

# PRO Water Equity, Inc.

*Paso Robles Groundwater Basin Overliers for Water Equity*

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August 12, 2013

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Ms. Griffin,

PRO Water Equity, Inc. is a diverse all-volunteer coalition of Paso Robles Groundwater Basin users who believe in finding a fair way of sharing the groundwater that belongs to all of us. We are supported by winery and vineyard owners, olive growers, other agriculturalists and many rural residents who overlie the basin.

As stakeholders, we appreciate the opportunity to provide input into the development of the proposed interim ordinance for the Paso Robles Groundwater Basin. We understand that, in order to meet agenda deadlines for the August 27, 2013 Board of Supervisors' meeting, a staff report and the proposed ordinances must be completed by August 16, 2013. We hope that our comments will help staff in their development of the proposed ordinance.

## **General Comments**

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.”

Based on information that we have collected from well owners and from the testimony presented to the Board of Supervisors, numerous wells throughout the Paso Robles Groundwater Basin are failing due to the declining basin. This situation is affecting residents' ability to obtain potable water for their daily needs, to ensure water for fire protection, and to enjoy a reasonable quality of life.

Dry wells are a symptom of our ailing basin. An interim urgency ordinance is like putting the basin on life support while the Board can devise a long term treatment plan. Bringing the basin back to good health will eventually stop the dry well symptom.

In order to protect the public safety, health and welfare of the residents of the Paso Robles Groundwater Basin, an interim ordinance must be adopted as an urgency measure (i.e., through a streamlined process). The intent of adopting an interim ordinance as an urgency measure is to slow the spread of the threat to public safety, health, and welfare while the long term supply-demand issues are addressed.

### **Properties covered by interim ordinance**

Staff was directed to provide two ordinances:

One that would apply to all properties within the unincorporated areas of the Paso Robles Groundwater Basin except those properties within the Atascadero Sub-Basin.

One that would apply to all properties within the unincorporated areas of the Paso Robles Groundwater Basin generally within portions of the Estrella, Shandon and Creston Sub-Areas (the area shown as having the greatest change in groundwater elevation).

We understand that an updated map of the basin which will show the well level declines from 1997 through 2013 is currently being developed. Based on the well level hydrographs through April of this year, we anticipate that this map will show a greatly expanded area of increased well level declines.

One of the purposes of the Paso Robles Groundwater Basin Management Plan that was adopted by the County was to develop a common understanding of the groundwater issues in the basin. This Plan (<http://www.slocountywater.org/site/Water%20Resources/Water%20Forum/pdf/201103%20-%20Paso%20Basin%20Final%20GMP.pdf>) provides a brief summary of the numerous studies that have been performed regarding the Paso Robles Groundwater Basin.

Beginning with the Paso Robles Groundwater Basin Study (Fugro West, 2002), the Basin has been described as a hydraulically connected groundwater basin, excluding the hydrologically distinct Atascadero Subbasin. The subareas identified in the Plan are not hydrologically distinct<sup>1</sup>. The other studies which are cited in the Plan also support the statement that the Basin is a single interconnected groundwater basin.

If the interim ordinance were to only apply to portions of the Estrella, Shandon and Creston Sub-Areas (the area shown as having the greatest change in groundwater elevation), the

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<sup>1</sup> Page 19, Paso Robles Basin Groundwater Management Plan, February 2011

portions of the groundwater basin outside of these areas would certainly see increased development pressure. These areas would soon also become affected by declining well levels.

We believe that the interim ordinance must apply to all properties within the unincorporated areas of the Paso Robles Groundwater Basin except those properties within the Atascadero Sub-Basin.

### **Specific provisions of the ordinance – moratorium unless uses are offset**

The Board of Supervisors directed that the ordinances contain several provisions, including the following.

The ordinances will establish a moratorium on new or expanded irrigated crop production, conversion of dry farm or grazing land to new or expanded irrigated crop production and new development dependent upon a well in the Paso Robles Groundwater Basin unless such uses offset their total projected water use by a ratio of 2 to 1.

The intent of the interim ordinance is to stop the increasing demand and impacts on the basin until a solution for stabilizing the basin is put into place. By establishing a moratorium on new or expanded irrigated crop production, conversion of dry farm or grazing land to new or expanded irrigated crop production and new development dependent upon a well in the Paso Robles Groundwater Basin, there will be “time out” to allow for solutions to be set in place.

Not establishing such a moratorium would mean that a large amount of irrigated crop production and new wells would be installed in the next two years (the potential life of the interim ordinance), with increased draws on the groundwater basin. The Agricultural Commissioner’s Office and the consultant performing the model update for Public Works have estimates of the amount of vineyard planting that is projected during this timeframe. Based on this information and field observations, an immediate moratorium would put a halt to several hundred (and possibly several thousand) acres of new winegrapes unless their water use was offset.

According to the SLO Tribune<sup>2</sup>, between July 29, 2013 and August 8, 2013, approximately 100 new well permit applications were received by the County. These well permits, if issued, would potentially result in considerable new water uses. The interim ordinance could result in significant water savings by establishing this moratorium.

Establishing this moratorium would not have a negative effect on any existing irrigated agricultural operation or any other planned development dependent on a well in the basin. This moratorium would only affect new or expanded uses.

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<sup>2</sup> <http://www.sanluisobispo.com/2013/08/08/2623068/paso-robles-groundwater-wells.html>

Offsets must be real, verifiable, quantifiable, enforceable and contemporaneous. Precedent for successful offset programs can be found in the air pollution control arena. Since the 1980's, real reductions in air pollution emissions have been achieved through use of an offsetting program. The emissions (or in this case, water use) must be offset by real reductions. In the case of the groundwater basin, the water uses which will provide the offsets must be removed prior to the new water uses being allowed.

Offset ratios have historically been established at higher ratios to account for various factors and to allow for further reductions to reach health and safety targets. In this case, an offset ratio of 2:1 would result in reductions in existing water uses to help lead towards stabilization of the groundwater basin.

By using offsets, new and expanded crop production can utilize whatever amount of water is needed for their crop requirements. Their planting decisions would not be impacted by the interim ordinance.

We support an offset ratio of 2:1 or higher.

#### **Specific provisions of the ordinance – certain exemptions**

Since the proposed moratorium will allow the specified uses to go forward with offsetting, very few exemptions would be necessary. The only exemptions which appear to be justified are “minor modifications”, “efficiency improvements”, a public use, and replacement dwellings, as defined in the August 6, 2013 staff report.

One change that we request to the “efficiency improvement” wording is that the existing well should not have to be destroyed when a replacement well is permitted, as long as flow from both wells is metered, the new well is the same or smaller diameter as the existing well, and the total consumption of groundwater is documented to not increase. In some locations in the basin, new rural residential wells are being drilled into fractures that yield so little water that both wells may be needed to obtain an acceptable flow to service the residence.

Projects in progress (“pipeline” projects) should be exempt only if the project was deemed complete by the Planning Department prior to August 6, 2013. Well permits need to have been issued prior to August 6, 2013 to be exempt. In the case of new irrigated crop production, the crop must have been planted prior to August 6, 2013 to be exempt. The large number of well permit applications and the extensive vineyard planting that is currently taking place is documentation that these limits are needed.

#### **Specific provisions of the ordinance – installation of meters**

The proposed interim ordinance will require the installation of a meter on all new wells. We support this proposal.

Metering on existing wells above a specified discharge line size (e.g. greater than 2 inch) or above a specified casing size (e.g. greater than 5 inch) is also prudent. However, we understand that only new wells will be addressed by the proposed interim ordinance.

### **Specific provisions of the ordinance – moratorium on approval of new ponds, reservoirs**

The proposed interim ordinance would establish a moratorium on approval of new ponds, reservoirs and dams other than those allowed by Section 22.52.070.C.2.b of Title 22 of the County Code.

Section 22.52.070.C.2.b states:

Small reservoir. A reservoir constructed to regulate or store a supply of water for frost protection, seasonal irrigation, or livestock purposes. Ponds, reservoirs, and dams are subject to the standards in Section 22.52.150F. To qualify for exemption as a small reservoir the following criteria must be met:

- (1) The reservoir shall be designed to contain no more than one acre-foot of water.
- (2) All water storage shall be located entirely below natural grade.
- (3) The reservoir shall not be located on a stream, lake, or marsh, as identified on any U.S. Geological Survey map.

Storage reservoirs that do not meet the criteria under this standard may qualify for alternative review pursuant to Section 22.52.080B.4.

We support this proposal.

### **Summary**

PRO Water Equity, Inc. is a coalition of landowners within the Paso Robles Groundwater Basin. We are stakeholders in this process and appreciate the opportunity to provide our comments on the proposed interim ordinance.

We are acutely aware of the declining groundwater levels in the basin. Our directors and our supporters are directly affected by the declining well levels and are experiencing impacts on their health, safety and quality of life.

We recognize that both short term and long term solutions are needed to stabilize the groundwater basin. We understand basic mass balance, that supply must be increased and/or demand must be decreased in order to stabilize the basin. A management structure is needed to establish this framework. A time out is necessary until such a structure can be put in place.

We hope that you will take our comments into account and request that we be involved in every step of this process.

Thank you for your consideration of our comments. Please direct questions to Sue Luft ([asluff@wildblue.net](mailto:asluff@wildblue.net)), phone 805-227-4785.

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