#### **Groundwater Sustainability Commission**

for the San Luis Obispo Valley Groundwater Basin

#### **NOTICE OF MEETING**

**NOTICE IS HEREBY GIVEN** that the Groundwater Sustainability Commission will hold a **Regular Meeting** at **3:00** P.M. on Wednesday, April 7, 2021. Based on the threat of COVID-19 as reflected in the Proclamations of Emergency issued by both the Governor of the State of California and the San Luis Obispo County Emergency Services Director, as well as the Governor's Executive Order N-29-20 issued on March 17, 2020 relating to the convening of public meetings in response to the COVID-19 pandemic, this meeting will be conducted as a phonein/web-based meeting only. There will be no physical meeting location for this GSC Meeting. Members of the public can participate via phone or by logging into the web-based meeting.

#### TO JOIN THE MEETING FROM YOUR COMPUTER, TABLET OR SMARTPHONE, GO TO:

https://zoom.us/j/97984657501?pwd=S2ROWHA5WWs1SmFGUlhpdmlWYlpNdz09

Passcode: 997148

(This link will help connect both your browser and telephone to the call)

#### YOU CAN ALSO DIAL IN USING YOUR PHONE:

Dial: +1 669 900 6833 Meeting ID: 979 8465 7501

Passcode: 997148

#### All persons desiring to speak during any Public Comment can submit a comment by:

- Email at dtzou@co.slo.ca.us by 5:00 PM on the day prior to the Commission meeting
- Teleconference meeting at link or phone number above
- Mail by 5:00 PM on the day prior to the Commission meeting to:

County of San Luis Obispo Department of Public Works

Attn: Dick Tzou

County Government Center, Room 206

San Luis Obispo, CA 93408

Additional information on how to submit Public Comment is provided on page 3 of this Agenda

NOTE: The Groundwater Sustainability Commission reserves the right to limit each speaker to three (3) minutes per subject or topic. In compliance with the Americans with Disabilities Act and Executive Order N-29-20, all possible accommodations will be made for individuals with disabilities, so they may participate in the meeting. Persons who require accommodation for any audio, visual or other disability in order to participate in the meeting of the GSC are encouraged to request such accommodation 48 hours in advance of the meeting from Joev Steil at (805) 781-5252.

#### **GROUNDWATER SUSTAINABILITY COMMISSION AGENDA**

**Dawn Ortiz-Legg**, Member, County of San Luis Obispo **Bruce Gibson**, Alternate, County of San Luis Obispo Bob Schiebelhut, Chair, EVGMWC

Dennis Fernandez, Member, ERMWC/VRMWC

Mark Zimmer, Vice Chair, GSWC

**Andy Pease**, Member, City of San Luis Obispo

George Donati, Alternate, EVGMWC James Lokev, Alternate, ERMWC/VRMWC

Toby Moore, Alternate, GSWC

Aaron Floyd, Alternate, City of San Luis Obispo

- 1. Call to Order (Chair)
- 2. Roll Call (City Staff: Mychal Boerman)
- **3. Pledge of Allegiance (Chair)**
- 4. Public Comment Items not on Agenda (Chair)

- **5. Presentation on Existing County Regulatory Framework** (County Staff: Mladen Bandov) 3:10 p.m. 3:20 p.m. (10 min)
- 6. Continued Item (from March 31, 2021) Integrated Model Preliminary Results and Sustainable Management Criteria (WSC Consultant Team: Dave O'Rourke, Dan Heimel, and Michael Cruikshank) 3:20 p.m. 4:55 p.m. (95 mins)
- 7. **Future Items** (Chair) 4:55 p.m. 5:00 p.m. (5 mins)
  - a) Draft Chapter 8 Sustainable Management Criteria
  - b) Draft Chapter 9 Projects and Management Actions
  - c) Draft Surface Water/Groundwater Modeling Calibration Technical Memorandum
- **8. Next Regular Meeting:** May 5, 2021 at 3:00 p.m.
- 9. Adjourn (Chair)

#### **Groundwater Sustainability Commission**

for the San Luis Obispo Valley Groundwater Basin

#### **NOTICE OF MEETING**

\*\*\*CONFERENCE CALL/WEBINAR ONLY\*\*\*
Wednesday, April 7, 2021 at 3:00 p.m.

Important Notice Regarding COVID-19 Based on guidance from the California Department of Public Health and the California Governor's Officer, in order to minimize the spread of the COVID-19 virus, please note the following:

- 1. The meeting will only be held telephonically and via internet via the number and website link information provided on the agenda. After each item is presented, Commission Members will have the opportunity to ask questions. Participants on the phone will then be provided an opportunity to speak for 3 minutes as public comment prior to Commission deliberations and/or actions or moving on to the next item. If a participant wants to provide public comment on an item, they should select the "Raise Hand" icon on the Zoom Online Meeting platform or press \*9 if on the phone. The meeting host will then unmute the participant when it is their turn to speak and allow them to provide public comment.
- 2. The Commission's agenda and staff reports are available at the following website: <a href="https://www.slowaterbasin.com">https://www.slowaterbasin.com</a>
- 3. If you choose not to participate in the meeting and wish to make a written comment on any matter within the Commission's subject matter jurisdiction, regardless of whether it is on the agenda for the Commission's consideration or action, please submit your comment via email or U.S. Mail by 5:00 p.m. on the Tuesday prior to the Committee meeting. Please submit your comment to Dick Tzou at dtzou@co.slo.ca.us. Your comment will be placed into the administrative record of the meeting.

Mailing Address: County of San Luis Obispo Department of Public Works Attn: Dick Tzou County Government Center, Room 206 San Luis Obispo, CA 93408

4. If you choose not to participate in the meeting and wish to submit verbal comment, please call (805) 781-5252 and ask for Dick Tzou. If leaving a message, state and spell your name, mention the agenda item number you are calling about and leave your comment. The verbal comments must be received by no later than 9:00 a.m. on the morning of the noticed meeting and will be limited to 3 minutes. Every effort will be made to include your comment into the record, but some comments may not be included due to time limitations.

NOTE: The Groundwater Sustainability Commission reserves the right to limit each speaker to three (3) minutes per subject or topic. In compliance with the Americans with Disabilities Act and Executive Order N-29-20, all possible accommodations will be made for individuals with disabilities, so they may participate in the meeting. Persons who require accommodation for any audio, visual or other disability in order to participate in the meeting of the GSC are encouraged to request such accommodation 48 hours in advance of the meeting from Joey Steil at (805) 781-5252.

# **EXISTING COUNTY REGULATORY FRAMEWORK**

# GROUNDWATER QUALITY/ WELL CONSTRUCTION (1)

# GROUNDWATER QUANTITY/ USE & SUSTAINABILITY (1)

#### **Authority:**

#### Water Code § 13801(c)

(requires County to adopt well construction ordinance that meets or exceeds State standards established in accordance with Water Code § 231 and set forth in DWR Bulletin No. 74)

#### **Geographic Applicability:**

County-wide

### **Authority:**

#### **County Police Powers**

(Cal. Const. Art. XI, § 7 - but cannot conflict with general law; *Baldwin v. County of Tehama* - "field of groundwater use is within the municipal police power" and "state law [...] does not wholly preclude county regulation"

#### **Geographic Applicability:**

County-wide, or as specified in ordinances

## **Authority:**

SGMA (GSAs)
Water Code §§ 10720 et seq.

## Geographic Applicability:

DWR Bulletin 118 basins, with GSA/GSP

### County Well Construction Ordinance (County Code Chapter 8.40)

- Ordinance incorporates standards set forth in DWR Bulletin No. 74 for purposes of preventing improperly constructed wells from causing groundwater quality deterioration
- Section 13 of DWR Bulletin No. 74-81 addresses construction requirements for wells that penetrate multiple aquifers; in order to ensure compliance with Section 13, Environmental Health requires submission of a hydrogeologist report at certain proposed depths (under authority of § 8.40.040(a)(6))
- Most permit approvals are ministerial subject to recent California Supreme Court decision and pending further judicial review (2)

# Offset Ordinance

(County Code Chapter 22.30 § 204)

- Ordinance requires that all new or expanded crop production overlying the Paso Basin unless exempt obtain an agricultural offset clearance (requires 1:1 offset)
- Ordinance requires meter installation and reading/recordation of usage by property
- County has also adopted offset requirements for ag ponds in LOS III basins (§ 22.52.150(F)(7)); for new development requiring discretionary land use permit (§ 22.94.025(F)); and for new structures with plumbing fixtures within Paso Basin and Nipomo Mesa Water Conservation Area (§ 19.07.042)

## **Export Ordinance**

(County Code Chapter 8.95)

- Ordinance requires a permit for the "export" of more than ½ acre foot of water per year per site of groundwater unless exempt ("export" defined as transfer outside of a Bulletin 118 basin and/or outside of SLO County)
- Ordinance provides that export permit be approved only after the Director of Public Works finds that the proposed export will not cause or contribute to significant detrimental impacts to groundwater resources, including such impacts to health, safety and welfare of overlying property owners

#### **GSA Powers**

(Water Code §§ 10725 et seq.)

In DWR Bulletin 118 basins, GSA authorities activated upon adoption of GSP

For example, GSAs:

- May require registration of wells within GSA's area(s) and annual statement of extraction
- May impose well operation and spacing requirements to minimize interference
- May control groundwater use by regulating extractions, well expansion and well construction

## Administered by

County Environmental Health

## Administered by

County Planning & Building

## Administered by

County Public Works

## Administered by

Role depends on basin partnerships:
County Public Works (for County GSAs)
and/or other agencies (for multi-GSAs/ JPA)

# Coordination

- Well Permitting & Offset Ordinance:
   Chapter 8.40 requires submission of evidence of compliance with Paso Basin offset requirement set forth in Title 22 (submitted to and evaluated by County Planning, see Offset Ordinance above)
- Well Permitting & SGMA: SGMA does not authorize a GSA to issue well construction permits, but allows GSA to request County to forward well construction permit requests to GSA before permit approval; SGMA also authorizes GSA to exercise various powers related to wells

## Coordination

- Well Permitting & Offset Ordinance: See left
- County Police Powers (General) & SGMA: Although SGMA recognizes and preserves
   County police power authority (uncodified SGMA findings: it is the intent of the Legislature
   "[t]o recognize and preserve the authority of cities and counties to manage groundwater
   pursuant to their police powers"), an attempt by County to regulate use pursuant to its police
   power within jurisdiction of another GSA or in a manner contrary to an adopted GSP would
   likely raise jurisdictional/preemption issues and/or increase the likelihood of State enforcement action
- Land Use Authority & SGMA: Neither SGMA nor GSPs supersede the land use authority
  of cities or counties, including the city or county general plan, within a basin but other
  provisions require coordination (e.g. requirements for referral/ noticing when city or county is
  adopting or amending a General Plan; requirements for noticing when GSA is adopting or
  amending GSP; requirement that a GSA's regulation of extractions be consistent with the
  general plan <u>unless</u> there is insufficient sustainable yield in the basin)

# Coordination

- Well Permitting & SGMA: See left
- Land Use Authority & SGMA: See left

# Additional Notes:

- (1) Informal survey finds that other counties follow a similar division with respect to regulation of groundwater, i.e. between regulations aimed at well construction (quality) versus use
- (2) Although the Second District Court of Appeal found that the existing County Well Construction Ordinance sets forth a ministerial process not subject to CEQA in CWIN v. County of San Luis Obispo, the Supreme Court granted review and in a related case (POWER v. Stanislaus County) held that an agency cannot adopt a blanket classification of all permits issued under an ordinance that incorporates Section 8.A of Bulletin No. 74 as ministerial approvals not subject to CEQA.
- (3) County also has authority to adopt land use regulations through adoption of an urgency (interim) ordinance provided certain requirements are met (Government Code § 65858)