

Date: June 12, 2023

County of San Luis Obispo

Paso Robles Basin Cooperative Committee:

Matt Turrentine, Chair, Shandon-San Juan WD

Kelly Dodd, Vice Chair, San Miguel CSD

John Hamon, Secretary, City of Paso Robles

Bruce Gibson, Treasurer, County SLO

Re: Brown Act Violation on April 26, 2023 Cease and Desist Government Code § 54960.2(a)(1)

Dear Sirs: Paso Basin Cooperative Committee Board,

As you may not be aware, anyone is authorized to send Board a "Cease and Desist" letter specifying an act or omission occurring on or after January 1, 2013 believed to violate one or more requirements of the Brown Act and demand that the body commit not to repeat it. That letter could be sent at any time within nine months of the alleged violation.

On receipt, it is the expectation that your board make a written unconditional commitment at the soonest opportunity to refrain from and not repeat.

BACKGROUND

On March 16, 2023, draft Statement of Equity #1 was introduced by Bruce Gibson, also on the same date item # 18, Future Items Gibson requested to add discussion of equity.

On April 26, 2023, **REPORT ITEMS**, item #7 on the agenda was a five-minute verbal update on a Statement of Equity.

At the time of this letter, the April 26, 2023 PBCC minutes are unfortunately not drafted yet however, the YouTube recording is available on the County website.

At approximately 4:04 minutes of the recording, a verbal statement (Gibson) of Equity begins. He starts explaining his third draft (second draft was never provided). Comments for his draft were reported to be from the Wine Country Alliance (P Willmore), Farm Bureau, EPCWD and SSJWD. The first three groups are not GSPs nor do they represent overlying land owners. All four groups are special interest large pumping Ag entities who represent 8% of the acreage over the basin (total of 436,000 acres in the basin) that pump 92% of the water used in the basin. Why were no comments included or even requested from the rural residents?

Violation #1

Item # 7 was a **report** item, not an **action** item. As such, public comment was received on a draft report item, due to that fact, one would believe that no action would be taken. The proposed Statement of Equity dated April, 25, 2023 that was handed out at the April 26th meeting was not included in the agenda but was presented to attendees as work in progress, not a finished product and would be brought back at a later date to be agreed upon by the GSAs and stakeholders and rural residents.

Violation #2

A proposed Final Draft dated April 28, 2023 (two day after the PBCC meeting with the next PBCC meeting scheduled for July 26, 2023) was presented to the Creston Advisory Body on May 17, 2023 (not a GSA but an advisory body to the 5th District Supervisor Debbie Arnold) but was not presented or approved by the PBCC Board, stakeholders and rural residents as mentioned above.

THE BROWN ACT

The Brown Act requires all meeting of a legislative body of a public agency to be open and public. The act requires the entire deliberative process by legislative bodies, including discussion, debate and the acquisition of information, be open and available for public scrutiny and public comment. § 54954.2 (a). The purpose of the brief general description is to inform interested members of the public about the subject matter under consideration so that they can determine whether to monitor or participate in the meeting of the body.

§ 54954.2 Agenda Requirements.

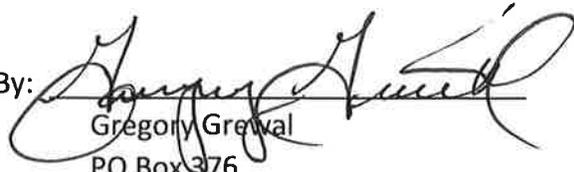
§ 54954.3 Public's right to testify at meetings.

DEMAND FOR UNCONDITIONAL COMMITMENT TO CEASE-AND-DESIST

Pursuant to Government Code § 54960.2 I hereby seek an unconditional commitment in writing that it will "cease, desist from, and not repeat" the violations of the Brown Act, discussed above. Please note the requirements set forth in the Government Code 54960.2(c) in formulating your response.

Please note that this letter is based on the witnessed information of April 26, 2023 PBCC meeting and video recording.

By:



Gregory Grewal

PO Box 376

Creston, CA 93432

(805) 674-1073

Supporting documents attached:

Draft #1 Statement of Equity version 1 and 3

Creston Advisory Body Agenda dated May 17, 2023

Paso Basin Coordinating Committee Proposed Statement of Equity

Paso Basin Coordinating Committee Proposed Statement of Equity final draft offered for adoption both dated April 28, 2023

Creston Advisory Body reply dated June 2, 2023

CC: San Luis Obispo County District Attorney Dan Dow

San Luis Obispo County Special Prosecutions Unit Kenneth Jorgensen DDA

CRESTON ADVISORY BODY

Meeting Agenda

Creston Community Center

Wednesday, May 17, 2023 7:00 – 9:30 PM

Meetings scheduled on the 3rd Wednesday of each month except December..

- 1) **Call to Order – Flag Salute**
- 2) **CAB Recorder for this meeting – Roy Barba (next month will be Thomas Edel, or alternate?)**
- 3) **Minutes of the previous meeting(s) (5 min) (April 19th, Matt Lynge drafted)**
- 4) **Limited Public and/or CAB Member Comments for Items NOT on the agenda (2-3 min each) Including Community events and other items of interest.**
 - a. **CATCH grants and donations**
- 5) **Public Safety - Cal Fire, Sheriff, CHP, etc. – ~5 min. each**
 - Sheriff's Department - Deputy John McKenney**
 - Cal Fire - Fire Captain Ryan**
 - CHP - Lieutenant Chandler Stewart - Templeton Station**
- 6) **New Business – (45 min.)**
 - a. **SLO County Code Enforcement – Cynthia Alm – On May 4th, CAB invited this representative from Code Enforcement to attend this meeting to answer some of our questions. Still pursuing, she may come next month.**
 - b. **Should CAB send comments to PR Basin Cooperative Committee, regarding his “Draft Statement of Equity” for groundwater? Motion to send comments from CAB. See PR Basin Cooperative Committee draft Equity Statement attached.**
 - c. **Visiting Cal Poly students – Francesca McLaughlin & Gianni Greco – discussion of their survey results and provide additional input from CAB as necessary**
- 7) **Fifth District Supervisor Report–Supervisor Debbie Arnold or LA Kathleen Goble- Zoom maybe**
- 8) **Planning Department Update & Project Referrals - CAB Liaison-Lane Sutherland (30+ min).**
 - a. **Cannabis projects update – Jim Wortner & P&B liaison if present.**
 - b. **Chandler Ranch = CAB recommendation submitted to County – Sheila Lyons**
- 9) **Committee Reports/Next Steps (5-10 min each as needed) –**
 - a. **By-Laws – Sheila L. & Thomas E.**
 - b. **Elections – Sheila, Susan S. & Judy Blankenship (public) No action at this time.**
 - c. **Public Information – Roy Barba, Tom Edel & Mike Aarons, Kurt Almond A.**
- 10) **Treasurer's Report – (5 min) Roy Barba**
- 11) **Unfinished Business – (5 minutes) -**
 - 12) **Future meetings and agenda items- Next meeting June 21, 2023**
 - 13) **Adjournment by approximately 9:30 p.m.**

DEPUTY JOHN MCKENNEY
CALLS FOR SERVICE MARCH - MAY 2023

CIVIL PROBLEM
BURGLARY OF A BARN
DOMESTIC VIOLENCE ARREST
ATTEMPTED PHONE SCAM
ALARM CALL
ATTEMPTED INSURANCE SCAM
MENTAL HEALTH CALL
FAMILY DISTURBANCE
LOOSE COW CALL
ALARM CALL
CHECK THE WELFARE
MENTAL HEALTH CALL
LOST HORSE CALL
CIVIL ISSUE
TRESSPASS CALL

GOLDIE LANE
WEBSTER ROAD
HUER HUERO RD
ODONOVAN RD
RYAN ROAD
WEBSTER RD
KATA CREEK RD
ODONOVAN RD- THREE TIMES
ODONOVAN RD
ROCKY CANYON
HUER HUERO RD
ROCKY CANYON RD - TWICE
ODONOVAN RD
KATA CREEK RD
CALF CANYON

Reports of numerous sheep getting attacked by a dark colored German Shephard in the Creston area is being investigated by the Rural Deputy John Blank.

March 13, 2023
DRAFT STATEMENT OF EQUITY
Bruce Gibson

For your consideration, here is a draft of an expanded statement regarding equity:

Groundwater in the Paso Robles Subbasin is a shared resource that the GSAs that are party to this GSP seek to manage for the benefit all Subbasin users, consistent with their rights under the California Constitution and state statutes. The management framework established by SGMA and this GSP is inherently focused on assuring both sustainable and equitable access to and use of this shared resource.

The concept of equity is explicit in state statute. As noted on the State Water Resources Control Board website, in Water Code Section 106.3 “the state statutorily recognizes that ‘every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.’ The human right to water extends to all Californians, including disadvantaged individuals and groups and communities in rural and urban areas.”

Achieving equitable access to Subbasin groundwater faces several challenges:

- Users are located in diverse settings relative to the Subbasin’s hydrogeology.
- Users’ water supplies are managed in diverse jurisdictional settings (a city, a community services district, a county service area and individual wells in unincorporated rural areas).
- The Subbasin includes diverse land use patterns, including highly urbanized areas, rural residential lots, and both small and large irrigated agricultural operations, some of which include commercial facilities such as wineries, tasting rooms and lodging.
- Within irrigated agricultural operations – which collectively use the vast majority of groundwater – there is currently wide variation in the amount of irrigation water applied (acft/acre), depending on crop type and cultural practice.
- The economic resources of individual Subbasin users vary widely.

The central premise of SGMA is that the Subbasin’s groundwater is sustainably managed and accessible to all users. Equity in achieving these goals requires that no user is precluded from access to the groundwater because they lack financial resources.

For example, the management objectives and minimum thresholds outlined in this GSP (Chapter 8) admit the possibility of shallow wells going dry. Such wells often serve residential users who may be challenged to pay for improvements like deepening the well or drilling a new one. Subbasin mitigation programs for this undesirable result should account for the economic resources available to affected users.

Other issues of equity should be also be addressed, such as the disparity in the amount of irrigation applied to different crop production sites. Even with supply projects increasing Subbasin safe yield, it is apparent that reductions in agricultural pumping will be required for sustainability.

Management of the Subbasin should establish agricultural water use that could be equitably available to all potential growers, with mechanisms such as fallowing programs (MILR) fairly constructed to facilitate transfer water use to desired growing sites.

All GSAs that are responsible for the development and administration of this GSP commit to equity in the sustainable management of the Paso Robles Subbasin.

April 25, 2023

DRAFT STATEMENT OF EQUITY

Bruce Gibson

Ver. 03

For your consideration, here is the third draft of an expanded statement regarding equity:

Groundwater in the Paso Robles Subbasin is a shared resource that the GSAs that are party to this GSP seek to manage for the benefit of all Subbasin users, consistent with their rights under the California Constitution and state statutes. The management framework established by SGMA and this GSP is inherently focused on assuring both sustainable and equitable access to and use of this shared resource.

Sustainable management of a reliable groundwater supply is crucial to the ongoing health and wellbeing of our communities' residents and their economic interests, especially our valued agricultural economy – and also crucial to the natural environment upon which that economy depends.

BEST MGT PRACTICE

The concept of equity is explicit in state statute. As noted on the State Water Resources Control Board website, in Water Code Section 106.3 “the state statutorily recognizes that ‘every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.’ The human right to water extends to all Californians, including disadvantaged individuals and groups and communities in rural and urban areas.”

Achieving equitable access to Subbasin groundwater faces several challenges:

- Users are located in diverse settings relative to the Subbasin’s hydrogeology.
- Users’ water supplies are managed in diverse jurisdictional settings (a city, a community services district, a county service area, a small mutual water supply system and individual wells in unincorporated rural areas). *OVERLAYS - 1*
- The Subbasin includes diverse land use patterns, including highly urbanized areas, rural residential lots, and both small and large irrigated agricultural operations, some of which include commercial facilities such as wineries, tasting rooms and lodging.
- Within irrigated agricultural operations – which collectively use the vast majority of groundwater – there is currently wide variation in the amount of irrigation water applied (acft/acre), depending on crop type and cultural practice.
- The economic resources of individual Subbasin users vary widely.

The central premise of SGMA is that the Subbasin’s groundwater is sustainably managed and reasonably accessible to all users. Management actions in this GSP will be developed to seek equity in light of the diverse conditions noted.

Equity in achieving these goals requires that no user is precluded from reasonable access to groundwater because they lack financial resources. For example, the management objectives and minimum thresholds outlined in this GSP (Chapter 8) admit the possibility of shallow wells going dry. Such wells often serve disadvantaged residential communities and users who may be challenged to pay for improvements like deepening the well or drilling a new one.

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Issues of equity should also be addressed in the distribution of water used for irrigation on different crop production sites. All GSP management efforts (supply enhancement, demand reduction, use allocations) should provide equitable opportunity for all land owners to participate and provide equitable allocation of costs and incentives.

NACI - STATE 100 AF SHADOW

All GSAs responsible for the development and administration of this GSP agree that the management actions established for the Paso Robles Subbasin will uphold the principles of equity outlined above.

**PASO BASIN COORDINATING COMMITTEE
PROPOSED STATEMENT OF EQUITY
April 28, 2023**

Groundwater in the Paso Robles Subbasin is a shared resource that the GSAs that are party to this GSP seek to manage for the benefit of all Subbasin users, consistent with their rights under the California Constitution and state statutes. The management framework established by SGMA and this GSP is inherently focused on assuring both sustainable and equitable access to and use of this shared resource.

Sustainable management of a reliable groundwater supply is crucial to the ongoing health and wellbeing of our communities' residents and their economic interests, especially our valued agricultural economy – and also crucial to the natural environment upon which that economy depends.

The concept of equity is explicit in state statute. As noted on the State Water Resources Control Board website, in Water Code Section 106.3 "the state statutorily recognizes that 'every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.' The human right to water extends to all Californians, including disadvantaged individuals and groups and communities in rural and urban areas."

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- The Subbasin includes diverse land use patterns, including highly urbanized areas, rural residential lots, and both small and large irrigated agricultural operations, some of which include commercial facilities such as wineries, tasting rooms and lodging.
- Within irrigated agricultural operations – which collectively use the vast majority of groundwater – there is currently wide variation in the amount of irrigation water applied (acre-ft/acre), depending on crop type and cultural practice.
- The economic resources of individual Subbasin users vary widely.
- As stated in Water Code Section 10720.5, no action under SGMA can alter groundwater rights as determined under California common law or statute.

The central premise of SGMA is that the Subbasin's groundwater is sustainably managed and reasonably accessible to all users. Management actions in this GSP will be developed to seek equity in light of the diverse conditions noted.

Equity in achieving these goals requires that no user is precluded from maintaining reasonable access to groundwater because they lack financial resources. For example, the management

objectives and minimum thresholds outlined in this GSP (Chapter 8) admit the possibility of shallow wells going dry. Such wells often serve disadvantaged residential communities and users who may be challenged to pay for improvements like deepening the well or drilling a new one.

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**PASO BASIN COORDINATING COMMITTEE
PROPOSED STATEMENT OF EQUITY
FINAL DRAFT – OFFERED FOR ADOPTION
April 28, 2023**

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All GSAs responsible for the development and administration of this GSP agree that the management actions established for the Paso Robles Subbasin will uphold the principles of equity outlined above.

Added below by Sheila as a point of reference:

CA SGMA Act of 2014

Water Code Section: 10720.5

(a) Groundwater management pursuant to this part shall be consistent with Section 2 of Article X of the California Constitution. Nothing in this part modifies rights or priorities to use or store groundwater consistent with Section 2 of Article X of the California Constitution, except that in basins designated medium- or high priority basins by the department, no extraction of groundwater between January 1, 2015, and the date of adoption of a groundwater sustainability plan pursuant to this part, whichever is sooner, may be used as evidence of, or to establish or defend against, any claim of prescription.

(b) Nothing in this part, or in any groundwater management plan adopted pursuant to this part, determines or alters surface water rights or groundwater rights under common law or any provision of law that determines or grants surface water rights.

Creston Advisory Body



Chairperson: Sheila Lyons Ph. (805) 239-0917, P. O. Box 174 Creston, CA 93432 salyons1951@gmail.com

June 2, 2023

Members of the Paso Robles Basin Cooperative Committee
San Luis Obispo, California

Dear PR Basin Cooperative Committee members, SLO County Supervisors, and GSA Staff:

The Creston Advisory Body (CAB) met on May 17, 2023 at the Creston Community Center for a regularly scheduled meeting. Since CAB represents the landowners of approximately 40,000 acres in District #5, the majority of which live over the Paso Robles Groundwater Basin (Basin), the management of the Basin is of great concern and repeatedly discussed at our meetings.

A main agenda item at this meeting was the discussion of the proposed "Statement of Equity" being considered for adoption by the PR Groundwater Basin Cooperative Committee. It is our understanding that this statement is to be the basis for determining which measures are to be implemented as water management tools for reaching basin sustainability, and for determining who will bear the burdens as related to allocations and costs.

Several comments were voiced at our meeting:

- 1) The CA water code in the PRCC "Equity Statement" draft does not include the overarching CA State Water Code 106, but instead has a sub-clause to this statement. The actual water code adopted in 1943 is as follows and should be considered first and foremost when drafting a "water equity" statement to be used for determining which water management measures are to be adopted.

State Water Code 106: It is hereby declared to be the established policy of this state that the use of water for domestic purposes is the highest use of water and that the next highest use is for irrigation.

CA Water Code 106.3 is a subclause and although it is useful, it is not the primary water code verbiage.

- 2) In the following statement the equity statement implies that all who pump water from the PR Groundwater Basin should share in the burden of water management.

All GSP management efforts (supply enhancement, demand reduction, use allocations) should provide equitable opportunity for all landowners to participate and provide equitable allocation of costs and incentives.

Every water report, regardless of who prepared the report, has made it clear that 92% of the pumped water from the Basin is used by large pumping agriculturalists, who are only 8% of the acreage over the Basin, and the remaining 92% of the landowners (rural residents, small water systems, and municipal water systems) only pump 8% of the water from the Basin. Rural residents in general have much shallower wells than large scale agriculturalists, and as such have been very judicious in their water usage, knowing full well that they are at the greatest risk as water levels over the Basin fall. This is acknowledged in the draft Equity Statement. There are no programs for rural residents, to obtain compensation when their wells go dry, unlike agriculturists who have access to grants, low interest loans, get property tax breaks, etc. There would be no need for major cutbacks in water usage, or new major infrastructure "projects", if agriculture as a whole had been more proactive to date with their water management and regulated themselves. Asking the 8% pumpers to bear any additional financial burden is adding insult to injury.

Although the "Statement of Equity" is a step in the right direction there is something missing. By definition: "*Equity means everyone is provided with what they need to succeed.*" For rural residents to succeed they should not be burdened with undue costs or further restrictions on their water usage. Their property values are already at risk and their sustainability is in jeopardy. Rural residents want to see fairness when it comes to water management, a fair allocation of water usage, and a fair approach to who pays for new projects based on water usage. Just because some have used more than their fair share in the past, does not mean they are entitled to continue doing so, or that those that have been responsible users should have to pay for the over pumpers.

The PR Basin Cooperative Committee in general is weighted with more agriculturalists than rural residents, even though rural residents make up the majority of the landowners over the Basin. When voters spoke on AB2453, it was clear that rural residents did not want to put their water futures in the hands of the agriculturists. They did not believe in the one acre, one vote, but rather in the one person, one vote, principle. It should be noted that there is really no one on the PRBCC, elected by the majority of the landowners over the Basin, that represents the interests of the rural residents. It should also be noted that any consideration of allowing the Estrella-El Pomar-Creston Water District (EEPC) become a GSA is widely opposed by all residents over the PR Basin, again supported by the outcome of the AB2453 vote. The EEPC did not submit their paperwork in time, nor do they qualify as a contiguous parcel water district. Additionally, some of the original members have withdrawn from the EEPC Water District. Our advisory council represents ~40,000 acres, similar in size to the EEPC. The addition of the EEPC as a GSA would further disadvantage the 8% pumpers over the PR Basin. The Creston Advisory Body (CAB) feels a strong responsibility to weigh in and voice the opinion of the folks in our rural community are not represented.

It should be clear in any statement adopted for use as a measuring stick for water management initiatives, that the majority of the burden needs to fall on those that have been responsible for creating the crisis in the first place (continuing to plant when we were already in drought, slow to adopt water saving measures, drilling deep agricultural wells adjacent to family farms, etc.) and not on those most vulnerable. We need a fair set of solutions to reach sustainability. The water rights of the majority of the citizens living over the Basin need to be protected by the PRBCC, not minimized and/or exploited.

Sheila Lyons
CAB Chairperson

Cc:

San Luis Obispo County Supervisors
Debbie Arnold, 5th District Supervisor
John Peschong, 1st District Supervisor
Jimmy Paulding, 4th District Supervisor
Bruce Gibson, 2nd District Supervisor
Dawn Ortiz-Legg, 3rd District Supervisor

PRB Cooperative Committee Members:

GSA Staff:
City of Paso Robles

Shandon-San Juary Water District
Water Systems Consultant