September 27, 2019

San Luis Obispo County Paso Robles Groundwater Subbasin GSA
County Government Center
1055 Monterey Street
San Luis Obispo, CA 93408

Dear SLO County Paso Robles Subbasin GSA,

Re: Comments from the Estrella-El Pomar-Creston Water District regarding the Paso Robles Groundwater Subbasin GSP

In 2017, the Estrella El Pomar-Creston Water District (EPCWD) was established under the California Water Code (Water Code §§ 34000 et seq) to contribute to the solutions needed to address the Paso Robles Groundwater Subbasin overdraft. EPCWD's primary purpose was to become a Groundwater Sustainability Agency (GSA) and participate in the Groundwater Sustainability Plan (GSP) process.

Not only were the members of the EPCWD committed to help bring the Paso Subbasin into Sustainability, they also committed themselves, through self-assessment, to pay for a major portion of the GSP development. The graphic below shows EPC's commitment to pay for 29% of the costs.

Paso Basin MOA Terms

GSA	Recommended Voting / Cost Share	
	Current GSAs/ Without EPCWD	With EPCWD/ Upon County Action
County of SLO	61%	32%
City of Paso Robles	15%	15%
Shandon-San Juan Water District	20%	20%
San Miguel CSD	3%	3%
Heritage Ranch CSD	1%	1%
If formed: Estrella-El Pomar-Creston Water District	--	29%
TOTAL	100%	100%

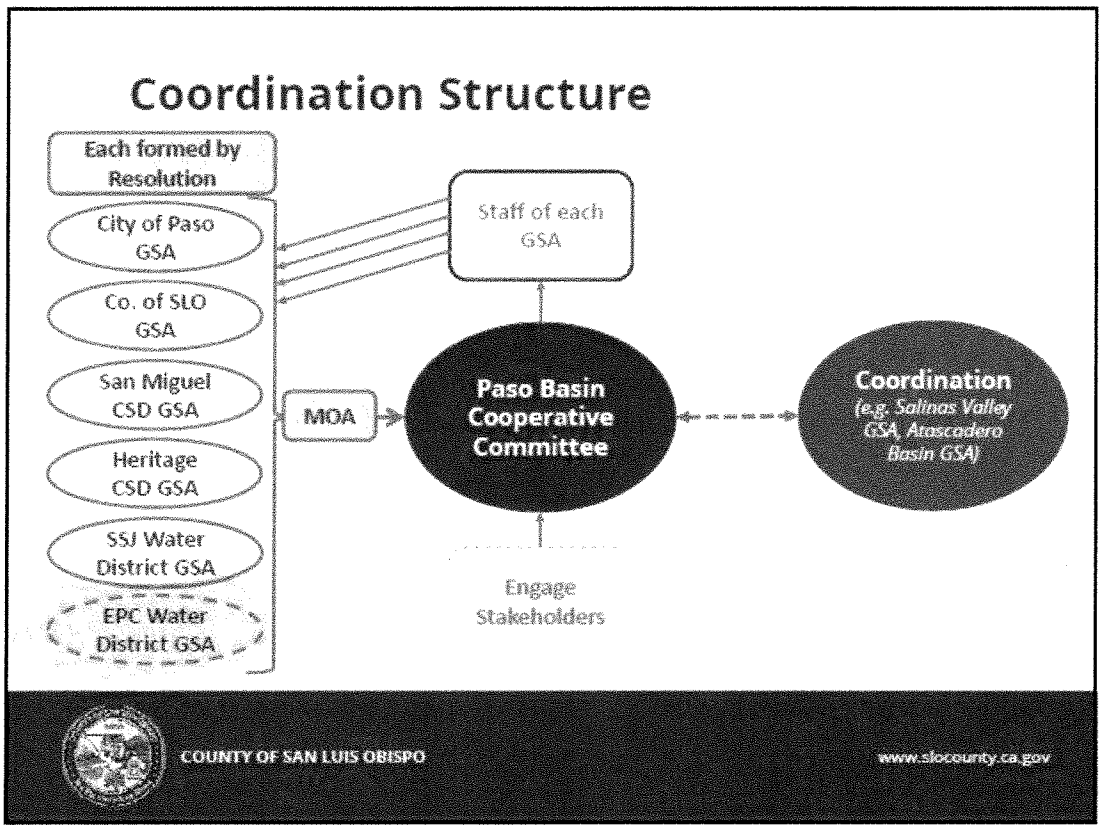
Minimum Voting Threshold: 67% Affirmative

* *Exceptions requiring unanimous vote*

- *Recommendation to amend MOA*
- *Recommendation to adopt GSP*

COUNTY OF SAN LUIS OBISPO www.slocounty.ca.gov

In September 2016, a group of "Eligible Entities" started meeting to determine how the Paso Robles Groundwater Subbasin was going to prepare the GSP required by the State of California. It was well understood at the time that the EPCWD was forming with the intention of becoming a GSA. For eight months the "Eligible Entities" met on a regular basis. Dana Merrill and Jerry Reaugh, representing the forming EPCWD, were invited to these meetings, participated extensively in these meetings and helped craft the document now known as the Memorandum of Agreement (MOA). The graphic below, from a SLO County presentation, is indicative of EPCWD's inclusion in the process.



EPCWD intends to document in this letter the intentional exclusion of our Water District from the GSP process and the complete failure of the County GSA to satisfy the outreach and dialogue requirement with agricultural pumpers. It is important to address our concerns now as the GSP moves towards adoption and implementation Real choices and actions will be made in the implementation process and it is essential that those who will be asked to sacrifice the most will be included in the decision-making process.

The GSP as proposed in its final draft is a vague document which postpones any meaningful decisions and actions to the future. The organizational structure necessary for the future implementation of the GSP is absent and the various GSAs are granted much autonomy. Some agricultural interests are

represented by the Shandon/San Juan Water District which accounts for 34% of agricultural pumping in the Subbasin[1]. What about the other 66% of agricultural pumping in the Subbasin?

Agricultural pumpers must have a "seat at the table".

The Estrella-El Pomar-Creston Water District is concerned about the systematic, intentional and perhaps predatory exclusion by County officials of a legitimate and consequential stakeholder group from the GSP Process. EPCWD represents 44% of agricultural pumping in the Subbasin and is the largest group of pumpers.

Attachment A chronicles the long history of EPCWD's commitment to the GSP and the County's support for EPCWD being included as a GSA. Initially, the County Board of Supervisors was supportive of our work and even encouraged the district formation. The EPC was listed as a party to the MOA. County Supervisors voted at least three times (5-0) in support of EPC becoming as GSA. After considerable effort and expense (over $200,000 of our members funds) EPCWD was formed in December, 2017 as a California Water District. EPCWD met all the requirements of the MOA to become a GSA.

Up until 2018, our EPCWD efforts aligned with San Luis Obispo County established policies. The County said repeatedly, "The County acknowledges that landowners and/or registered voters may prefer to form an eligible entity to ensure their representation on a GSA. The County supports landowner driven eligible entity formation processes".[2] Yet in the final hours, the San Luis Obispo Board of Supervisors reversed direction and voted to deny EPCWD GSA status and consequently excluded the largest group of groundwater pumpers from the GSP Process.

Since formation, EPCWD has operated as a water district with our members successfully self-accessing ourselves by passing two Prop 218 votes, raising over $300,000. These funds have allowed EPCWD to hire, in cooperation with the Shandon-San Juan Water District, a hydrogeologist who has participated in and contributed to the GSP technical committee. Both Districts have also jointly funded an economic study that will evaluate the potential economic impact the GSP might have on our local economy and community. EPCWD has remained engaged in the GSP process but with limited opportunity to influence decision making.

Attachment B reveals the extent of County official's effort to target and exclude the EPCWD. These terms were imposed on EPCWD as conditions for EPC's continued existence as a water district. It is clear that this was a predatory, overt and systematic effort to deny EPCWD and its members the right to represent their interests in determining how the Paso Robles Groundwater Subbasin is going to be managed for decades to come. It appears the EPC's misconduct was to try to be a GSA and to work alongside the rest of Subbasin stakeholders to bring the Subbasin into sustainability.

Even more egregious than EPCWD's exclusion, the County GSA has neglected all agricultural pumpers within their purview. The County GSA has failed its obligation to actively seek the involvement of agricultural stakeholders. This is contrary to the intentions of the SGMA Law and particularly troublesome when considering that the so-called County "white-areas", which includes the EPCWD area, represent 66% of groundwater pumpers. The County has never held an outreach meeting with the irrigated agriculture community. Not a single meeting or open forum for free discussion among irrigated

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[1] Agricultural pumping accounts for 90% of all groundwater pumping in the Subbasin, GSP Chapter 6, Table 6-5

[2] SLO County SGMA Strategy, revised March 7,2017, Policy Statement 3b. Membership and Participation on Governing Boards, 2nd bullet point

agricultural stakeholders and public officials has been held by our GSA. A 3-minute speaking time slot during "public comment periods" at Cooperative Committee Meetings does not constitute outreach. County officials have never attended a single EPCWD meeting. One of the cornerstones of SGMA is stakeholder involvement and the necessity of an inclusionary process.

In their own words, the County says, "the County advocates for fair and equitable representation in the decision making process".[3] "Fair and equitable representation could be accomplished in a number of ways, such as through inclusion of appointed seats on a GSA Board for certain beneficial user interests ... or through a robust public process and formation of representative advisory committees, and should be negotiated by the eligible entities in each basin.".[4] When an advisory position representing irrigated agriculture was proposed, County officials opposed.

We have not been given one meeting in which the County GSA has met with the Ag Community, no committees, no open forum or dialogue, and no advisory position. The irrigated Ag Community in the County's GSA has been ignored.

EPCWD believes that the County Flood Control District operating as one of the Paso Robles Groundwater Subbasin's GSAs, has been derelict in their obligation to engage the irrigated Ag Community and make sure that the irrigated agriculture community interests have been addressed.

EPCWD feels that those who are going to be affected the most must be included in the process.

Agricultural pumpers must have a "seat at the table".

Regards,

Dana Merrill
President
Estrella-El-Pomar-Creston Water District

[3] SLO County SGMA Strategy, revised March 7,2017, Policy Statement 3b. Membership and Participation on Governing Boards, 3rd bullet point

[4] SLO County SGMA Strategy, revised March 7,2017, Policy Statement 3b. Membership and Participation on Governing Boards, 4th bullet point

Attachment A

Chronology:

- **Spring 2016** – Landowners in the Shandon/San Juan Area start organizing to form their own opt-in, Water District with the intention of being a GSA.

- **August 2016** –SLO County forms "Paso Basin Eligible Entities GSA Meetings". This group includes all agencies that might want to become a GSA. This group included City of Paso Robles, SLO County, Heritage Ranch, San Miguel CSD, Atascadero Mutual Water Company, Templeton CSD, Monterey County, and the proposed Shandon San Juan WD and along with other interested parties.

- **September 2016** – the emerging Estrella-EL Pomar-Creston Water District is invited to join the Paso Basin Eligible Entities GSA Meetings.

- **October 2016** – LAFCO approves the formation of the Shandon/San Juan Water District, SSJ WD. This Water District is a voluntary, opt-in, California Water District.

- **October 2016 through May 2017** – the Paso Basin Eligible Entities GSA Meetings continues to meet with participation of both of the proposed WD's. The MOA, Memorandum of Agreement, is drafted and finalized after considerable work and many revisions. Members from both Water Districts participate extensively in the drafting and re-drafting of the proposed MOA.

- **March 7, 2017** – SLO County updates its SGMA Strategy Document which recognizes both SSJWD and EPCWD as potential participants in the MOA. Quote from SLO County proceedings, "the County supports landowner driven eligible entity formation processes".

- **April 2017** – LAFCO approves the formation of Estrella-EL Pomar-Creston Water District (EPCWD). This Water District is a voluntary, opt-in, California Water District. The vote was 5-2 in favor.

- **May 16, 2017** – SLO County Board of Supervisors votes 5 to 0 to become a GSA. Supervisor Compton was part of this vote. Language in their resolution includes several references to EPC becoming a Water District and the County relinquishing GSA control over EPCWD's lands.

- **May, 29 2017** – The Basin MOA, Memorandum of Agreement, is finalized. The MOA forms a "Cooperative Committee" that will be responsible for creating a single GSP for the Paso Robles Groundwater Basin. It has five members: City of Paso, SLO County, Shandon/San Juan Water District, San Miguel CSD, Heritage Ranch CSD. The EPC Water District is not initially part of the MOA as it is not yet a Water District or a GSA. The MOA includes detailed provisions that will allow EPCWD to join the MOA once EPCWD becomes a GSA. For EPCWD to become a GSA, the EPCWD must be formed as a Water District by December 31, 2017 and SLO County Supervisors will have to vote to relinquish their authority over the lands that are in the EPCWD. This passes the Board of Supervisors by a vote of 5-0.

- **June 2017** – The proposed Shandon/San Juan Water District becomes a California Water District and applies successfully to DWR to become a GSA before the DWR deadline of June 30, 2017.

- **July & August 2017** – The five eligible agencies approve and sign the MOA including the County of San Luis Obispo.

- **October 18, 2017** – The Cooperative Committee holds its first meeting.

- **December 8, 2017** – EPCWD completes its district formation process and LAFCO files the Certificate of Completion. This formation meets the requirements established by the MOA.

- **January 2018** – EPCWD applies to the State DWR to become a GSA. The application is denied by DWR until SLO County relinquishes control.

- **March 6, 2018** – SLO County Supervisors votes 3 to 2 to **NOT** relinquish GSA authority, thus denying EPCWD GSA status and reversing months of understanding

and support for EPCWD to become a GSA. Supervisor Compton, as a LAFCO Commissioner, voted to approve formation of EPCWD whose primary purpose was to become a GSA. Compton then reversed her position and voted against EPCWD becoming a GSA.

- **January through December 2018** – EPC Water District conducts normal water district activities including numerous Board Meetings, holding joint Board Meetings with the Shandon/San Juan Water District, signing a Cooperation Agreement with the Shandon/San Juan Water District, partnering with the S/SJ WD to hire a hydrogeologist as a consultant, and most significantly funds the District with Prop 218 assessments of over $200,000. The 2019 Prop 218 Assessment of Members has also been completed raising an additional $100,000.

- **November 15, 2018** – LAFCO holds an extensive hearing to review EPCWD's status and to determine if EPCWD has met its Conditions of Approval. EPCWD presents numerous documents and public testimony in support of EPCWD's successfully meeting LAFCO's Condition of Approval. LAFCO Staff also supported the Conditions of Approval had been met. Several LAFCO Commissioners expressed their belief that EPCWD has not met its Condition of Approval and that EPC WD should be dissolved. A further Hearing was scheduled.

- **Winter, 2018/2019** – EPCWD attorneys and LAFCO Attorney have several meetings, communications and negotiations. LAFCO demands that EPCWD submit to very restrictive terms, otherwise LAFCO will dissolve the Water District. These terms are presented in Appendix A.

- **February 21, 2019** – LAFCO holds its second Hearing. Several Commissioners wanted the Water District dissolved. EPCWD acquiesced to the new conditions imposed by LAFCO. LAFCO voted 4-3 to approve EPCWD continuing as a Water District.

Attachment B

Replacement Language to Condition 11

1. The EPCWD shall be a district as allowed under the California Water District Law Code (Water Code §§ 34000 et seq.) and as determined by and subject to LAFCO's approval (Resolution 2017-02).
2. The LAFCO approval does not grant to EPCWD any additional power or authority beyond the law.
3. The EPCWD shall not become a Groundwater Sustainability Agency (GSA) as provided for in the Sustainable Groundwater Management Act ("SGMA", Water Code §§ 10720 et seq.) prior to the approval by the State Department of Water Resources ("DWR") of the Groundwater Sustainability Plan ("GSP") or January 31, 2022, whichever is earlier.
4. The EPCWD shall not become a party to the Memorandum of Agreement ("MOA") entered into by the GSAs within the Paso Robles Groundwater Basin in September 2017 prior to the approval by the DWR of the GSP or January 31, 2022, whichever is earlier.
5. The EPCWD shall not become a member of the Paso Basin Cooperative Committee established under the current MOA.
6. The District shall comply with SGMA and the subsequent GSP as implemented by the existing GSA with authority in its service area.