



LAFCO - San Luis Obispo - Local Agency Formation Commission
SLO LAFCO - Serving the Area of San Luis Obispo County

TO: MEMBERS, FORMATION COMMISSION

FROM: DAVID CHURCH, AICP, EXECUTIVE OFFICER *(DC)*

DATE: JULY 21, 2016

SUBJECT: STUDY SESSION: FORMATION OF SHANDON/SAN JUAN WATER DISTRICT – SGMA, BOUNDARIES, POWERS, AND FUNDING

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Recommendation

It is respectfully recommended that the Commission receive and file the Staff Report.

Study Session

This is a study session of the Local Agency Formation Commission (LAFCO) regarding the formation of the proposed Shandon-San Juan Water District. The topics covered include an overview of the proposal and circumstances, Boundaries, Powers and Funding options. The Staff Report also provides information from some of the questions that came up at the June 16 Study Session.

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If formed, the proposed Water District would be responsible for helping to prepare a Groundwater Sustainability Plan to manage the Paso Robles Groundwater Basin. The District would be responsible for its service area and compliance with the new state law; the Sustainable Groundwater Management Act (SGMA). SGMA requires that all medium and high priority basins (Paso Robles is a High Priority Basin) be managed by a Groundwater Sustainability Agency (GSA) and Groundwater Sustainability Plan (GSP).

The proposed Water District would be administered under the State Water Code that provides for the creation of a California Water District (WC 34000). The District is intended to either be designated a GSA and/or be part of an already formed GSA. Effectively, the District is being formed to give those landowners within the District boundaries a voice at the GSA table. The District Board of Directors would consist of landowners who would have input into the decisions made by the GSA. The District would also pay for the day-today operating costs.

1 - Overview

SGMA requires the monitoring and/or management of groundwater resources throughout the State of California. The Paso Robles Groundwater Basin is presently the primary water source for the North County. The Basin has numerous users including; rural residences, urban areas, vineyards, farming and other agricultural uses. All of these users pump water from the underground basin for drinking, domestic use, landscape and agricultural irrigation. Well levels have declined in a number of areas within the Basin. The State (Department of Water Resources) has designated the Paso Robles Basin a “high” priority basin. This designation means that the Basin must submit a Groundwater Sustainability Plan to DWR by 2020.

The formation process and powers of the proposed Water District are described in the Water and Government Codes 34000 et al and 56000 et al (Cortese-Knox-Hertzberg Act), respectively. The Water Code (34000 et al) is the Principal Act for forming and administering a California Water District. The District offers the option of a landowner-controlled special district to manage a portion of the groundwater resources in the Paso Robles Basin. The process of forming the District gives all parties the opportunity to participate in this decision. If LAFCO approves the formation, the landowners within the boundary would vote (based on a one acre-one vote formula) on whether to form the District, or not.

Under the CKH Act, the San Luis Obispo Local Agency Formation Commission (SLOLAFCO) has the discretion to approve (with or without conditions), modify, or deny the application for forming such a district. LAFCO may also adopt conditions of approval that would apply to the District. One condition that LAFCO would consider is the approval of a funding source by the property owners. This is commonly known as a Proposition 218 process or vote. The condition would allow formation of the District only if funding is approved. LAFCO also has the authority to modify the proposed boundary of the proposed District during the review and hearing process. The powers of the new District would be determined by LAFCO as well. Given the interest in limiting movement of groundwater out of the basin, a condition of approval prohibiting the export of water would be proposed as part of the review.

2. Boundaries

The Commission discussed the boundaries of the proposed District at the June 16, 2016 study session. LAFCO determines the service area and sphere of influence boundaries of a new District. This section discusses two options for determining the boundary.

Landowner Boundary. The service area boundary proposed by the applicants would be based on only those landowners who sign the petition to form the District. This means that 100% of the landowners in the District would be in favor of forming and funding the District. It also would result in a “checker-board” pattern of a service area boundary; creating a District boundary with areas that are not adjacent to one another.

This non-contiguous service area pattern is allowable under the Principal Act. The service area is the boundary where the District would have jurisdiction and authority. A Sphere of Influence is a 20-year planning boundary for areas that might be annexed in the future. The District does not have authority over areas within the SOI. The properties in the SOI do not pay any of the District's fees and are not subject to the District's regulations. An area must be within the SOI for a future annexation to be approved. The SOI is a planning boundary and annexations occur with the approval of landowners. Some factors to consider when evaluating the District boundary in this manner include:

- Does not force a landowner to be part of the District; only includes those landowners who are willing participants; decreases disagreement and controversy;
- Formation and funding will be approved and the District will be formed, barring unusual circumstances;
- Allows for included landowners to have a voice as part of the GSA and preparation of the Groundwater Sustainability Plan (GSP);
- Landowners fund the operating costs for the District and administer the District;
- Relieves the County of SGMA compliance for a particular area of the Basin;
- Creates a checker-board of service areas that are not covered by the new District. For SGMA compliance these areas would fall to the County, or the State.

Hydrogeological Boundary. Boundaries for forming the Paso Robles Basin Water District were considered based on DWR's Bulletin 118 and the Fugro Study completed by the County. The basis for this rationale is that SGMA requires management of the entire Paso Robles Basin. SGMA requires that the entire Basin within the DWR 118 boundary be managed as part of the Groundwater Management Plan that is prepared by the Groundwater Sustainability Agency (GSA). Some factors to consider when evaluating the District boundary in this manner include:

- Would likely include large areas of land whose owners do not want to be part of the District, creating disagreement about forming the District;
- Allows for SGMA compliance by the areas covered by the District;
- May create a more logical, orderly boundary for the District;
- Formation is voted on based on a one vote-acre formula; Including large areas of land of dissenting landowners may result in a failure to form the District.

Exclusion Requests. The Water Code allows for exclusion requests to be submitted to LAFCO. LAFCO would decide whether to grant or deny the request for exclusion from a property owner. A form to request exclusion would be provided prior to a LAFCO hearing. If the boundary is determined by 100% of landowners who sign the petition there may not be any exclusion requests. However, the option is still open to landowners. Each request would be mapped and presented at the LAFCO meeting. A recommendation for each request would be made and the Commission may use its discretion in excluding or including any property.

3. Additional Information and Resources

The State's glossary defines ***Sustainable groundwater management*** as *the management and use of groundwater in a manner that can be maintained during the planning and implementation horizon without causing undesirable results.* The DWR website has a large quantity of information and resources. Additional information about the formation of the Sustainable Groundwater Management Act, Groundwater Sustainability Agencies, Groundwater Sustainability Plans, and other topics is available online at the following websites:

- <http://www.water.ca.gov/groundwater/sgm/>
- <http://www.water.ca.gov/groundwater/sgm/definitions.cfm>
- <http://groundwater.ucdavis.edu/SGMA/>
- <http://www.acwa.com/content/groundwater/groundwater-sustainability>
- <http://www.slocountywater.org/site/Water%20Resources/SGMA/>
- <http://waterfoundation.net/resources/>
- <http://www.watereducation.org/>

Documents that might be helpful include:

- Know Your Options: A Guide to Forming Groundwater Sustainability Agencies, by California Water Foundation
- The 2014 Sustainable Management Groundwater Act: A Handbook to Understanding and Implementing the Law, by Water Education Foundation
- GSA Frequently Asked Questions, by Department of Water Resources

4. Funding/Budget

The applicants propose to fund the District by having the landowners stipulate to a funding source (benefit assessment) at the time they sign the petition. The applicants intend for the revenues to be agreed to by 100% of the landowners, thereby eliminating the need for a proposition 218 vote on the funding question. This process is based on the assumptions 1) that with 100% of the landowners agreeing a 218 vote is not required and 2) that any litigation brought by litigants outside the District boundary will not have legal standing. Below is the funding formula found in the petition:

The parties executing this Petition, being all the landowners within the proposed Shandon-San Juan Water District, do hereby agree and stipulate that notwithstanding any other provision of law, including but not limited to the California Water District Law and Proposition 218 (Calif. Constitution Article XIII D), they all consent to the District's Board of Directors levying assessments as follows, and upon request by the District in the manner prescribed by law, authorize the County of San Luis Obispo to collect such assessments along with County taxes:

- (a) For irrigated lands, that is lands that are developed based on reliance on groundwater, or any surface supplies that may be made available by the District, an initial assessment for costs associated with compliance with the Sustainable Groundwater Management Act (SGMA) and general administration of the proposed district, which shall not exceed \$35.00 per acre; and
- (b) For non-irrigated lands, that is lands that are not developed based on reliance on groundwater, or any surface supplies that may be made available by the District, other than for watering of livestock upon range lands, and which lands remain undeveloped: (a) will not be subject to any assessments or charges to pay costs associated with importing supplemental supplies; and (b) will be subject to assessments or charges associated with compliance with the Sustainable Groundwater Management Act (SGMA) and general administration of the proposed district not to exceed 1.68% of such assessments or charges levied upon irrigated lands; and
- (c) For occupied residences an initial assessment for costs associated with compliance with the Sustainable Groundwater Management Act (SGMA) and general administration of the proposed district, which shall not exceed \$60.00 per residence.
- (d) Assessments in excess of the foregoing limitations shall only be levied upon the District following the applicable procedures prescribed by the Water Code and Proposition 218.

The applicant believes that 218 may be waived, citing the fact that if someone waives their procedural rights by signing the petition, and the waiver is approved by 100% of those affected, no one would have standing or a basis for bring an action to challenge the waiver of a 218 vote. This issue will be reviewed by Staff as part of the application.

Budget. The proposed annual budget to provide District services is estimated to be \$325,000 for the first five years. A more detailed budget is will be reviewed during the application process. The budget will include costs for professional, legal and administrative services to operate the District.

Also once metering has been established, and if the District's Board so directs, the funding could switch to use basis, or what is commonly known as a pump tax. The new District Board may also pursue public and private grants to supplement the basic services outlined above to expand on potential conservation and water supplementation opportunities.

5. Formation Process

The Notice of Intent to Circulate a Petition has been filed with LAFCO and the applicant is gathering signatures for the petition. The applicants have six months to submit the petitions from the date when the first signature is signed on the petition. The petitions will be verified by the County Assessor's Office by a comparison of Assessor's Parcel Numbers and/or addresses. A signature comparison is not performed. The petition, application and fees are submitted to LAFCO for review. The initial 30 day review is completed and additional information may be requested. Staff reports would be prepared and noticing must occur at least 21 days prior to the first public hearing.

Formation Process

