



July 21, 2021

**TO:** Utilities Advisory Committee

**FROM:** Ron Munds, General Manager

**SUBJECT: Agenda Item 4 - 07//2021 Utilities Advisory Committee Meeting**  
Water Availability for Accessory Dwelling Unit (ADU) Development

**STAFF RECOMMENDATION**

**President**

Christine M. Womack

**Vice President**

Matthew D. Fourcroy

**Directors**

Charles L. Cesena

Troy C. Gatchell

Marshall E. Ochylski

**General Manager**

Ron Munds

**District Accountant**

Robert Stilts, CPA

**Unit Chief**

Eddy Moore

**Battalion Chief**

Paul Provence

Staff recommend that the Utilities Advisory Committee adopt the following Motion:

***Motion: I move that the Utilities Advisory Committee recommend to the Board the approval of a letter to the County of San Luis Obispo and California Coastal Commission stating the District's position regarding water availability for Accessory Dwelling Unit development.***

**Background**

At the April 21<sup>st</sup> UAC meeting, District and County staff provided an overview of the County's ADU Ordinance and the subsequent review by the Coastal Commission. It was reported that the Coastal Commission had requested that the three water purveyors in Los Osos respond to the commission with a statement of water supply availability to support ADU development. The County's ordinance is basing the approval of ADUs on having building permit applicants utilize the water offset provisions in Title 19 of the County's codes which would require 2:1 offset ratio in water demand.

As reported at the May 19<sup>th</sup> UAC meeting, the purveyors have been meeting and it was mutually agreed that a collective response by the purveyors would be the best course of action to avoid potential different sets of rules in the different parts of town on ADU approvals. It was believed this would also be the best overall strategy to manage the groundwater basin effectively.

**Key Points in the Draft Letter**

After deliberating the issues surrounding the Los Osos water issues, the purveyors agreed on including the following key points in the joint letter:

- There is still an overarching purveyor concern regarding the current sustainability of the groundwater basin based on the monitoring data included in the Basin Management Committee annual reports.
- Since the County ADU ordinance proposes to include a water offset requirement to reduce water use through conservation measures, the purveyors are requesting that the County initiate a study (Water Conservation Study) to identify the remaining opportunities for retrofits in the community and update the assumptions used for estimating water savings from plumbing retrofit measures which the purveyors believe are in error.
- The purveyors are requesting that the County revisit and make amendments to Title 19 that provide for verification of the retrofit water savings

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using purveyor water use data. Further, the County should exercise its land use authority to require that water conservation offset credits be harvested from within the purveyor service area boundary in which the proposed development would occur. These amendments also should permit the County and Purveyors to track the long-term effectiveness of retrofits by requiring monitoring and reporting and, if retrofits are proven to be ineffective, mandating that the development implement additional water conservation measures to achieve no net water use.

- There needs to be a funding mechanism to ensure existing customers are not impacted by the costs to support new development and that new development pays its fair share for infrastructure and water costs.

The purveyors collectively believe that by implementing the strategies conveyed in the letter will lead to a more sustainable approach to the management of the groundwater basin.

### **Next Steps**

Upon approval by the UAC, the letter will go before the Board for consideration at their August 5<sup>th</sup> meeting. Both S&T Mutual Water Company Golden State Water Company will be proceeding through their respective approval processes. The goal is to have a jointly signed letter to the County and Coastal Commission during the month of August.

### **Attachment**

Draft joint purveyor letter

[ADD HEADERS FROM GSWC, LOCSO, & S&T]

July 1, 2021

San Luis Obispo County  
 Department of Planning and Building  
 976 Osos Street, Room 200  
 San Luis Obispo, CA 93401

**Subject: Los Osos Groundwater Basin Purveyor Recommendations re County of San Luis Obispo's Proposed ADU Ordinance**

To Whom It May Concern:

**Introduction**

The Golden State Water Company ("GSWC"), Los Osos Community Services District ("LOCSO") and S&T Mutual Water Company ("S&T") (jointly, "Purveyors") provide water to the Los Osos community, which overlies the Los Osos Groundwater Basin ("Basin").<sup>1</sup> Together with the County, the Purveyors are tasked with sustainable management of the Basins through their positions on the Basin Management Committee ("BMC").<sup>2</sup> The Purveyors are writing this letter in response to the County's request for Purveyor input on the "adequacy of water . . . services" to support the construction of accessory dwelling units ("ADUs") within the Los Osos community. (Gov. Code § 65852.2(a)(1)(A).)

Although the Purveyors acknowledge that the County retains land use authority throughout the Los Osos community, they also understand that a clear and accurate description of the community's groundwater resources is fundamental to successful land use planning, which must account for resource availability in the decision-making process. The following letter summarizes (1) the BMC's efforts to date to create a sustainable water supply for the Los Osos Community, as well as (2) the Purveyor's concerns regarding potential impacts of the County's proposed ordinance to allow accessory dwelling units ("ADU Ordinance") on Basin sustainability.

**Background on the BMC and Basin Plan**

In January 2015, the Purveyors and the County released the Updated Basin Plan for the Los Osos Groundwater Basin ("Basin Plan") which details a series of strategies, plans and projects to manage and protect groundwater resources in the Basin.<sup>3</sup> The Basin Plan proposes a strategy and establishes goals, timeframes, milestones, and metrics to address

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<sup>1</sup> The County of San Luis Obispo ("County") also operates several groundwater wells overlying the Basin and provides recycled water to the Los Osos community from the Los Osos Water Recycling Facility ("LOWP").

<sup>2</sup> Pursuant to the court-approved stipulated judgment ("Stipulated Judgment") in *Los Osos Community Services District v. Golden State Water Company et al.* (Case No. GIN 040126), the Purveyors and the County formed the BMC in 2015.

<sup>3</sup> Both the Basin Plan and the cooperative authority described in the Basin Plan were approved by the Superior Court in October 2015.

basin management. The primary goals of the Basin Plan include halting seawater intrusion into the Basin and providing sustainable water supplies for existing and future needs.

The Basin Plan’s implementation strategy is centered around construction of a series of proposed projects, that comprise the Basin Infrastructure Program (“Program”), to address the Basin Plan’s stated goals. The Program is divided into four parts, designated Program A, Program B, Program C, and Program D. Programs A and B are designed to shift groundwater production from the lower aquifer to the upper aquifer, and Programs C and D are designed to shift production within the lower aquifer from the western area to the central and eastern areas, respectively. To date, Purveyor efforts have focused on implementation of Program A and Program C improvements to achieve a sustainable water supply under what the Basin Plan refers to as the “Existing Population Scenario”.

The Basin Plan establishes a comprehensive Groundwater Monitoring Program to collect, organize, and report data regarding the health of the Basin. That data is used to calculate the metrics discussed in the following paragraphs and to provide information needed to manage the Basin for long-term sustainability.

To report on the Basin’s progress, the BMC is required to submit an annual report to the County of San Luis Obispo Superior Court (“Court”) detailing the monitoring results and Basin Plan implementation progress for the previous year (“Annual Report”). Each annual report includes, among other information, groundwater production data, an update on the implementation of Basin Plan Programs, and the recent monitoring results of Basin Plan metrics.<sup>4</sup> This last element provides the best indicator of the status and health of the Basin.

The BMC adopted and submitted the 2020 Annual Report to both the Court and the Department of Water Resources (“DWR”) on June 16, 2021.<sup>5</sup> As part of this report, and as required by the Stipulated Judgment, the BMC updated the monitoring results for each of the four metrics set forth in the Basin Plan. The following table summarizes the Annual Report’s findings:

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<sup>4</sup> The Basin Plan established several metrics to evaluate nitrate impacts to the Upper Aquifer (“Nitrate Metric”), seawater intrusion into the Lower Aquifer (“Chloride Metric”), and the effect of management efforts of the BMC (“Basin Yield Metric” and “Water Level Metric”). These metrics, along with others, are jointly referred to as the “Basin Metrics”. These Basin Metrics allow the BMC, regulatory agencies, and the public to evaluate the status of nitrate levels and seawater intrusion, and the impact of implementation of the Basin Plan Programs in the Basin through objective, numerical criteria that can be tracked over time. The Basin Plan requires the continual monitoring and reporting of each of the Basin Metrics.

<sup>5</sup> A copy of the 2020 Annual Report can be found at [https://www.slocounty.ca.gov/Departments/Public-Works/Committees-Programs/Los-Osos-Basin-Management-Committee-\(BMC\).aspx](https://www.slocounty.ca.gov/Departments/Public-Works/Committees-Programs/Los-Osos-Basin-Management-Committee-(BMC).aspx)

<b>Summary of Basin Plan Metrics (as reported in 2020 Annual Report)</b>			
<b>Metric</b>	<b>Basin Plan Goal</b>	<b>Value Reported in 2020 Annual Report</b>	<b>Notes</b>
<b>Basin Yield Metric</b>	80 or less	73	Deterioration from 2019; but has met Basin Plan goal since 2016
<b>Water Level Metric</b>	8 feet above mean sea level or higher	1.8 feet above mean sea level	No change since 2019; has not reached Basin Plan goal
<b>Chloride Metric</b>	100 mg/L or lower	205 mg/L	Deterioration from 2019; has not reached Basin Plan goal
<b>Nitrate Metric</b>	10 mg/L or lower	20 mg/L (NO <sub>3</sub> -N)	Improvement from 2019; has not reached Basin Plan goal

### **Purveyor Concern Regarding Sustainability of Basin**

As illustrated in the above table, despite the BMC's best efforts, only one of the four Basin Metrics (the Basin Yield Metric) is currently within the targeted range. Further, and two of the three other Basin Metrics (the Water Level Metric and the Chloride Metric) saw a deterioration over the prior year. As a result, the Purveyors are concerned the adoption of the County's proposed ADU Ordinance could further hinder the BMC's efforts to sustainably manage the Basin and achieve the goals of the Basin Plan. The following comments are provided with this in mind.

### Monitoring Data and Metrics Deserve More Emphasis

As reported in the 2020 Annual Report, both the monitoring data and the Basin Metrics indicate that Basin conditions as a whole are static or worsening, and are arguably not even at a level where water resources are sustainable for the existing population (let alone additional development and demand). Unfortunately, sustainable management of groundwater resources is not often achieved quickly, and instead takes years of continued effort to begin seeing results. Based on the trends and monitoring results published in previous Annual Reports, it may take several more years before it is possible to determine whether implementation of the Basin Plan has been successful in reversing seawater intrusion and improving other unfavorable water quality trends. Prior to being asked to serve additional demand, therefore, the Basin Metrics must indicate not only an end to deteriorating conditions but measurable and sustainable improvements across the Basin. It may also be necessary to consider creative water supply options, such as supplemental or imported water, in order to solve the long-term water issues within the Basin.

### Need for Water Conservation Study

The ADU Ordinance proposes to include a water offset requirement where an applicant for an ADU would be required to "offset" the ADU's water demand by reducing water use through conservation measures. This requirement is intended to result in no new net demand in response to the County's approval of an ADU.

The Purveyors can agree to support this, however, we request that the County investigate or revisit the assumptions and arithmetic used for defining the magnitude and availability of these conservation offsets, which the water purveyors feel are in error. Given that Los Osos has relatively low water use per capita, the Purveyors are concerned that the well-intentioned offset requirements will not result in the ADU Ordinance having no new net water use. The Purveyors request that the County initiate a study (“Water Conservation Study”) to identify the opportunities for retrofits, such as high efficiency toilets, showerheads, faucet aerators and washing machines, relative to the demand for ADUs. Based on this Water Conservation Study, the County, Purveyors and community can understand the anticipated amount of water available for new ADUs from water conservation offsets and the expectations for amount of ADU development that will occur within the Basin boundaries.

#### Request for Amendments to Chapter 19.07

As part of the County’s amendments to the ADU Ordinance, the Purveyors also request that the County amend Chapter 19.07 (Plumbing Code) of the County Code to harmonize and improve the County’s water conservation requirements. Based in part on the Water Conservation Study, the County should update Chapter 19.06 to require new development, including ADUs, to provide verifiable water offsets using Purveyor water data. These amendments also should permit the County and Purveyors to track the long-term effectiveness of retrofits by requiring monitoring and reporting and, if retrofits are ineffective, mandating that the development implement additional water conservation measures to achieve no net water use.

Further, the County should exercise its land use authority to require that water conservation offset credits be harvested from within the purveyor service area boundary in which the proposed development would occur. The County’s water offset program must take into account local water resource constraints and improve local water supply conditions. For example, retrofits to support new ADU development within Los Osos must occur within the Basin to result in water supply improvements. By localizing water conservation requirements and providing of long-term monitoring, the County will create a more effective offset requirements and help promote sustainable management of the Basin.

#### Funding Mechanism to Support New Development

State law limits the ability of local agencies, including the Purveyors, from assessing impact fees on ADUs to support new water supplies. (*See* Gov. Code § 65852.2(f).) These restrictions on impact fees make it difficult for the Purveyors to recuperate the water system and water supply costs associated with serving ADUs, while ensuring water remains affordable to existing customers. Due to the significant supply constraints and uncertainty of the long-term conditions within the Basin, the Purveyors need to explore alternative funding strategies with the County in order for new development to pay its fair share of infrastructure and water supply costs. Otherwise, existing customers will disproportionately bear the costs of new development.

**Conclusion**

In summary, the Purveyors emphasize the importance of incorporating monitoring data, as well as Basin Metric trends, into the County's land use planning and decisions about allowing additional development. As set forth above, recent monitoring data and the Basin Metrics both indicate that Basin conditions as a whole are static or worsening. The Purveyors also are concerned that the ADU Ordinance's proposed offset requirements may impair the BMC's ability to ensure a sustainable water supply for existing customers, or even result in a deterioration of the Basin Metrics. Accordingly, the Purveyors request the County to initiate a Water Conservation Study to evaluate whether the proposed offset requirements would allow for new development under the ADU Ordinance in a manner that is protective of Basin health. Finally, the Purveyors also request that the County collaborate with the Purveyors to develop new funding strategies to support the development of ADUs within the Basin and the anticipated growth associated with County's Los Osos Community Plan Update. Coordination among the County and Purveyors to secure a sustainable and equitable funding scheme remains critical to achieving the Basin Plan Goals, and providing a safe, clean, and affordable water supply to the Los Osos community.

The Purveyors appreciate this opportunity to provide comments on the County's proposed ADU Ordinance. Please let us know if you have any questions, or if you need more information.

Sincerely,

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[NAME]

Golden State Water Company

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[NAME]

Los Osos Community Services District

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[NAME]

S&T Mutual Water Company

Cc: Dan Heibel, BMC Executive Director  
[ADD ADDITIONAL CCs]