

To: Board of Supervisors
From: Kami Griffin, Assistant Director, Department of Planning and Building
Date: August 6, 2013
Subject: Presentation of potential options for an Urgency Ordinance covering the Paso Robles Groundwater Basin. Districts 1, 5



RECOMMENDATION

That your Board:

1. Review the potential options for an Urgency Ordinance within the Paso Robles Groundwater Basin as contained in the staff report.
2. Provide direction on contents and future action on an Urgency Ordinance within the Paso Robles Groundwater Basin.

DISCUSSION

On July 9, 2013, your Board provided general direction to staff to bring back options for an Urgency Ordinance within the Paso Robles Groundwater Basin in order to reduce demand on the Basin while permanent solutions are being developed. This staff report sets forth potential options for an Urgency Ordinance that would address reducing demand on the Basin for the period during which the Urgency Ordinance is effective.

Background

Section 65858 of the California Government Code sets forth the circumstances under which a County may adopt an interim ordinance as an urgency measure. This section states in part:

“Without following the procedures otherwise required prior to the adoption of a zoning ordinance, the legislative body of a county, city, including a charter city, or city and county, to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time. That urgency measure shall require a four-fifths vote of the legislative body for adoption.”

An ordinance adopted pursuant to Section 65858 is effective for a period of 45 days from the date of adoption. Before the 45 days has expired and after a notice is published in accordance with California Government Code Section 65090 and after a public hearing, the Board may, by four-fifths vote, extend the interim ordinance for 22 months and 15 days. An interim ordinance must contain legislative findings “that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare.”

Thus, provided that the above procedural requirements are satisfied, your Board may adopt an Urgency Ordinance prohibiting any uses that may be in conflict with a permanent Title 22 amendment addressing groundwater use through land use regulation.

Consistent with the language contained within Government Code Section 65858 that a county may adopt an “interim ordinance prohibiting any uses that may be in conflict,” the potential options discussed in this staff report begin with the prohibition of certain uses within a defined area of the Paso Robles Groundwater Basin. From this starting point, options for exceptions to the prohibitions are offered, including the potential to allow new uses dependent on water from the Basin.

Attachment C contains sample Urgency Ordinance language for the options outlined in the staff report and Attachment B is a table that outlines the feasibility and potential issues associated with the options. In addition, staff comments at the end of this report also provide the Board with additional information about the options identified in this staff report. The information in the Attachments uses the outline formatting contained in this report. For example, discussions about options to limit the area in which the Urgency Ordinance could apply would be designated as Option I.A.2 (a) and (b).

Attachment D contains the existing language adopted by your Board as Planning Area Standards. Any Urgency Ordinance would apply in addition to these existing standards. These standards address General Plan Amendments and Land Divisions and therefore these types of uses would not need to be addressed in the Urgency Ordinance. The current language reads:

1. **General plan amendments.** General Plan amendment applications that would result in a net increase in the amount of water used for non-agricultural purposes shall not be approved until a Level of Severity I is certified for the Basin by the Board of Supervisors after adoption of a Resource Capacity Study.
2. **Land divisions.** Divisions of land shall not be approved until a Level of Severity I is certified for the Basin by the Board of Supervisors after adoption of a Resource Capacity Study. Exceptions to this provision may be approved by the Review Authority only when the proposed land division is:
 - a. For a public use or facility (e.g. fire station), or
 - b. Required for conservation purposes and found to be consistent with the Conservation and Open Space Element of the General Plan.

The body of this staff report is organized as a series of questions for your Board to consider. These questions are shown in bold face and italics. In providing direction to staff regarding the possible contents of an Urgency Ordinance, your Board can choose to evaluate the options provided or modify or add to these options. In addition, your Board could choose to eliminate any of these options.

As a means of implementation, staff would suggest that the Health Agency issue a well permit pursuant to Chapter 8.40 of the County Code, only when the use proposed to be served by the well is in compliance with the Urgency Ordinance. In this way, uses that would ordinarily not require any kind of permit other than a well permit would be required to comply with any applicable standards or limitations imposed by the Urgency Ordinance for the period of time that the ordinance is effective. In the same vein, staff proposes that compliance with the Urgency Ordinance be made a condition on the establishment of any uses that currently require a ministerial permit as a ministerial permit requires some level of review by the County. Uses that currently require the processing of a discretionary land use permit would continue to be reviewed as they are today. Water use and demand on the Basin is taken into account when reviewing discretionary uses as part of both the environmental determination pursuant to the California Environmental Quality Act (CEQA) and ordinance consistency.

Potential Options for the Urgency Ordinance

I. Where could the Urgency Ordinance apply?

The Urgency Ordinance could apply to all properties within the unincorporated areas of the Paso Robles Groundwater Basin except areas within the Atascadero Sub-Basin and within the Shandon and San Miguel urban reserve lines. This would be similar to where the current adopted water conservation standards apply.

A. *Your Board could consider having the ordinance apply to the following:*

1. All areas within the Groundwater Basin (with none of the exceptions stated above).
2. Fewer areas within the Groundwater Basin - include additional exceptions such as:
 - a) the unincorporated areas within the Paso Robles urban reserve line – this would exempt the Jardine Road area and some additional land around Paso Robles from the ordinance.
 - b) the Village reserve areas. This would exempt Whitley Gardens and Creston.

II. What could the Urgency Ordinance do?

Consistent with the language contained within Government Code Section 65858 that a county may adopt an “interim ordinance prohibiting any uses that may be in conflict,” the ordinance should begin with the prohibition of certain uses within a defined area of the Paso Robles Groundwater Basin. Based on direction provided by the Board, staff looked at prohibiting new development, a change in use, an expansion of existing use, or conversion of unused land to agriculture that would extract groundwater from the Basin that was not already being extracted, in order to reduce demand on the Basin.

A. The Urgency Ordinance could disallow the following:

1. New or expanded irrigated crop production involving an irrigation source from the groundwater Basin.
2. Conversion of dry farm or grazing land to new irrigated crops involving an irrigation source from the groundwater Basin.
3. New development dependent upon a well in the groundwater Basin.

B. *Your Board could consider additional specific uses that would be prohibited. These uses would not be allowed during the time the Urgency Ordinance is in effect and would not fall into an allowable exemption. The following options for these additional prohibitions could be considered:*

1. Secondary Dwellings in the Residential Suburban and Residential Rural Land Use Categories.
2. Second Primary Dwellings in the Agriculture and Rural Lands Land Use Categories.

III. What could be exempted from the prohibition defined in Option II.A. above?

Exemptions should be considered in order to address repairs and efficiency improvements to existing water systems. Option III.1. includes re-drilling or replacing an existing well that has

gone dry. Option III.4 would make it clear that a destroyed structure could be rebuilt. Options III.5 suggests the use of a permit – further description of that option is outlined in Option IV.1. and 2.

1. Minor Modifications to an existing water supply for an existing use that involves simple repair
2. Efficiency Improvements to an existing water supply for an existing use for the purposes of making the system more efficient
3. A public use or facility or a use that is determined to have an overriding need (ie: fire station)
4. A structure or use to replace a destroyed structure or use
5. Any use where an **Urgency Water Permit** has been issued

A. Should there be exemptions from the Urgency Ordinance in addition to those outlined in Option III. 1- 4? The following options for these additional exceptions could be considered:

1. Small new or expanded irrigated crop production where the total irrigated crop production on the site will not exceed 20 acres (this includes existing irrigated crops).
2. One single family residence subject to Best Management Practices including restricted outdoor landscaping and no irrigated crop production where the water source is metered, monitored and reported twice yearly.
3. Farm Support Quarters with restricted outdoor landscaping where the water source is metered, monitored and reported twice yearly.

B. If your Board agrees with the concept of allowing uses based on the issuance of an Urgency Water Permit during the time the Urgency Ordinance is in effect (Option III.5) – should that permit be ministerial with set standards or discretionary with standards determined on a case by case basis (see Option IV below)?

IV. What are the options for an Urgency Water Permit?

There are two options that are associated with establishing an Urgency Water Permit for new ministerial uses, a ministerial permit and a discretionary permit. In order to be ministerial, the standards would need to be established within the ordinance and require no discretion. Option IV.1. (a) – (c) is a ministerial option that could be considered. A discretionary permit would allow the offsets and water use limitations to be developed on a case by case basis after an environmental determination pursuant to CEQA and public hearing have been completed. Option IV.2. (a) – (d) is a discretionary option that could be considered.

1. Ministerial Permit

- a) Offsets required for all development and irrigated crop production.
If your Board agrees with establishing offsets – should they be set at 1:1 offset or 2: 1?
- b) The water source required to be metered, monitored and reported twice yearly.

- c) Set limits on average water use as follows (suggested limits):
 - Average of 0.50 acre feet per year for development other than irrigated crop production
 - Average of 0.20 acre feet per acre per year for irrigated crop production

2. Discretionary Permit

- a) Offsets determined on a case by case basis.
- b) The water source required to be metered, monitored and reported twice yearly.
- c) No set limits on average water use - determined on a case by case basis.
- d) Special findings required.

V. **What standards would apply to existing Irrigated Crop Production?**

Any existing irrigation practices in effect as of the date of the Urgency Ordinance can continue without any additional standards applied. However, the Board could consider at the time of any change in land use or expansion of irrigated crop production, applying standards to the existing irrigated crop production on the site.

A. Your Board could impose additional requirements at the time there is an expansion of the irrigated crop production proposed or a new use other than irrigated crop production is proposed. The following options for these additional requirements could be considered:

- 1. Amount in existing irrigated crop production would be required to offset the same as new irrigated crop production.
- 2. Existing irrigated crop production would be required to meet Best Management Practices, including limiting the use of overhead sprinklers (drip only), reuse, flow meters, etc., and be required to be metered, monitored and reported twice yearly with no limit on water use.
- 3. Existing irrigated crop production would be required to meet Best Management Practices, including limiting the use of overhead sprinklers (drip only), reuse, flow meters, etc., and be required to be metered, monitored and reported twice yearly with a limit of 0.20 acre feet per acre per year.

VI. **What standards could apply to new Agricultural Ponds?**

Current standards in the County's Grading Ordinance (Chapter 22.52 of the County Code) exempt "small reservoirs" (a pond that is designed to contain no more than one acre foot of water, is located entirely below natural grade and is not located on a waterway) from a grading permit provided that an Agricultural Grading Form is submitted to the County prior to the commencement of any grading activities in which the submitter agrees to meet sound agricultural management measures. Larger ponds are subject to either the Alternative Review Program process through the Resource Conservation District or a grading permit through the County. Both the Alternative Review Program permit and the grading permit require completion of an environmental determination pursuant to the CEQA which will take into consideration water use and demand on the Basin.

A. *If your Board wanted to further regulate Agricultural Ponds beyond what is required today, the following options could be considered:*

1. Completely prohibit new agricultural ponds of any size during the time the Urgency Ordinance is in effect
2. Allow new agricultural ponds that will contain one acre foot or less of water (“small reservoirs”) subject to the standards in effect today. All other new ponds prohibited during the time the Urgency Ordinance is in effect
3. Allow new agricultural ponds that will contain five acre feet or less of water subject to the standards in effect today. All other ponds prohibited during the time the Urgency Ordinance is in effect.

VII. What standards would apply to projects in the “pipeline”?

Projects in the pipeline would be both projects that do not require a permit and projects that require a ministerial or discretionary permit. All issued construction permits would be allowed to continue with no change. Any approved land use permit or land division application would be allowed to continue subject to the conditions applied at the time the project was approved. A vesting map is subject only to the rules in effect at the time of project acceptance by State law.

A. *For land use permits, your Board could consider the following options:*

1. Land use permit applications in process would be subject to the standards in place at the time of the public hearing on the application.
2. Recognize all projects where an application was submitted and the fee paid prior to August 6, 2013 as in the pipeline and only subject to the standards in place today for the Paso Robles Groundwater Basin.

B. *For new irrigated crop production, your Board could consider the following options:*

1. Recognize new irrigated crop production where the entire acreage has been planted as in the pipeline and subject only to the standards in place today.
2. Recognize new irrigated crop production where the crop is currently being planted (even if the entire acreage has not yet been planted but the entire site has been prepared for planting) as in the pipeline and subject only to the standards in place today.
3. Recognize new irrigated crop production where site preparation (no planting) was begun prior to August 6, 2013 as in the pipeline and subject only to the standards in place today.
4. Recognize new irrigated crop production where financing has been obtained for site preparation and planting prior to August 6, 2013 as in the pipeline and subject only to the standards in place today.

Staff Comments

The following comments provide additional information about the Options discussed in the staff report, in addition to other information that may be of interest to your Board.

1. Urgency Ordinance Implementation - It becomes difficult to implement the measures of an Urgency Ordinance where a well already exists on a site or where the use itself would not otherwise require a permit (for example crop production).

If the ordinance uses the issuance of a well permit consistent with Chapter 8.40 of the County Code or the issuance of a construction permit consistent with Title 19 of the County Code as the method for implementing the Urgency Ordinance, then the ordinance does not capture those prohibited uses that will use an existing water supply or that do not otherwise require a permit. For these uses, it will be a challenge to inform property owners that they now require review by the County. This could create enforcement issues for the time period that the Urgency Ordinance is in effect.

2. Urgency Ordinance versus Permanent Ordinance - In addition, some of the potential options discussed in this staff report may be more appropriate to consider as part of a permanent ordinance, rather than as part of an Urgency Ordinance that is valid for a limited timeframe. For instance, developing and establishing an off-set program for agriculture may require a significant amount of time and would require additional staffing to implement. For those reasons, that option may not be appropriate for a temporary Urgency Ordinance and it might be better to consider as part of a future permanent ordinance.
3. Stakeholder Involvement - Staff has received requests from the various stakeholders in the Basin to participate in the development of the Urgency Ordinance. If an ordinance were to be considered on August 27, 2013, in order to meet noticing and agenda requirements, it would need to be prepared approximately one week from August 6, 2013. This timeframe would allow for no formal stakeholder participation other than through testimony at the public hearings on the Urgency Ordinance. If your Board would like to have formal stakeholder participation in the form of meetings and discussions about the contents of an Urgency Ordinance, with a report out to the Board about those meetings and discussions, any adoption of an Urgency Ordinance would need to occur much later than August 27, 2013. This could create a rush to establish new uses before they would be subject to the ordinance. However, it is difficult to know what the impact of postponing a decision might be.

Although these issues are complex, we hope the potential options contained in this staff report will provide your Board with a place to begin your discussions about this very important resource issue.

OTHER AGENCY INVOLVEMENT/IMPACT

Staff from County Counsel's office, Public Works, Environmental Health, Agricultural Commissioner's Office and County Administration have participated in meetings about the development of the options contained in this report.

FINANCIAL CONSIDERATIONS

This staff report was prepared under the Department's current budget. Some of the options may have budget and staffing impacts that will need to be determined.

RESULTS

Providing direction to staff regarding the potential content of an Urgency Ordinance will allow preparation of the ordinance, noticing and a public hearing to occur consistent with the requirements of State law.

ATTACHMENTS

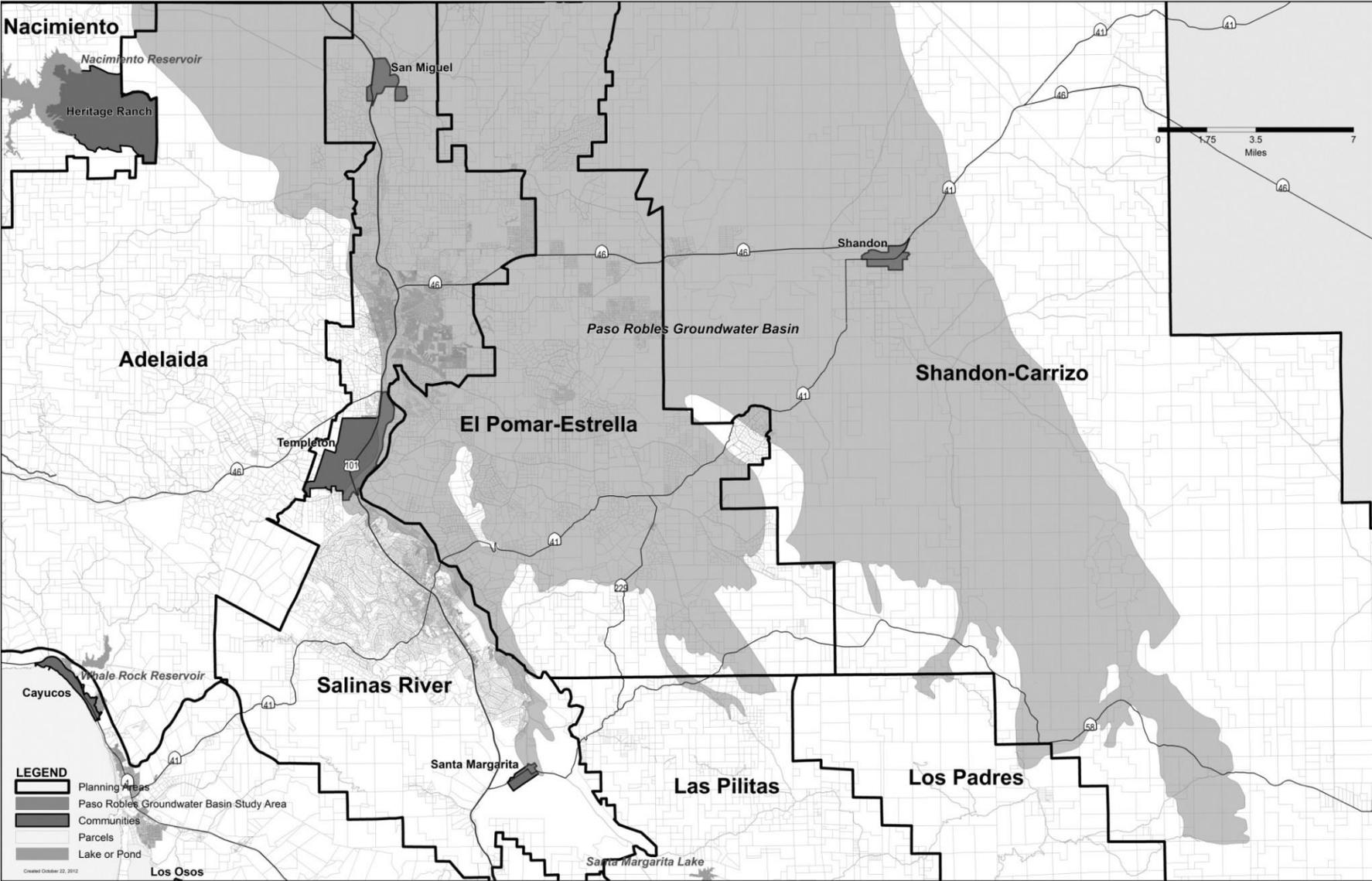
Attachment A – Map of the Groundwater Basin

Attachment B – Table outlining feasibility, issues and comments regarding the options proposed in this report

Attachment C – Proposed Urgency Ordinance language for the options proposed in this report.

Attachment D – Existing Planning Area Standards applicable within the Paso Robles Groundwater Basin

ATTACHMENT A – Map of the Paso Robles Groundwater Basin



ATTACHMENT B – Outline Table

Feasibility Legend

High = Easy to establish and implement

Medium = More challenging to establish and implement

Low = Could be more difficult to establish and implement

*Options shown as a Low or Low to Medium Implementation Feasibility may nonetheless have the potential to greatly reduce the demand on the Basin.

Option	Proposal	Implementation Feasibility	Comments
Applicability			
I.A.1	All areas of the main basin	High	Apply the ordinance to all unincorporated areas of the main basin (outside of incorporated city boundaries, two urban areas and the Atascadero sub basin).
I.A.2.a	Lesser area of the main basin	High	Add Jardine Rd area and other small areas around the city to areas not subject to the ordinance.
I.A.2.b	Lesser area of the main basin	High	Adds the village areas of Whitley Gardens and Creston to the areas not subject to the ordinance.
Prohibitions			
II	Prohibit all new uses that would require new water extractions from the Basin	High	Reducing extractions from the Basin for a two year period will reduce projected demand increases and will allow time to look at other solutions and permanent ordinances.
II.A.1	Prohibit new or expanded irrigated crop production	Low to Medium	Will reduce projected demand increases, but difficult to enforce where a well already exists on site as most of these uses do not otherwise require permitting.
II.A.2	Prohibit conversion from dry farm/grazing to new irrigated crop production	Low to Medium	Will reduce projected demand increases, but difficult to enforce especially where a well already exists on site as most of these uses do not otherwise require permitting.
II.A.3	Prohibit new development dependent upon a well	High	Use the well permit or construction permit as a “trigger” for applying the ordinance. Typically these types of uses require some type of permit.

Option	Proposal	Implementation Feasibility	Comments
Other uses that can be prohibited			
II.B.1	Prohibit new secondary dwellings	High	Easy to implement but does not reduce projected demand if new construction is required to offset.
II.B.2	Prohibit new second primary dwellings	High	Easy to implement but does not reduce projected demand if new construction is required to offset.
Exemptions			
III.1	Allow minor modifications to existing supply for existing uses	High	A basic exemption for minor changes to water systems/supply that do not increase demand.
III.2	Allow efficiency improvements to existing water systems/supply	High	A basic exemption to allow changes to existing water systems/supply to improve efficiency.
III.3	Allow additional demand for a public use/facility	High	This exemption would be used for a fire station (the new Creston station could have been an example).
III.4	Allow rebuilding of destroyed structures and uses	High	Basic exemption that allows replacement of destroyed structures.
III.5	Allow uses that receive an <i>Urgency Water Permit</i>	Low to Medium	Introduces the concept of a water permit for new water using land uses.
Other uses that can be exempted			
III.A	Allow additional exemptions beyond those in III.1-4	Medium to High	These additional exemptions go beyond repairs and modifications and reconstruction.
III.A.1	Exempt small (20 acres and less) new irrigated crop production	Medium	Difficult to enforce. The exemption would make it clear that large areas of crop production are the focus of conservation efforts, not smaller crop areas.
III.A.2	Exempts one residence with Best Management Practices for water conservation	Medium	Allows one single family residence with minimal landscaping and other water conservation standards including metering, monitoring and reporting.
III.A.3	Exempts farm support quarters	Medium	Allows farm support quarters if they are allowed on a site with minimal landscaping and other water conservation standards including metering, monitoring and reporting.

Option	Proposal	Implementation Feasibility	Comments
Urgency Water Permit: Ministerial or Discretionary			
IV.1.a Ministerial	Offsets required for all new development and irrigated crop production (2:1 or 1:1)	Low	This option allows new water using development or crop production with issuance of a water permit with performance standards that must be met. Offsets at 2:1 will reduce demand on the basin. Offset program may be difficult to initiate and enforce. Will require additional staff to implement the program.
IV.1.b Ministerial	New water demand will be metered, monitored and reported	Medium	Metering and monitoring of water use is vital to effective management of the basin. However, stakeholders have raised concerns with metering and monitoring of water use.
IV.1.c Ministerial	Water permit will set limits on water use	Low	Suggested limits for new water use for irrigated agriculture to an average of 0.2 af per acre per year and new structural development to an average of 0.5 af per year. The 0.2 figure was derived by dividing the basin's approximate safe yield of 100,000 af per year by the approximate 500,000 acres of land the basin covers. The 0.5 figure for new development is substantially less than large lot uses which would reduce demand. These numbers are offered as options, the Board could choose to develop different numbers. This option would reduce demand on the basin. However, its enforceability is difficult.
IV.2.a Discretionary	Offsets determined on a case by case basis through discretionary process	Medium	Land use descriptions are variable; this option would allow for case by case determinations for offsets. However, every case would require CEQA review and development of individual standards.
IV.2.b Discretionary	New water demand will be metered, monitored and reported	Medium	Metering and monitoring of water use is vital to effective management of the basin. However, stakeholders have raised concerns with metering and monitoring of water use.
IV.2.c Discretionary	No set water use; to be determined on a case by case basis	Medium	Land use descriptions are variable; this option would allow for case by case determinations for offsets. However, every case would require CEQA review and development of individual standards.
IV.2.d Discretionary	Special findings required	Medium	An example of a special finding would be that the proposed project would not increase groundwater demand.

Option	Proposal	Implementation Feasibility	Comments
<p>Existing Irrigated Crop Production Existing irrigation practices will not be required to altered. However, future expansions or changes in irrigation practices on the site could subject existing irrigation to the new standards.</p>			
V.A.1	Offset water use on existing acreage at same time as expanded acreage	Low	This option would reduce demand on the basin. However, its enforceability is difficult.
V.A.2	Use BMPs on existing acreage at the same time as the expanded acreage including metering, monitoring and reporting	Medium	Once BMP's are established a longer term outreach/education program is needed to implement those practices. However, its enforceability will be difficult.
V.A.3	Same a V.2.A but adding an average per year per acre limit on water use	Low	This option would reduce demand on the basin. However, its enforceability is difficult.
<p>Agricultural Ponds New agricultural ponds are reviewed through either alternative review with the RCD or though the County's Grading Ordinance.</p>			
VI.A.1	Prohibit all new agricultural ponds during the life of the urgency ordinance	High	Large agricultural ponds require either review by the RCD as part of the Alternative Review Program or a County Grading Permit. In both cases CEQA review is required. There are still unanswered questions about the impact of large agricultural ponds on the basin.
VI.A.2	Allow new ponds of <1 acre	High	
VI.A.3	Allow new ponds <5 acres	High	
<p>Pipeline Projects All issued construction permits and approved land use permit or land division applications would be allowed to continue subject to the conditions applied at the time the project was approved. A vesting map is subject only to the rules in effect at the time of project acceptance by State law.</p>			
VII.A.1	No pipeline exemptions for land use permits in process	High	This is the standard that would otherwise apply.
VII.A.2	Exempts all projects submitted before 8-6-13	High	All applications that are currently in for review would be exempt.
VII.B.1	Existing crop production considered in the pipeline	High	This would be subject to the existing irrigated crop production section of the ordinance.
VII.B.2	Crop production that is underway considered in the pipeline	High	Would allow for new irrigated crop production that is underway to be completed and exempted from the ordinance.

Option	Proposal	Implementation Feasibility	Comments
VII.B.3	Crop production where a site has been prepared for planting considered in the pipeline	High	Would allow for new irrigated crop production where site work has been completed, but plantings have not yet occurred to be completed and exempted from the ordinance.
VII.B.4	Crop production where financing has been obtained considered in the pipeline	Low	Would allow for new irrigated crop production where the agriculturalist has received financing but where no site preparation or planting has occurred to be completed and exempted from the ordinance.

ATTACHMENT C – Sample Ordinance Language

OPTIONS DISCUSSED UNDER I. - Applicability

Option I.

Applicability – This Ordinance applies to all properties within the unincorporated areas of the Paso Robles Groundwater Basin as shown on Exhibit _____ except those properties within the Atascadero Sub-Basin and within the Shandon and San Miguel urban reserve lines.

Option I.A.1.

Applicability – This Ordinance applies to all properties within the unincorporated areas of the Paso Robles Groundwater Basin as shown on Exhibit _____.

Option I.A.2.(a)

Applicability – This Ordinance applies to all properties within the unincorporated areas of the Paso Robles Groundwater Basin as shown on Exhibit _____ except those properties within the Atascadero Sub-Basin and within the Shandon, Paso Robles and San Miguel urban reserve lines.

Option I.A.2.(b)

Applicability – This Ordinance applies to all properties within the unincorporated areas of the Paso Robles Groundwater Basin as shown on Exhibit _____ except those properties within the Atascadero Sub-Basin and within all urban and village reserve lines.

OPTIONS DISCUSSED UNDER II. - Prohibitions

Option II.A.

Limitation on Use –The following uses shall be prohibited, unless specifically exempted by this ordinance. No applications filed pursuant to Chapter 8.40 of the County Code to construct, repair or modify a water system proposed to serve any of the following uses or applications for a construction permit in connection with the establishment of any of the following uses shall be issued, except in conformance with this ordinance.

1. New or expanded irrigated crop production involving an irrigation source from the groundwater Basin.
2. Conversion of dry farm or grazing land to new irrigated crops involving an irrigation source from the groundwater Basin.
3. New development dependent upon a well in the groundwater Basin.

Option II.B.

Use same language as Option II.A. – add the following:

- B. No construction permit for any of the following uses that may use groundwater as a water source shall be issued during the period this ordinance is in effect.
 1. Secondary Dwellings in the Residential Suburban and Residential Rural Land Use Categories.
 2. Second Primary Dwellings in the Agriculture and Rural Lands Land Use Categories.

OPTIONS DISCUSSED UNDER III. - Exemptions

Option III

Exempted Uses. – The following are exempt from the requirements of this ordinance:

1. A "minor modification" meaning a modification to an existing water supply for an existing use or to replace a destroyed use that involves simple repair or replacement of pipes, fittings, faucets, hoses, pumps, meters, components of irrigation systems, sinks, tubs, toilets, showers, washing machines, and all other elements of the water supply and delivery system that will not potentially increase the amount of groundwater extraction at that site. For the purposes of this definition, swimming pools (if filled with trucked in water from a supply source that does not include groundwater from the Basin and is provided with a cover), and additional potential bedrooms whether or not attached to the single-family dwelling unit are considered minor modifications. Any modification or improvement that will increase the amount of groundwater extracted is **not** a minor modification; or
2. An "efficiency improvement" meaning an addition, change, upgrade, improvement or replacement of a site's existing well or water supply and distribution system (including the addition of plumbing fixtures) for an existing use or to replace a destroyed use which is for purposes of rendering the system more efficient and is not intended to supply water or make plumbing fixtures available to additional users of said system and does not increase the total consumption of groundwater at that site. If a replacement well is permitted, the existing well must be destroyed under permit and the new well must be drilled to the same or smaller diameter as the existing well; or
3. The proposed development is for a public use or facility (e.g. fire station) or the Board of Supervisors has determined there is an overriding public or emergency need for the proposed development; or
4. Replacement dwellings (when an existing legal dwelling unit had previously existed on the property) or other structures where there is no increase to the square footage and number of bathrooms.

Option III.A.

Use same language as Option III - add the following:

5. New or expanded irrigated crop production where the total area of irrigated crop production on the site (defined as any lot or parcel of land or contiguous combination thereof, under the same ownership) will not exceed 20 acres (including existing irrigated crops).
6. A single-family dwelling unit with low water using outdoor landscaping of no more than X square feet and including no irrigated turf on an existing legal parcel, when such residence will be the only use on the parcel, provided a meter is installed on the well serving the parcel and on or near the first day of each month the water meter is read and this data is provided to the Public Works Director during the first week of April and October of each year.
7. Farm Support Housing with low water using outdoor landscaping of no more than X square feet and including no irrigated turf on an existing legal parcel, when such residence will be the only use on the parcel, provided a meter is installed on the well serving the parcel and on or near the first day of each month the water meter is read and this data is provided to the Public Works Director during the first week of April and October of each year.

Option III 5. / Option IV.

Use same language as Option II.A. - add the following:

- B. Urgency Water Permit. A use not otherwise exempted by this ordinance shall be required to obtain an Urgency Water Permit as required by this ordinance. The Urgency Water Permit shall be obtained prior to the issuance of a permit filed pursuant to Chapter 8.40 of the County Code to construct, repair or modify a water system proposed to serve any of the uses identified in Section II.A.1-3 or issuance of a construction permit in connection with the establishment of any of the uses identified in Section II.A.1-3.

OPTIONS DISCUSSED UNDER IV. – Urgency Water Permit

Option IV.1 (a)-(c)

Use same language as Option III.5. / Option IV - add the following:

- C. Application content. Requests for an Urgency Water Permit shall be accompanied by the following:
 - 1. Evidence that the offset requirements have been fulfilled. The net new water demand (based on actual water data or by approved assumptions about the water demand for that use) shall be offset at a ratio of (2:1 or 1:1) through participation in water conservation programs listed in subsection C.2. or C.3.
 - 2. For any new development (other than new irrigated crop production) or any expansion of residential or other development (other than new irrigated crop production) that would increase demand, one or more of the following shall be used to offset water used for non-agricultural purposes.
 - (a) Retrofitting plumbing fixtures in the Paso Robles Groundwater Basin.
 - (b) Purchasing supplemental water for a water supplier that uses groundwater from the main Paso Robles Groundwater Basin.
 - 3. For any new irrigated crop production and / or conversion of dry farm or grazing land to new irrigated crop production or any proposed expansion to existing irrigated crop production that would increase demand, one or more of the following shall be used to offset water used for the new irrigated crop production use.
 - (a) Retiring an existing irrigated crop production use in the Paso Robles Groundwater basin through an agreement with the County or qualified land trust
 - (b) Retrofitting existing irrigation in the Paso Robles Groundwater Basin
 - (c) Purchasing supplemental water for a water supplier that uses groundwater from the main Paso Robles Groundwater Basin.

D. Metering, Monitoring and Reporting. The following requirements apply to all issued Urgency Water Permits.

1. Within 30 days of installation of a well for which a permit has been issued pursuant to Chapter 8.40 of the County Code, or prior to final building inspection, whichever is applicable, evidence shall be submitted to the Public Works Director that the permittee has installed a meter on the well serving the use to measure all groundwater used from that well. The configuration of the installation shall conform to a drawing prepared by the permittee and shall conform to the technical standards set forth by the Public Works Director.
2. On or near the first day of each month the permittee shall read the water meter and provide this data to the Public Works Director during the first week of April and October of each year. The permittee shall also grant to the Public Works Director right to access and verify the operation and readings of the meters and well levels at any reasonable time during regular working hours.
3. The permittee shall be limited to an average of 0.50 acre feet of water per year or such other amount as may be adopted by the Board of Supervisors by resolution for any new development (other than crop production) or expansion of any residential or other development (other than new irrigated crop production) that would increase demand. This limitation shall be calculated as the average water used over a two-year period with no yearly use exceeding the acre foot of water per year allotment by more than fifteen percent.
4. The permittee shall be limited to an average of 0.20 acre feet per acre per year or such other amount as may be adopted by the Board of Supervisors by resolution for any new irrigated crop production and / or conversion of dry farm or grazing land to new irrigated crop production or any proposed expansion to existing irrigated crop production that would increase demand. This limitation shall be calculated as the average water used over a two-year period with no yearly use exceeding the acre foot of water per acre per year allotment by more than fifteen percent.

Option IV.2 (a)-(d)

Use same language as Option II.A. - add the following:

- B. Urgency Water Permit. A use not otherwise exempted by this ordinance shall be required to obtain an Urgency Water Permit shall be obtained as required by this ordinance. The Urgency Water Permit shall be obtained prior to the issuance of a permit filed pursuant to Chapter 8.40 of the County Code to construct, repair or modify a water system proposed to serve any of the uses identified in Section II.A.1-3 or issuance of a construction permit in connection with the establishment of any of the uses identified in Section II.A.1-3. The authority to take final action on an Urgency Water Permit as set forth in this subsection is assigned to the Planning and Building Director for the purposes of this Section, in compliance with Section 22.70.020.B of Title 22 of the County Code and the authority established by Government Code Sections 65900 et seq. Decisions by the Director on Urgency Water Permits may be appealed to the Board of Supervisors. After acceptance of an Urgency Water Permit application and completion of the environmental review consistent with the California Environmental Quality Act and a staff report, the Planning and Building Director shall conduct a public hearing on the request. Notice and scheduling of the hearing shall comply with Section 22.70.060 (Public Hearing) of Title 22 of the County Code.

- C. Application content. Requests for an Urgency Water Permit shall be accompanied by the following:
1. Identify any present and future uses of any existing water system, including whether and to what extent groundwater is or will be used as a water source on the affected property. When an applicant identifies the existing water uses on a parcel to establish the existing water use level on that parcel, those existing uses which will be considered are only those water using activities such as residential structures, other legal uses (wineries, etc.), vineyards, or other viable agricultural crop or animal operation which were not discontinued for more than two years prior to the date of the application for the Urgency Water Permit. For the purposes of the application, future uses are those for which permits will be secured or improvements completed within two years of the application.
 2. Sufficient information and supporting documentation to enable the Planning and Building Director to determine whether it is likely the new use might significantly affect the Paso Robles Groundwater Basin, whether or not the proposed improvement or new system may be reasonably expected to adversely affect the Paso Robles Groundwater Basin.
 3. Identify any water sources other than groundwater intended to be used for the proposed use.
 4. If the use includes development of a new water system or improvement to an existing water system, state the number of parcels and service connections the new water system or improvement are intended to serve, identify the location of the structures and improvements to be served by that new or improved water system, and identify existing and future uses and users to be served by that new or improved water system.
 5. Proposed offset requirements for the proposed use that would be equivalent to offsetting the net new water demand at a ratio of (2:1 or 1:1).
- D. Finding. An Urgency Water Permit may be approved only where the Review Authority makes the following finding in addition to those required in Sections 22.62.060.C.4
1. The use will not create a net increase in the demand for water from the Paso Robles Groundwater Basin.
- E. Conditions of approval. In approving an Urgency Water Permit, the Planning and Building Director may impose reasonable conditions on the permittee as needed to satisfy the requirements of this ordinance, minimize groundwater use and to protect the public health, safety and welfare including but not limited to requiring implementation of Best Management Practices, plumbing retrofits, and limits on groundwater consumption.
1. The following requirements shall apply to all Urgency Water Permits.
 - (a) The permittee shall install a meter on the well serving the parcel to measure all groundwater used from that well. The configuration of the installation shall conform to a drawing prepared by the permittee and shall conform to the technical standards set forth by the Public Works Director.

- (b) On or near the first day of each month the permittee shall read the water meter and provide this data to the Public Works Director during the first week of April and October of each year. The permittee shall also grant to the Public Works Director right to access and verify the operation and readings of the meters and well levels at any reasonable time during regular working hours.

OPTIONS DISCUSSED UNDER V. – Existing Irrigated Crop Production

Option V.A.1

Existing irrigated crop production (including irrigation practices) in effect as of the date of the urgency ordinance can continue until the permittee expands the irrigated crop production or adds a new use other than irrigated crop production. At that time, the following shall apply to any existing irrigated crop production on the site.

1. Offset Required. For existing irrigated crop production, one or more of the following shall be used to offset water used for that irrigated crop production use at a (2:1 or 1:1) ratio.
 - (a) Retiring a different existing irrigated crop production use in the Paso Robles Groundwater basin through an agreement with the County or qualified land trust
 - (b) Retrofitting existing irrigation in the Paso Robles Groundwater Basin
 - (c) Purchasing supplemental water for a water supplier that uses groundwater from the main Paso Robles Groundwater Basin.

Option V.A.2

Existing irrigated crop production (including irrigation practices) in effect as of the date of the urgency ordinance can continue until the permittee expands the irrigated crop production or adds a new use other than irrigation crop production. At that time, the following shall apply to any existing irrigated crop production on the site.

1. Best Management Practices. Existing irrigated crop production shall be required to meet Best Management Practices, including limiting the use of overhead sprinklers (drip only), reuse, flow meters, etc
2. Meter, Monitor and Report.
 - (a) The permittee shall install a meter on the well serving the parcel to measure all groundwater used from that well. The configuration of the installation shall conform to a drawing prepared by the permittee and shall conform to the technical standards set forth by the Public Works Director.
 - (b) On or near the first day of each month the permittee shall read the water meter and provide this data to the Public Works Director during the first week of April and October of each year. The permittee shall also grant to the Public Works Director right to access and verify the operation and readings of the meters and well levels at any reasonable time during regular working hours.

Option V.A.3

Use same language as Option V.A.2. - add the following:

- (c) The permittee shall be limited to an average of 0.20 acre feet per acre per year for any new irrigated crop production and / or conversion of dry farm or grazing land to new irrigated crop production or any proposed expansion to existing irrigated crop production that would increase demand or such other amount as may be adopted by the Board of Supervisors by resolution. This limitation shall be calculated as the average water used over a two-year period with no yearly use exceeding the acre foot of water per acre per year allotment by more than fifteen percent.

OPTIONS DISCUSSED UNDER VI. – Agricultural Ponds

Option VI.A.1

Use same language as Option II.A. – add the following:

- B. A new reservoir constructed to regulate or store a supply of water for frost protection, seasonal irrigation, or livestock purpose shall not be allowed during the period this ordinance is in effect.

Option VI.A.2

Use same language as Option II.A. – add the following:

- B. A new reservoir that will contain greater than one acre foot of water constructed to regulate or store a supply of water for frost protection, seasonal irrigation, or livestock purpose shall not be allowed during the period this ordinance is in effect.

Option VI.A.3

Use same language as Option II.A. – add the following:

- B. A new reservoir that will contain greater than five acre feet of water constructed to regulate or store a supply of water for frost protection, seasonal irrigation, or livestock purpose shall not be allowed during the period this ordinance is in effect.

OPTIONS DISCUSSED UNDER VII. – Pipeline Projects

Option VII.A.1

No ordinance language would be needed for this option as this is the standard that would otherwise apply.

Option VII.A.2

Projects in Process. This ordinance does not apply to any application for a land use permit, land division, general plan amendment, ordinance amendment, well that was submitted to the County, including any required fees, prior to August 6, 2013.

Option VII.B.1

No ordinance language would be needed for this option as it would be subject instead to the existing irrigated crop production section of the ordinance.

Option VII.B.2

Projects in Process. This ordinance does not apply to new irrigated crop production where the crop was being planted (even where the entire acreage has not yet been planted but the entire site has been prepared for planting) prior to August 6, 2013.

Option VII.B.3

Projects in Process. This ordinance does not apply to new irrigated crop production where the site has been prepared for planting prior to August 6, 2013.

Option VII.B.4

Projects in Process. This ordinance does not apply to new irrigated crop production where evidence is submitted showing that financing has been obtained prior to August 6, 2013 for the purposes of site preparation and planting.

**ATTACHMENT D -Existing Standards that apply in the Paso Robles Groundwater Basin
(Planning Area Standards)**

1. **Definitions.** The following definitions are for the purposes of this Subsection.
 - a. "Net increase" means the expected increase in water use due to proposed development requiring a discretionary permit, taking into account net existing demand.
 - b. "Net existing water demand" is the amount of water used for non-agricultural purposes on the site of proposed development requiring a discretionary permit minus the volume of water returned to the groundwater basin through wastewater return flows. The calculation of net existing water demand is the sole responsibility of the Planning Director using historical water records if available or other means if records are not available.
 - c. "Net new water demand" is the amount of water used for non-agricultural purposes by new development requiring a discretionary permit minus the volume of water returned to the groundwater basin through wastewater return flows. The calculation of net new water demand is the sole responsibility of the Planning Director using water demand factors for the proposed land uses.
 - d. "Water used for non-agricultural purposes" is water that has never been used, whether on or off the site, for an agricultural activity such as cultivation, growing, harvesting and production of any agricultural commodity and appurtenant practices incidental to the production of agricultural commodities.
2. **General plan amendments.** General Plan amendment applications that would result in a net increase in the amount of water used for non-agricultural purposes shall not be approved until a Level of Severity I is certified for the Basin by the Board of Supervisors after adoption of a Resource Capacity Study.
3. **Land divisions.** Divisions of land shall not be approved until a Level of Severity I is certified for the Basin by the Board of Supervisors after adoption of a Resource Capacity Study. Exceptions to this provision may be approved by the Review Authority only when the proposed land division is:
 - a. For a public use or facility (e.g. fire station), or
 - b. Required for conservation purposes and found to be consistent with the Conservation and Open Space Element of the General Plan.
4. **Outdoor water use, discretionary permits.** New development requiring discretionary land use permits is subject to the following requirements:
 - a. Residential uses shall have no more than 25 percent of the area of irrigated, ornamental landscaping planted with turf.

- b. All landscaped areas shall be irrigated with automatic irrigation systems, including irrigation controllers and moisture sensors.
- c. All landscape plantings shall be low-water using.
- d. Non-irrigated, drought resistant landscaping is encouraged in lieu of irrigated landscaping. The portion of a parcel that is not used for structural development, landscaping or driveways is encouraged to be left in a native state.
- e. Rainwater capture or other alternative water systems are encouraged in compliance with Titles 8 and 19 of the County Code, as applicable.
- f. In cases where these standards conflict with other provisions of this Title that are more stringent, the more stringent provisions shall apply.

5. Offset requirements for discretionary permits. New development requiring discretionary land use permits shall offset the resulting net new water demand as follows:

- a. Land use permit applications shall include existing water use data, if it is available, that is sufficient to calculate net existing water demand on the proposed project site. The land use application shall include descriptions of all proposed uses on the site in a level of detail adequate to calculate the proposed project's net new water demand. In any case, determinations of net new water demand, net existing water demand and net increase shall be the responsibility of the Planning Director or designee.
- b. The net new water demand shall be offset at a ratio of 2:1 through participation in water conservation programs listed in subsection c below. Any net existing water demand shall be taken into account in the calculation of required offsets of net new water demand.
- c. Programs to offset water used for non-agricultural purposes may include but are not limited to the following, but in any case, shall conserve only water used or potentially used for non-agricultural purposes:
 - (1) Retiring the development potential of lots in the Paso Robles Groundwater basin through an agreement with the County or qualified land trust.
 - (2) Retrofitting plumbing fixtures in the Paso Robles Groundwater Basin.
 - (3) Purchasing supplemental water for a water supplier that uses groundwater from the main Paso Robles Groundwater Basin.
 - (4) Participating in an approved water conservation program in the Paso Robles Groundwater Basin that results in water savings.
 - (5) Reducing water demand in the Paso Robles Groundwater Basin through other means approved by the Planning Director.
 - (6) Water from the Nacimiento or State Water Projects shall not be used for development in the rural area.

- d. Any required offset of net new water demand shall be completed at the time of final inspection or issuance of a certificate of occupancy unless an alternative completion time (which may be more or less time) is approved by the review authority. In any case, the review authority must find the offsets to be verifiable, permanent and enforceable.
- e. Agricultural Processing uses (as defined in the Land Use Ordinance), including outdoor and other appurtenant water use, shall be exempt from the preceding offset requirements for discretionary permits. Instead, agricultural processing uses shall be subject to project-specific land use and/or water conservation mitigation measures required by the review authority based on environmental review.