



**Eyes on your water:** First in a series of reports on the North County's festering water politics.

## Is water banking in SLO County's future?

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Little San Luis Obispo County is poised to become a major player in the West's high-stakes water future, even while local land-owning water users fret about declining supplies stressed by an increasingly voracious agricultural thirst.

Meanwhile, strategies of a variety of county water users — their anxieties exacerbated by a deep and persistent drought — are competing for control of the biggest component of this county's water storage capability, the Paso Robles water basin.

And now, the basin — the largest aquifer west of the Rockies — is being considered by some powerful entities for utilization as a “water bank.”

It is an objective that cannot be realized without creation of a special water district, plans for which are gaining a considerable head of political steam. A district's formation would necessitate enabling legislation, now being contemplated for sponsorship by Assemblyman Katcho Achadjian (R-San Luis Obispo). Such a district is favored by two area groups which recently merged their objectives, the Paso Robles Agricultural Alliance for Groundwater Solutions (PRAAGS) — representing the biggest vineyards overlying the Paso Robles groundwater basin — and PRO Water Equity. PRAAGS legal representation is being provided by Ernest Conant, a lawyer for the controversial Kern Water Bank in the Central Valley.

Consensus on local water banking is thin; some North County landowners are balking at the idea of establishing a water district, fearing that special interests are fast-tracking the legislation, AB 3030, to prevent any future intervention in North County water-rights conflicts by the courts. Two local lawsuits have been filed in an attempt to protect existing rights of current landowners, and to assure those rights carry into the future.

A plaintiff in one of the lawsuits, Cindy Steinbeck, said in an email to members of an overlying landowners group, Protect Our Water Rights (POWR), that representatives of the two bigger entities, PRAAGS and PRO Water Equity, may not be revealing the whole story.

“What they are not disclosing [about plans for a district and the legislation] may seriously impact your property rights, as well as the financial value of your property,” Steinbeck wrote. “We must stand together to protect our groundwater rights.”

Steinbeck said in a later conversation with a reporter that leaders of PRAAGS and PRO Water Equity “cannot seem

to tell the truth” about plans for water banking in this county.

“I’m certain that at least one person in each group knows exactly what is going on,” she said, “and many of the rest are completely naive.”

At a Pear Valley Vineyard meeting last week, members of PRAAGS admitted they seek in the legislation “exporting” powers and plan to do “water exchanges” with a Central Valley water bank, Semitropic Water Storage District.

### **Wider needs, less water**

In concept, the idea of capturing water during wet years and saving it to use for homes, farms, ranches, and businesses during a dry spell sounds like it makes fiscal sense.

In reality, a water bank can create circumstances jeopardizing unsuspecting landowners who believe they have the rights to the water under their property.

Conservation measures of some sort are becoming increasingly important, because diminution of the above-ground resource parallels statewide urban and rural population expansion, and agricultural and industrial demands are increasing.

In prior decades, overland transfer was the preferred method of moving water from one location to another. But dams, reservoirs, canals, pumping plants, and other delivery infrastructure now are mere remnants of a past where “abundance” of the resource was a commonly-held misperception.

Even without a serious drought, evidence of a rapidly-shrinking water supply in the west-

ern United States is abundant: the combined capacities of the Colorado River, the state’s northern watersheds, the Central Valley Project, the Owens River and California aqueducts, cannot deliver one-fifth of the promised, and contracted-for quantities.

With more eyes on less water today, novel ways to develop, store, sell, and deliver water are being sought.

Banking is a system that makes it possible for water-rights holders to store water underground in aquifers for future use, but it also creates the potential of sale or lease of those water rights to distant destinations.

Why would the North County water basin, already over-utilized, stir the lust of any outside interest?

For advocates of a water banking future, it is simple: They perceive this county’s subterranean water vault, though increasingly bereft of actual supply, like wizened old prospectors surveying an empty moonscape mountainside and correctly concluding, “There’s gold in them thar hills.”

In this case, the “gold” is in storage capacity. Even if water in the Paso Robles basin continues to decline, the basin essentially remains a priceless resource repository, the kind that is bound to attract attention from beyond county borders.

It’s a snowballing profit potential that makes this basin the object of many covetous desires.

Evidence of outlying interest in the basin was suggested when the venerable Hardham Ranch, located on the southeastern edge of the city of Paso Robles, was sold to Roll International, the Southern-California based hold-

ing company owned by Stewart and Lynda Resnick of Beverly Hills. The ranch has for years been used for grazing and dry-farming.

But Stewart Resnick, 74, a UCLA law school alumni who has amassed an estimated personal fortune of \$2 billion, had other ideas for the land, and for the water rights under that land.

Resnick purchased the ranch in 2011 and began a massive vineyard planting and irrigation project spanning its entire 750 acres, despite widely-recognized groundwater deficiencies in the region. Few country residents, save those whose properties were close to the property, voiced much concern. Few, as it happened, had ever heard of the Resnicks.

That probably won't be the case in the near future.

### **A reckoning force**

The Resnicks own a majority of the Kern Water Bank through their Paramount Farms, one of the nation's largest agribusiness corporations. As part of that enterprise, their Central Valley farms produce huge harvests of pistachio nuts. They also own FIJI Water, Justin Winery, and other high-profile business entities.

Resnicks' stranglehold on the Kern Water Bank is the unintended consequence of several historically-questionable decisions made by state water officials over the past 15 years. The bank was acquired after the state transferred Californians' ownership of the bank to a Central Valley joint powers authority controlled, at least in part, by Resnick's companies.

Among other fiscal benefits, according to a July 2011 article in the New York Times, the

agreement authorized, for the first time, "permanent sales of water by and between State Water Project contractors, creating a new private water market."

The notion of water banking in the past, reported The Times, "has been widely embraced as a tool for making water supplies reliable, sustainable and marketable. Groups traditionally at odds — environmentalists seeking full rivers for fish, and farmers tending pistachio or pomegranate trees — agree that water banking is a useful strategy for managing a vital resource."

But pristine as the intention might be, the business of water banking is not always conducted with the resource's highest and best use in mind.

The Times reported that "pumping out huge amounts of (Kern Water Bank's) stored water in dry years was thought to have little impact on the underground geology. But now engineers believe it reversed the area's underground hydraulic gradient, turning a hill-shaped water table, accessible by shallow wells, into a valley. The trigger for the huge withdrawals was a drought that began in 2007. Kern County's allocation of water from Northern California was cut. Then, in the 40 months beginning in March 2007, roughly half the banks' capacity was pumped out to keep fruit and nut trees alive."

Resnick's farm company produces the world's largest harvest of almonds and pistachios, both water-intensive crops, both grown in the semi-arid but richly-irrigated soil of Central California.

Roll International's lawyers have been squaring off against a phalanx of lawsuits and

ongoing water bank-related legal problems, and have found the efforts of a San Francisco lawyer named Adam Keats to be particularly nettlesome. Keats, senior counsel for the Center for Biological Diversity, heads the center's California Water Law Project, aimed at seeking long-term solutions to freshwater delivery in California.

Keats told The Times that the Kern Water Bank was the result of a "back room deal by a cabal" of agricultural barons "that has produced an environmental nightmare, depleting fresh water in the Bay-Delta region; contributing to over-irrigation, groundwater depletion, and the buildup of selenium in the soils of the San Joaquin Valley; and threatening the habitats of endangered fish and wildlife."

It all means, he told The Times, that "All this to serve the god of profit rather than the public good."

He predicted a similar fate for the San Luis Obispo County region if water banking is initiated.

"What will probably happen is that the entire water supply will end up controlled by a few powerful people whose interests are not the same as those of most of your residents," Keats told CalCoastNews in a recent interview.

Disputing the premise of a degraded supply caused by heavy agricultural pumping, Conant, the Kern Water Bank lawyer now locally involved with PRAAGS, told The Times he disagreed that the "rapid pumping caused the well problems in west Bakersfield, or that environmental reviews, in failing to anticipate the problem, were inadequate."

Conant's client Resnick rarely responds to media interview requests. But in November 2010 the billionaire told Bloomberg Businessweek that he regarded those lawsuits plaguing his Kern Water Bank as "a nuisance," commenting, "If I think I'm right, I don't care what people say. It's their problem."