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July 13, 2015

Honorable Debbie Arnold,
Chairperson of the Board of Supervisors
County of San Luis Obispo
1050 Monterey Street
San Luis Obispo, CA 93408

Subject: Request for review and posting of Frequently Asked Questions

Dear Chairperson Arnold:

In response to recent community questions surrounding the potential formation of a new Paso Robles Basin Water District, the management subcommittee of the Paso Basin Advisory Committee (PBAC) developed the attached draft Frequently Asked Questions (FAQ) and responses. The subcommittee voted in favor of recommending that the PBAC advise the Board to provide them to the public.

On June 18, 2015, the PBAC reviewed the management subcommittee's recommendation and draft FAQ and responses and voted 18-2-0-4 to recommend that the Board of Supervisors direct staff to review the attached draft FAQ and responses with legal counsel, verify data sources, revise as needed and post to the pasobasin.org website.

Sincerely,

Sue Luft
Chairperson, Paso Basin Advisory Committee

cc: San Luis Obispo County Board of Supervisors, All Districts
 David Church, Executive Officer, LAFCO
 John Diodati, SLO County Public Works

Attachment

Groundwater Export within the Paso Robles Basin and outside the County

Frequently Asked Questions

Paso Robles Groundwater Basin

There has been considerable public discussion about the possibility of exporting groundwater particularly from the Paso Robles Groundwater Basin. Concern has also been expressed by some that water could be exported out of the County to other State water users. The questions and answers below are intended to address these issues.

What is the total capacity of the Paso Robles Groundwater Basin?

The total estimated storage capacity is estimated at 30,500,000 acre-feet (AF).ⁱ The California Department of Water Resources ("DWR") estimates the usable capacity at 1,700,000 AF.ⁱⁱ The amount of usable water of a groundwater basin that can be withdrawn and consumed economically each year for an indefinite period of time is the perennial yield. The December 2014 Paso Robles Groundwater Basin Model Update determined that the perennial yield of the Basin is about 89,600 AFY. Withdrawals cannot exceed the perennial yield without causing depletion of the basin.

Of the total Basin capacity, how much is available to export?

The Model Update shows that water being pumped out of the Basin exceeds replenishment by an average of 2,400 AF per year. This may increase to 26,000 AF per year with even a modest (1%) pace of growth. As long as demand exceeds supply, no surplus groundwater is available to export.

Also, DWR has ranked the Paso Robles Groundwater Basin as the 14th of 515 basins in the State in terms of the severity of its groundwater status. With that priority ranking, the Basin could not reasonably be considered to have excess capacity to export.

Does the County Export Ordinance prohibit the export of water by a willing seller?

The County's Board of Supervisors recently enacted an export ordinance that places a number of requirements and restrictions upon anyone wanting to export water outside the County or outside the Basin. Further, the Sustainable Groundwater Management Act (SGMA) requires the Basin managing agency to demonstrate that the amount of water pumped from the Basin matches its annual recharge. In as much as the Basin has seen deficits of approximately 2,400 AFY (increasing to 5,600 to 26,000 AFY depending on the scenario), it is highly unlikely any governing agency would allow water exporting outside the County or the Basin as this would only compound the problem.

Tell me about water “banking”.

The 2008 Paso Robles Groundwater Subbasin Water Banking Feasibility Study examined three potential sites for banking State Water in the Basin, as well as the feasibility to provide in lieu supply to overlayers, thus allowing them to idle their wells. Of the three areas analyzed (Shell Creek/Camatta Creek and Lower San Juan Creek Recharge Area, Creston Area and Salinas River/Hwy 46 Recharge Area), the Creston Area displayed the least potential for recovery or recharge.

The 2008 banking study examined the feasibility of storing supplemental water *in* the Paso Robles Groundwater Basin, not exporting groundwater *from* the basin.

Could banked water displace native waters during wet years?

To the extent that banked water occupies space in an aquifer, it could possibly displace natural replenishment that would occur in wet years. A detailed study and analysis of suitable sites for underground storage of water in the Basin would have to be performed before any definitive conclusions or decisions could be made.

What infrastructure would be needed to export water?

Exporting groundwater would require an extraction well field and a pipeline system to direct that supply out of the County. That infrastructure does not exist in the Paso Robles Groundwater Basin, nor do any of the County's master water plans to date suggest such a practice. Again, no surplus groundwater is available to contemplate such a step.

Banking State Water in years when it is available for later delivery back into the State Water delivery system was examined in 2008. This is not the same as “exporting groundwater”. Cost estimates for banking that supplemental supply ranged from \$270 million to \$415 million. Before any work could begin, environmental impact reports would have to be prepared, easements across public and private land would have to be negotiated and purchased, and those expected to benefit from the project would have to consent to pay for it as required by state law.

Could banked water be recovered at any time, including during a drought?

Yes.

Could banked water be recovered anywhere from the basin?

Yes, to the extent it is feasible from a geologic perspective.

How might formation of a water district affect groundwater export?

Neither a flood control district nor a water district affects the finding that there is no surplus groundwater to export. Further, San Luis Obispo County has enacted an export ordinance that

only allows water exportation under a narrowly defined set of circumstances. The water district would be required to comply with this ordinance.

Could a landowner or group of owners in the Basin appropriate groundwater and sell it for a profit?

There are four factors when taken together, would make export by any private individual, group or company virtually impossible:

1. Studies and the State have determined that pumping exceeds recharge in the Paso Robles Groundwater Basin so there is no excess water to export.
2. State law requires that the Basin be managed *sustainably* under a plan approved by DWR. It does not make sense that proposed exports would be approved by DWR.
3. The County requires that any new pumping be offset, thereby creating a potentially insurmountable hurdle for such a plan.
4. Any landowner who would attempt to export water for sale would become an appropriator which exceeds their right to their reasonable and beneficial use of groundwater pumped from their wells. This would be in conflict with current property rights which limit pumping for this specific reason.

Are there current local ordinances or state laws that address water exportation?

California's water polices, laws and ordinances are interwoven around the concept of moving water from where it is to where it is needed. State water agencies also encourage water banking or storage of rainwater in wet years so that it is available to users in times of drought. The State Water Code permits the storage, banking and exporting of water under circumstances dictated by the local agency or agencies managing surface and groundwater throughout the State. Under SGMA, a basin that is in deficit on average for several decades as is the Paso Robles Basin will certainly not be allowed to export groundwater. The County's recently enacted groundwater export ordinance created a tightly defined and limited set of circumstances where groundwater export would be allowed. Any such proposal would involve an open application process in full view of the public.

Can banked water be recovered regardless whether a basin is in overdraft?

Yes. Absent an Export Ordinance, law clearly establishes that if you store water that would not otherwise find its way into a groundwater basin, you have the right to take that water back out as against anyone who has a water right to take water from that basin.

Today, what entity could decide to export water from the Basin?

Until adoption of the Export Ordinance, San Luis Obispo County had the ability to export water outside of the Basin and the County, subject to CEQA and public input. Since the Export Ordinance has been adopted, the County Public Works Department, guided by their permitting authority, is the review agency of any proposal to export groundwater. If a water district becomes the managing agency for the Basin, it would be required to comply with this ordinance.

Currently is there available above-ground storage in the Basin to hold excess groundwater?

No, the county's three largest reservoirs (Nacimiento, San Antonio, Salinas - Santa Margarita Lake) lie outside the Paso Robles Basin.

The average ag pond only holds about 50 to 70 AF. There are numerous reservoirs currently in use on private lands for such purposes, though they would be unsuitable to use for exportation due to size and lack of any conveyance infrastructure.

Does the exportation of groundwater require that excess groundwater be held in surface storage in order to export it?

No it does not. However, there are no existing surface storage ponds or reservoirs of sufficient size to hold significant amounts of water within the Basin.

Does California's Sustainable Groundwater Management Act speak to groundwater exportation?

The Act requires the Paso Robles Groundwater Basin to be managed sustainably. Exporting water out of the Basin to other customers in the State would make it impossible to achieve sustainability. It is reasonable to assume that it could take decades to match pumping demand with supply in light of the declining well levels throughout the Basin. Any attempt to export water out of the Basin under these circumstances would expose the controlling agency of the Basin to be classified by the DWR as a "probationary basin" under the Act.

Does the Sustainable Groundwater Management Act prohibit the exportation of banked or other waters?

No, as other basins within the State may currently be exporting water to other users. However, the Paso Robles Basin has never been utilized for such purposes. The Basin has been classified by the State as high priority which means it does not have excess water to export. DWR must approve the Basin's managing agency's plan so that it is sustainable. It is unrealistic to assume any sustainability plan would be submitted to export water nor would such a plan be approved by the State.

Might the County Flood Control District view groundwater exportation differently than a water district?

In addition to the Paso Robles Basin, the Flood Control District as managed by the Board of Supervisors is responsible for managing 21 other water basins within the County. This places the Supervisors in the position of considering proposals to move water from where it is within the County to those areas that need it. The proposed water district would be responsible for only the Paso Robles Basin and would be charged with sustainably managing the groundwater resource exclusively within its boundaries.

ⁱ Fugro West, Inc. and Cleath and Associates, Final Report, Paso Robles Groundwater Basin Study, August 2002, page ES 2.

ⁱⁱ Department of Water Resources, Bulletin 118, Central coast Hydrologic Region Salinas Valley Groundwater Basin, February 27, 2004 update, Page 2.

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