



{In Archive} Re: Fw: From Paso Robles City Manager Jim App

Bruce Gibson to: Paavo Ogren



04/01/2010 09:02 AM

Cc: Cherie Aispuro, "Howard, Courtney"

Archive:

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Paavo -- Yes indeed, this does raise some more questions. I'd be happy to hear from Courtney on Mon, especially as to timing of next steps -- clearly there are a lot of threads to consider here and I hope we don't have to do much before we get LO finished.

BG

Paavo Ogren

Bruce A few different issues exist. Enjoy the rea...

03/31/2010 02:51:11 PM

From: Paavo Ogren/PubWorks/COSLO
To: Bruce Gibson/BOS/COSLO@Wings
Cc: Cherie Aispuro/BOS/COSLO@Wings, "Howard, Courtney" <choward@co.slo.ca.us>
Date: 03/31/2010 02:51 PM
Subject: Re: Fw: From Paso Robles City Manager Jim App

Bruce

A few different issues exist. Enjoy the reading and it would be good to discuss since this reply may create additional questions in your mind.

Jim's letter speaks to some recently completed work on the Paso Groundwater Basin. In reality, there have been numerous studies on the Paso basin over the past decade +/- . On that point, Courtney will be preparing a table in the next few weeks that lists the various studies and their purpose(s). We will send you a copy to augment this reply.

One possibility may be that Jim may be speaking to the recent basin study related to the Atascadero Sub-basin, which was prepared in response to concerns from North County (NC) on the draft Resource Capacity Study. The draft RCS included a recommendations of the nature that would prevent further subdivisions. The NC constituents raised the point that the RCS did not address the fact that Nacimiento was about to go on-line and therefore the draft RCS was flawed. Atascadero Mutual Water Company was especially concerned since they serve properties in the unincorporated area and because they estimated their needs from the Nacimiento Project based on the General Plan, and they also expect development fees to pay for a significant portion of their Naci costs. Other details also existed that identified the need for the Atascadero sub-basin study, but suffice it say that this obvious conflict on the draft RCS had NC constituents concerned and drove part of the need for the Atascadero sub-basin work. Although I am not aware of a specific concern for Paso on this particular work, the WRAC has previously commented on annexations to Paso and so perhaps Jim is concerned about the RCS and whether it will have future implications on annexations.

Another possibility relates to the PRIOR agreement. PRIOR was executed between Paso, the County, the Flood Control District, and Shandon about 5 years ago or so. It was developed to head off groundwater litigation and it essentially provides some protection to agriculture against municipalities developing "prescriptive" rights to the groundwater basin because all parties agreed that the County would need to declare the basin in overdraft before the 5 year period could begin that is required for prescriptive rights to be established. (In order for municipalities to develop groundwater rights... since we are not overlying users of the basin... we need to show that our use corresponded to 5 years while the basin was in overdraft... it's similar to squatters law... i.e the municipalities took the water from the overlying users, overlying users did nothing to stop us, now it's ours). Although this is oversimplified, the point is that our current studies do not indicate that the Paso basin is in overdraft, and perhaps Jim is

posturing in a manner to imply that they are not so sure... not a bad posture for him to take. Since the County is obligated under the PRIOR agreement to make that determination of overdraft when we believe it to be true... Jim may simply be preserving a right to argue if needed in the future. It's interesting because he could theoretically argue in the future that he was damaged (i.e. not able to argue a prescriptive right) because the County failed to declare overdraft. Most likely, he simply sees that we do have some cones of depression (evidence) in the basin and he might generally believe that the basin pumping is already at its safe yield. (As you may know, a cone of depression is not direct evidence of overdraft since all wells create a cone of varying sizes etc... Even issues like well interference do not provide direct evidence of overdraft, and damages do not exist just because someone has to drill deeper to get water because others have installed wells to satisfy their overlying uses).

Since Jim's letter was not argumentative, I'm inclined to believe that they are simply preserving an opinion based on the lack of data. Regarding annexations, he might want to argue that plenty of water exists; regarding water rights, it could be the opposite. In either case, he may also just be pointing to the fact that more data would be better and we agree. In general, we are getting good feedback on the uncertainties that exist relating to agricultural water demand.

Regarding data, Courtney and Syllas (primarily Syllas) completed a data "gap analysis" to determine where we would like more data. Part of upcoming public workshops in NC will include soliciting more data from those who have wells. As a side note, our gap analysis was prepared Countywide, and funded from a State Water Board IRWM grant.

So, I imagine this is a bit of food for thought; since Paso is our largest basin, we have done a lot of work on it. Courtney can attend an upcoming Monday meeting to discuss more. Hope this helps.

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Bruce Gibson

Courtney -- Can you give me some background...

03/31/2010 10:48:47 AM