

C. Acreage and LUC Appeal Process

Special Tax Acreage and Land Use Category Policies and Procedures for Property Owner Appeals

I. Background

On September 16, 2014, the Governor signed Assembly Bill 2453 (codified in Water Code §§ 37900 – 37969) which adds Part 8.2 to Division 13 (California Water District Law, Water Code §§ 34000 – 38501) of the California Water Code and provides for the formation of the Paso Robles Basin Water District (Water District). Water Code Section 37905 states that the formation process shall comply with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code §§ 56000 et seq.) (Cortese-Knox-Hertzberg) with limited exception and grants to the San Luis Obispo County Local Agency Formation Commission (LAFCO) the power to establish the boundaries of the Water District (Water Code § 37900(a)(6)) and to review and approve the powers to be exercised by the Water District (Water Code § 37920).

On April 21, 2015, the Board of Supervisors of the San Luis Obispo County Flood Control and Water Conservation District (Flood Control District) approved a Resolution of Application to LAFCO pursuant to Water Code Section 37905, subdivision (a). On September 17, 2015, after two public hearings, LAFCO approved a Resolution Making Determinations and Approving the Formation of the Paso Robles Basin Water District (Resolution No. 2015-05) (LAFCO Resolution). The LAFCO Resolution includes the following pertinent conditions of approval and orders:

Condition of Approval No. 3: That formation of the Paso Robles Water Basin District shall be contingent upon a successful vote on the formation pursuant to Water Code Section 37905, and approval of a Proposition 218 proposal capable of funding the activities of the District.

Condition of Approval No. 8: That the Board of Supervisors of the County or the Flood Control District, as applicable, call for the formation vote and Board of Director elections, conduct the Proposition 218 proceeding and set the appropriations limit as soon as feasibly possible and consistent with Government Code Section 57000.

II. Special Tax Election

As indicated in Section I above, LAFCO has conditioned the formation of the Water District on “approval of a Proposition 218 proposal capable of funding the activities of the District.” The LAFCO Resolution does not approve of any particular Proposition 218 funding mechanism and the special tax election sponsored by the Flood Control District to fund compliance with the Sustainable Groundwater Management Act (Water Code §§ 10720 et seq.) (SGMA) does not constitute a change of organization election subject to the procedures contained within

Government Code Section 57125 et seq. Rather, the special tax election is subject to the requirements set forth in the Flood Control and Water Conservation District Act (California Water Code Appendix Chapter 49), Government Code Sections 53720 through 53730 and Sections 50075 through 50077.5 and Articles XIII A and XIII C of the California Constitution. In accordance with these requirements, the County Elections Official will issue ballots to all registered voters within a zone established within the Flood Control District on the question of whether to fund SGMA compliance activities within the Paso Robles Groundwater Basin.

The proposed special tax consists of rate elements based on land use, gross acreage and irrigated acreage. The details of the rate elements are included in the resolution entitled “*A RESOLUTION OF THE SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT BOARD OF SUPERVISORS CALLING FOR AN ELECTION TO IMPOSE A SPECIAL TAX UPON PARCELS LOCATED WITHIN FLOOD CONTROL DISTRICT ZONE 19 FOR THE PURPOSE OF FUNDING THE SERVICES NECESSARY TO COMPLY WITH THE REQUIREMENTS OF THE SUSTAINABLE GROUNDWATER MANAGEMENT ACT OF 2014 (WATER CODE § 10720 ET SEQ.)*.”

In conducting the special tax election, the County Elections Official and other County departments identified in this document will follow the principles outlined below as it pertains to reviewing landowner appeals on any of the rate elements.

III. Property Owner Appeals

- A) Land Use Categories – The land use categories (LUC) used for the special tax are Single Family Residential (SFR), Multi-Family Residential (MFR), Commercial (Comm), Industrial (Ind), Governmental (Gov) and Vacant. These LUC’s are based upon underlying land use codes, which are developed and maintained by the County Assessor for assessment purposes. Each parcel in Flood Control District Zone 19 has a LUC assigned to it. The assignment of a LUC to a parcel results in a rate element as follows:

SFR = \$20/year
MFR = \$40/year
Comm/Ind/Gov = \$100/year
Vacant = \$10/year

If a property owner believes that his or her parcel has been assigned an incorrect LUC, he or she must submit an application for review of the LUC to the Assessor’s Office by January 11, 2016. An application for review may be obtained at the Assessor’s office or the Assessor’s website. The Assessor or his or her designee will review the information provided by the property owner and make a final determination on the appropriate primary LUC of the parcel in question.

- B) Gross Parcel Acreage – Gross acreage determinations for purposes of the proposed special tax shall be based on the last assessment roll prepared by the County Assessor. Any appeal of gross acreage will require satisfactory evidence of acreage and must be presented to the Assessor’s Office by January 11, 2016. Satisfactory evidence of

acreage may include, without limitation, tract maps, parcel maps, records of surveys, recorded Certificates of Compliance, recorded Voluntary Mergers, and Assessor maps. The Assessor's Office will only consider appeals which demonstrate a minimum acreage correction of five percent (5%).¹

If a property owner believes his or her parcel has been assigned an incorrect gross acreage, he or she must submit an application for review of the acreage to the Assessor's Office by January 11, 2016. An application for review may be obtained at the Assessor's office or the Assessor's website. The Assessor or his or her designee will review the information provided by the property owner and make a final determination on the gross acreage of the parcel in question.

- C) Irrigated Acreage – Irrigated acreage is used as a rate element to assign a \$18/per acre charge on parcels with irrigated acreage. This data was established by utilizing the Agricultural Commissioner's GIS data. Any appeal of irrigated acreage will require satisfactory evidence of irrigated acreage and must be presented to the Agricultural Commissioner's Office by January 11, 2016. Satisfactory evidence for irrigated acreage may include, without limitation, records of surveys, verified pesticide use information and time appropriate aerial surveys. Additionally, field visits may be required. The Agricultural Commissioner's Office will only consider appeals which demonstrate a minimum irrigated acreage correction of five percent (5%) or more for any individual parcel, or demonstrate a correction totaling a minimum of ten (10) acres for any individual parcel.

The contact at the Agricultural Commissioner's Office is Lynda Auchinachie, (805) 781-5914 or lauchinachie@co.slo.ca.us. Ms. Auchinachie or her designee will review the information provided by the property owner and make a final determination on the total irrigated acreage of the parcel in question.

IV. Future Special Tax Calculations

If the special tax is approved, annual calculations will be conducted in the future by the Flood Control District. The Flood Control District shall work in conjunction with the Assessor's Office and Agricultural Commissioner's Office to rely on the best available data for total acreage, irrigated acreage or LUC. Any discrepancies of total acreage, irrigated acreage in excess of five percent (5%) or demonstrating a correction totaling a minimum of ten (10) acres for any individual Parcel, or LUC may be appealed by the property owner. The Flood Control District, in coordination with the Assessor's Office and Agricultural Commissioner's Office, will review and determine if a calculation change is warranted based upon the satisfactory evidence provided (as described in Section III). Any successful appeal will result in a credit on the special tax in the following fiscal year.

¹ It should be noted that the appeals process described herein only addresses total acreage determinations with respect to the special tax calculation. Water Code Section 37912, subdivision (e), places additional constraints on acreage determinations with respect to the landowner board of director vote. More specifically, the voters list for the purpose of the election of directors must be based upon the last assessment roll prepared by the County Assessor subject to amendment based only on a proven change in ownership.