and requests for inclusion submitted by property owners. The Board is not statutorily required to abandon the proposal regardless of the number of protests submitted. In response to requests for exclusion or inclusion, the Board may exclude land which it finds will not be benefitted and include land not included in the Resolution of Intent which it finds will be benefitted with the written consent of the relevant property owner(s). Based on LAFCO's reasoning regarding the benefit of including all parcels within the FUGRO Boundary, and the fact that SGMA requires management of the entire Basin, it is not recommended that any parcels within the FUGRO Boundary (and the Water District boundary) be excluded from Zone 19 on the basis that they will not be benefitted.

### Staff Direction

Staff is seeking adoption of the Resolution Establishing Zone 19 in order to initiate Proposition 218 proceedings to establish a local source of funding for SGMA compliance, as well as directing the Clerk to file the CEQA Notice of Exemption (Attachment C.)

### Next Steps

After the conclusion of the noticed public hearing, and assuming the resolution establishing Zone 19 is approved, your Board may hold another public hearing to consider a resolution to establish the

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<sup>2</sup> Pages 9 through 10 of the September 17, 2015 LAFCO Staff Report contain a complete discussion of the exclusion requests.

Paso Robles Basin Special Tax within Zone 19 subject to voter approval. This subsequent resolution will describe the special tax and call for an election by the registered voters with Zone 19 to approve the special tax and locally fund SGMA compliance activities.

If the voters approve the special tax and the formation of the Water District, then the Flood Control District will transfer the special tax revenue to the Water District for SGMA activities.<sup>3</sup> If the special tax is approved, but the Water District is not formed, the Flood Control District will have the option to choose to become or participate in a Groundwater Sustainability Agency and utilize the approved special tax revenue to fund the SGMA activities thereby saving taxpayers the expense of a second special tax election for the same purposes.

### **OTHER AGENCY INVOLVEMENT/IMPACT**

Other agencies that have worked on the Proposition 218 funding mechanism are as follows:

County Clerk, County Assessor, County Counsel, Agricultural Commissioner's Office and the Paso Basin Advisory Committee.

### **FINANCIAL CONSIDERATIONS**

\$314,400 from Flood Control District reserves has been allocated to Flood Control Fund 19 to fund the application process through this fiscal year.

### **RESULTS**

Approval of the recommended action will allow the registered voters in the unincorporated areas of the Basin to decide if they support a local source of funding for SGMA compliance.

File: 340.280.01

Reference: 15NOV10-H-1

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### **ATTACHMENTS**

- A. Resolution of the San Luis Obispo County Flood Control and Water Conservation District, California, of Intent to Establish Zone 19 of the Flood Control and Water Conservation District
  - B. Cleath & Associates Boundary Analysis
  - C. Notice of Exemption finding that the project is exempt from Section 21000 et seq. of the California Public Resources Code (CEQA)
- Resolution of the San Luis Obispo County Flood Control and Water Conservation District, California, Establishing Zone 19 of the Flood Control and Water Conservation District

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<sup>3</sup> Section 13-3 of the Flood Control District Act authorizes the Flood Control District to enter into contracts with other governmental bodies for the transfer of tax proceeds for the performance of the purposes of the Flood Control District within an established zone. In addition, Government Code Section 50077, subdivision (c), authorizes the legislative body of a local agency which is conducting proceedings for the formation of a district to propose a special tax on behalf of said district.