

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

TO THE HONORABLE CLERK OF THE COUNTY OF SAN LUIS OBISPO:

We, the undersigned, registered, qualified voters of California, residents of the County of San Luis Obispo, hereby propose an ordinance relating to furtherance of the equitable management of San Luis Obispo County groundwater for the benefit of the citizens of San Luis Obispo County, and request that this initiative be submitted to the voters of the County of San Luis Obispo at the time of the General Election in November 2018 following its qualification. The proposed ordinance reads as follows:

Be it ordained by the People of the County of San Luis Obispo County:

SAN LUIS OBISPO COUNTY GROUNDWATER PROTECTION ORDINANCE

SECTION 1. Title

This measure shall be known and may be cited as the **San Luis Obispo County Groundwater Protection Ordinance**, adding a new Section 8.96, in Title 8, of the Health and Safety Code of the County of San Luis Obispo.

SECTION 2. Background

A. Within San Luis Obispo County there are multiple Groundwater Basins and Sub-basins. The basins range in size and capacity from modest to exceptionally large. One groundwater basin, the Salinas Valley Groundwater Basin, (Basin 3-04.06), extends from an area north of Highway 58 in San Luis Obispo County into Monterey County terminating in the general area of San Ardo. This basin is one of the largest vertical aquifers in the western United States and overlies 505,000 acres or 790 square miles. The portion of the basin within San Luis Obispo County is generally identified as the “Paso Robles Area Sub-basin” or the “Paso Robles Basin”. Properly preserving the sustainability of each of the groundwater Basins located within San Luis Obispo County is critical to ensuring adequate groundwater resources for San Luis Obispo County citizens in the future.

B. Local Groundwater Basin boundaries are defined by the California Department of Water Resources Bulletin 118 updated in 2016. The Basin Boundaries were derived primarily by identifying alluvial sediments on geological maps.

C. Sustainable Groundwater Management Act – (SGMA) – In 2014 the California Legislature passed and the Governor signed the SGMA and Related Statutory Provisions from SB1168 (Pavley), AB1739 (Dickinson), and SB1319 (Pavley). The SGMA is codified at Part 2.74 of Division 6 of the California Water Code, Section 10720 et seq. The SGMA is a comprehensive California law that sets forth the framework for statewide, long term sustainable groundwater

management by local authorities. For groundwater basins that the California Department of Water Resources (DWR) has designated as medium or high priority, the law requires the formations of Groundwater Sustainability Agencies (GSAs) tasked with assessing the condition of their local basin and adopting local management plans or "Groundwater Sustainability Plans" (GSPs). Calif. Water Code, Sections 10727-10727.8. It provides for limited state intervention when a GSA is not formed and/or fails to create a plan and implement planned actions that will result in groundwater sustainability within twenty years.

D. Groundwater Sustainability Agency – (GSA) -- Any local public agency or combination of local public agencies overlying a groundwater basin which has water supply, water management or land use responsibilities, may form a GSA. Calif. Water Code, section 10723. The law requires that GSAs be formed by June 30, 2017. Calif. Water Code, sections 10723.8 and 10724(b)(2). Five GSAs covering the Paso Robles Area Basin, geographically within San Luis Obispo County, have been formed, which are: the County of San Luis Obispo (for the unincorporated area of the basin and not represented by a Water District or Community Service District), the city of Paso Robles, the San Miguel Community Services District, the Heritage Ranch Community Services District, and the Shandon-San Juan Water District.

E. Groundwater Sustainability Plan – (GSP) -- Where multiple GSAs exist over a basin the GSAs are tasked to work together, under a Memorandum of Agreement, in the development and preparation of a Groundwater Sustainability Plan (GSP) as required by the SGMA. Calif. Water Code, section 10723. The California Department of Water Resources (DWR) has issued regulations, as required by the SGMA, defining the required content for GSPs, including elements such as basin conditions, water budget, minimum thresholds, measureable objectives, monitoring network, and interim five-year milestones to obtain sustainability within twenty years of GSP adoption. A GSP for the Paso Robles Area (Basin 3-04.06) must be filed with the DWR by January 31, 2020. Calif. Water Code, section 10720.7(a)(1).

F. Water Districts -- Two Water Districts have been formed over a portion of the Paso Robles Basin, namely: the Shandon San Juan Water District and the Estrella-El Pomar-Creston Water District. The Shandon San Juan Water District qualified to become a GSA before the SGMA deadline while the Estrella-El Pomar-Creston Water District did not. Some landowners within these districts own large acreage, with large capacity wells. Rather than serving as water agencies for the purpose of managing and delivering water to district customers, the apparent principal interest of these landowners is the control of their water resources through private water districts for sale and/or export outside the water districts and potentially outside of San Luis Obispo County.

G. Water Banking is a means by which private interests gain control of water and profit from that water. Water banking involves a variety of activities whereby water or water rights are acquired. If "wet water" is received it is stored in either surface ponds or within a groundwater basin. The stored water or water rights are then generally sold or exchanged generating profits. Typically, water banking operations are conducted by private interests or a water district which leads to the partial "privatization" of a groundwater basin or aquifer.

H. The SGMA requires all groundwater basins to achieve “sustainability” within twenty years with the measurement of progress toward sustainability every five years following the approval of a Groundwater Sustainability Plan. Calif. Water Code, section 10727.2(b). This extended period for the achievement of a basin’s “sustainability” give GSAs an opportunity to “backload” the requirements necessary for actually achieving sustainability. This also allows a significant window of time for private water districts associated with GSAs to prioritize profits over sustainability.

SECTION 3. New Section 8.96, is added to title 8 of the Health and Safety Code of San Luis Obispo County, to read as follows:

Section 8.96 GROUNDWATER PROTECTION

Section 8.96.010 Purpose and Intent

The People of San Luis Obispo County hereby declare their purpose and intent in enacting this ordinance to be, to protect the long-term viability and sustainability of all groundwater within San Luis Obispo County.

Section 8.96.020. Definitions

A. Basin. Basin shall have the same meaning as in California Water Code Section 10721, and includes all basins and sub-basins wholly within or partially within San Luis Obispo County.

B. Groundwater. Notwithstanding the definition in Section 8.95.020 (9) of Title 8 of the Health and Safety Code of San Luis Obispo County, Groundwater means water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water, and includes any water that is percolated, infiltrated, stored, recharged, or otherwise placed into the groundwater basin (including banked surface water), but does not include water that flows in known and definite channels.

C. Groundwater Bank. Groundwater Bank means any facility used for the storage of surface water in a Basin.

D. Safe Yield. Safe Yield means the amount of groundwater that may be pumped annually that does not exceed the annual replenishment or recharge, either natural or artificial, of the Basin. The Safe Yield of each Basin within San Luis Obispo County shall be determined annually.

Section 8.96.030. Protection of Groundwater

A. Notwithstanding any provision of this Code, and specifically any provision of Chapter 8.95 of Title 8 thereof, no Groundwater shall be pumped from any Basin for export outside of San

Luis Obispo County or for transitional storage leading ultimately to export outside of San Luis Obispo County.

B. Notwithstanding any provision of this Code, and specifically any provision of Chapter 8.95 of Title 8 thereof, no Groundwater shall be pumped from any Basin for export, transfer, or use outside of the boundaries of that Basin, unless exempt under Section 8.95.040 of Chapter 8.95 of Title 8 thereof.

C. Each Basin shall be managed in a sustainable manner wherein groundwater shall not be withdrawn, pumped, or otherwise removed in a manner that exceeds the safe yield of the Basin.

D. Notwithstanding any provision of Chapter 8.95 of Title 8 thereof, no permits or approvals shall be granted by San Luis Obispo County, or any of its divisions or agencies, or by any other public agency within San Luis Obispo County, for any project that authorizes, facilitates, or enables the export of groundwater outside of San Luis Obispo County.

E. All Groundwater within San Luis Obispo County shall be considered as and shall remain a public trust resource, owned by all residents of San Luis Obispo County.

Section 8.96.040. Inspection

After providing written notice to the permit holder, the County Director of Public Works or designee, with good cause may at any reasonable time enter any and all places, property, enclosures and structures, for the purpose of making examinations and investigations to determine whether any provision of this chapter or an approved permit is being violated.

Section 8.96.050. Notice of violation

Upon receiving knowledge of an alleged violation of this chapter, the county will provide written notice of the alleged violation to the violating party. The notice shall detail the alleged violation and require the violating party to cease and desist immediately upon receipt of such notice from the alleged violating activities or within five working days prove to the county, by meeting with the director or his or her designee, that the alleged violating activities, in fact, do not violate this chapter, or that there are mitigating reasons surrounding the alleged violating activities. No civil fines, as set forth in Section 8.96.060 shall accrue during the notice process. The notice shall also include details of the potential penalties for violations of this chapter.

Section 8.96.060. Penalty for violation

If, within five working days, after receipt of a notice issued in accordance with Section 8.96.050, the violating party has not complied with Section 8.96.030, the county may elect to proceed with any or all of the following remedies for violation of this chapter:

- (1) A civil action against the violator, including injunctive relief;

- (2) A civil action against the violator, including a fine of up to five thousand dollars for each separate violation. A person or entity shall be deemed to have committed a separate violation for each and every day or portion thereof during which each and every violation is committed , continued or permitted, as well as for each and every groundwater well within which any such violations are committed, continued or permitted.

SECTION 5. Liberal Construction

This Ordinance is an exercise of the public power of the people of San Luis Obispo County for the protection of their health, safety, and welfare, and shall be liberally construed to effectuate its purposes.

SECTION 6. Severability

If any sections, subsections, sentence, clause, phrase, or portion of this ordinance is held by a court of competent jurisdiction to be invalid or unconstitutional, such portion shall be deemed a separate, distinct, and independent provision and the holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 7. Effective Date

This Ordinance shall become effective the day after its approval by the voters.

NOTICE OF INTENTION TO CIRCULATE AN INITIATIVE PETITION

Notice is hereby given of the intention of the persons whose names appear hereon of their intention to circulate a petition within San Luis Obispo County for the purpose of placing an initiative measure on the ballot. A statement of the reasons for the proposed action as contemplated in the petition is as follows:

Properly preserving the sustainability of each of the groundwater basins within San Luis Obispo County is critical to ensuring adequate groundwater resources for San Luis Obispo County citizens.

The Paso Robles groundwater basin is one of the largest groundwater basins in the western United States. Special interests have identified this groundwater basin for manipulation and an opportunity for generating private profits.

The Initiative petition protects all groundwater basins in San Luis Obispo County by providing that "no groundwater shall be pumped from any basin for export, transfer, or use outside of the boundaries of that basin or outside of the boundaries of San Luis Obispo County.

Petition Proponents:

<u>Name</u>	<u>Address</u>	<u>Signature</u>
Gregory T. Grewal	8080 Webster Creston, CA 93432	_____
Frederick C. Hoey	4945 Creston Valley Rd. Paso Robles, CA 93446	_____
Andrea H. Seastrand	851 N. Fifth Street Grover Beach, CA 93433	_____