Creston Advisory Body

Chairperson: Sheila Lyons

July 18, 2018

San Luis Obsipo County Supervisor John Peschong jpeschong@co.slo.ca.us
San Luis Obispo County Supervisor Debbie Arnold darnold@co.slo.ca.us
Chairperson the Paso Basin Cooperative Committee, John Hamon JHamon@prcity.com

Dear Distinquished Representatives,

The Creston Advisory Body (CAB) represents the landowners of approximately 40,000 acres in District #5, the majority of which live over the Paso Robles Groundwater Basin (Basin), including many who chose not to join the Estrella/El Pomar/Creston Water District but fall well within the general land area that this district overlays. Consequently the management of the Basin is of great concern to those who live here and invariably we discuss "the water situation" at the majority of our monthly meetings. It is our understanding that the County serves as the GSA which represents us as Rural Residents as part of the Memorandum of Agreement (MOA) established to create a Groundwater Sustainability Plan (GSP) for the Basin. The County also represents thousands of other Rural Residents that do not live within the CAB Boundaries and do not have Community Advisory Councils who can take a stand and represent them in these matters. With these facts in evidence we wish to weigh in and express our views on how we believe the Basin should be managed to the benefit of all who live here. First and foremost, we believe that water is a "common resource" and this principle should be accepted as an undisputed fact.

We have summarized below the three top goals that have consistently been expressed during our meetings. We have also assembled the details behind each of these goals, along with additional concerns, in the attached document in order to communicate to you directly our rationale behind the goals recommended. Is is our hope that you will use these goals, along with our concerns and recommendations, as an important resource as you move forward making the momentous water management decisions that will impact our communities at large.

The three top goals for Basin management as recommended by CAB:

1. Declare the non-commercial Rural Residents over the Basin di minimis users exempting them from monitoring and fees for water management and future supplemental projects.
2. Insist upon aggressive conservation efforts by the majority of the Basin's largest pumpers, including irrigated agriculture (Ag) and the City of Paso Robles, thereby minimizing the overall number of shallower well failures across the Basin. Those that can have the greatest impact need to be particularly conscientious and step up to make the most difference.
3. Use County authority to re-examine existing ordinances and policies as a mechanism for developing regulations that equitably apply to ALL residents and businesses over the Basin and work towards achieving Basin sustainability.

Clearly, any fair and sustainable water management program cannot be accomplished in the absence of thorough and thoughtful consideration, and fair resolution, of citizen's concerns. We believe that our claim to the use of Basin water for domestic purposes is codified in Water Code Section 106 which provides as follows: "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 of water is for irrigation." It is of utmost importance to the Rural Residents of our community that the final management solutions decided upon by your committee take into account the impact they will have on the quality of our lives, in some cases, our very existence.

Thank you for your attention to our concerns.

Sincerely,

Sheila Lyons, CAB Chairperson

CC: Derrik Williams, President HyroMetrics Water Resources, Inc. derrik@hydrometricswri.com

Summary of Concerns and Recommendations

by Rural Residents-at-large over the PR Basin

July 2018

Three Top Goals:

1. Declare the non-commercial Rural Residents over the Basin de minimis users exempting them from monitoring and fees for water management and future supplemental projects.
2. Insist upon aggressive conservation efforts by the majority of the Basin's largest pumpers, including irrigated agriculture (Ag) and the City of Paso Robles, thereby minimizing the overall number of shallower well failures across the Basin. Those that can have the greatest impact need to be particularly conscientious and step up to the make the most difference.
3. Use County authority to re-examine existing ordinances and policies as a mechanism for developing regulations that equitably apply to ALL residents and businesses over the Basin and work towards achieving Basin sustainability.

Goal #1: Declare the non-commercial Rural Residents over the Basin de minimis users exempting them from monitoring and fees for water management and future supplemental projects.

- Rural Residential users should be entitled to at least a de minimis per residence allowance for water usage. They already pay property taxes for management by Flood Control and Water Conservation District The State defines a de minimis allowance below which the user should not be burdened with additional interference of their water usage.
- It should be noted that the average Rural Residential parcel has animals, vegetable gardens, fruit trees and landscaping in addition to the residence itself. Many residents rely upon their small plots as subsistence for their families. Rural Residents have been estimated in County commissioned studies to use between 0.5 and 3.0 AF/year [1], [2] depending on parcel size and the number of residences on the parcel. Whereas, irrigated Ag parcels, such as those with vineyards, typically use 1.0 AF/acre/yr, or more in many cases. County commissioned studies show that Rural Residential has been estimated to only use somewhere in the neighborhood of 13% of the perennial yield, a level that has held consistent over time. This clearly demonstrates that Rural Residential uses have not pushed us into the current water crisis.
- Charges for additional AF over and above de minimis allowances should be on a graduated scale with less unit price for the first AF over the allowance and increased costs as consumption increases. This would encourage conservation efforts by all.
- Non-commercial Rural Residents are the most vulnerable of all entities over the Basin. Historically Rural Residential wells have been much shallower and smaller bores (~100- 400 ft deep, bores of typically 5-6 inches) than Ag wells (several hundred to > 1000 ft deep, bores of a minimum 8 inches).

[1] Fugro West and Cleath and Associates. August 2002. Paso Robles Groundwater Basin Study (Phase I). Prepared for County of San Luis Obispo County Public Works Department.

[2] Fugro West, ETIC Engineers, and Cleath and Associates. February 2005. Paso Robles Groundwater Basin Study, Phase II, Numeri cal Model Development, Calibration, and Application. Prepared for County of San Luis Obispo County Public Works Department.

Many residential wells in Creston are as shallow as 100-200ft (reports from local residents). Some wells have already gone dry. There are several thousand Rural Residential wells over the Basin.

- We believe that our claim to the use of Basin water for domestic purposes is codified in California Water Code Section 106 which provides as follows: "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 of water is for irrigation." This principle has been upheld in the courts consistently. A local organization, North County Watch, brought this to the attention of The PR Groundwater Basin Blue Ribbon Committee back in 2013 (see the following attached letter).
- Rural Residents are all on septic systems and some 90% of the water they pump from the Basin goes right back into the Basin.
- The monitoring de minimis users would incur an excessive cost to the overall management program for the several thousand residential parcels whose uses are far smaller than irrigated Ag. Large water users should be the first to be monitored and charged for their usage.
- Rural Residents lack the significant financial resources in general (shallow pockets) to deal with the issue (no lobbyists, no public relations people, no board of director members who can attend endless meetings) versus the large Agri-businesses (deep pockets) with the incentive to pass costs on to other entities in order to increase their profits. Additional costs passed on to Rural Residents to solve a problem that irrigated agriculture has created would be an undue burden.
- The owners of vacant parcels should have the right to reasonable & beneficial use of their property, to build a residence if they so desire, even though they have no history of "prior use" water.
- An important consideration is the protection of property values of ALL residents who live over the Basin. In an effort to protect Rural Residential families' health and welfare, as well as property values, the definition of sustainability for Rural Residents must be to minimize the number of overall wells that will fail due to over-drafting and the consequent drop in the water table. Protection of the rights of Rural Residents to "reasonable and beneficial use" of water must be set as a priority equal to, or greater than, the priority set for protecting Agriculture.

Goal #2: Insist upon aggressive conservation efforts by the majority of the Basin's largest pumpers, including irrigated agriculture (Ag) and the City of Paso Robles, thereby minimizing the overall number of shallower well failures across the Basin. Those that can have the greatest impact need to be particularly conscientious and step up to the make the most difference.

- Irrigated agriculture has consistently and significantly increased in acreage over the Basin in the last 20 years. According to the Agricultural Commissioner's Crop Reports, the acreage in vineyards in the County, of which the majority is in the North County, has increased from around 5000 acres in 1999 to nearly 50,000 acres today.
- Irrigation water does not contribute significantly to the recharge of the Basin. It only accounts for 2% of the total recharge[3].
- The outdated concept of "prior use" as establishing, or justifying, a new future use must be reconsidered. Many agriculturalists have intentionally over irrigated in order to establish favorable usage numbers. Additionally, some have planted elaborate landscaping to enhance their properties. Prior usage numbers may have been inflated due to over irrigation in anticipation of future restrictions. Irrigated Ag pumps well over 80% of the perennial yield from the Basin annually,

[3] Hydrologic Budget Summary of the PR Groundwater Basin from Phase I Report Fugro and Cleath 2002.

as estimated in 2005[4], and planting has continued since then. In contrast, many rural residents, who have pumped much less water, but fearing that their wells would go dry, have implemented unilateral cut backs in their water usage, and in many cases let their landscaping die.

- Reasonable and fair controls and limits must be instituted on new permits for large commercial and agricultural developments. There is no reason why so many such projects (new wineries and other commercial developments, etc.), many with extensive landscaping plans, are allowed to proceed, when they are so openly damaging to the welfare and interests of other non-commercial landowners whose numbers so clearly are the majority. Additionally, this type of growth is contradictory to the goal of achieving Basin sustainability.
- A high percentage of the new irrigated acreage within the Basin **is** owned by corporations whose investors do not live here, and who are looking at short-term bottom line profits rather than long-term Basin sustainability. Up until recently some of these corporations have touted their water resources as marketable assets on their websites.
- Water "off sets" should be retired completely, given that the overall goals are Basin sustainability and future growth. Most certainly, offsets from water rich areas of the Basin should not be used over other parts of the Basin, particularly in areas with more severe issues.
- If crop duty factors are used for setting allowance (these would be preferential to prior usage) then the crop factors used need to be realistic, not the inflated values used to set up the Shandon San Juan Water District.
- There should be no "vested rights," beyond a fixed de minimis value, based on prior water usage. There should be no selling of "excess water" when conservation measures are implemented. There is no "excess water." Water is a "common interest" resource and the "excess" should remain in the Basin to prevent further well failures. Fox Canyon Groundwater Management Agency is a well-known example where farmers were allowed to sell off "excess water" much to the detriment of improving water resources for the district's customers.
- Restriction on using overhead sprinklers should be considered. For example: No watering mid-day (between noon and 6 pm) or when it is raining.
- Management of the Basin's groundwater should be paid for pro rata based on usage by the large water users. It was suggested that there should be a County ordinance calling for a proportional fee structure based on specific measurable factors, such as the size of the pump, the number of irrigated acres, and the number of Acre Feet of water pumped.
- The issue of why Paso Robles continues to pump so much groundwater contributing to the problem in Estrella needs to be addressed. Why is additional development getting approved prior to the completion of purification plants that would provide new water supplies? The City of Paso Robles has been behind the curve in constructing water treatment facilities to accommodate their full contractual rights to Lake Nacimiento water causing excessive dependence on groundwater.
- As stated in the PR Groundwater Basin Study, Phase II in 2005, "Because future agricultural trends are so problematic to forecast, slight mis-forecasts in agricultural demand predictions could have large implications relative to changes in groundwater storage and water levels. It is clear a relatively slight adjustment in "build-out" agricultural pumping could make the difference between potential basin overdraft or non-overdraft conditions.[5]"

[4] PR Groundwater Basin Study, Phase II, Fugro, Etic Engineering, and Cleath, 2005

[5] PR Groundwater Basin Study, Phase II, Fugro, Etic Engineering and Cleath, 2005

- "Current (2006) agricultural and commercial pumping have reached or exceeded the amounts estimated as build-out in the Phase II Report Model Scenario 2 while municipal and rural pumping are well below the build-out predictions. " "Given that agriculture accounts for two-thirds of pumping, regular updating of agricultural pumping (land use, cropping, and irrigation rate data) is essential to management of groundwater resources for long-term sustainability[6]."
- It is clear now, in 2018, that the attempt in 2011 to draft and follow voluntary BMO's (Basin Management Objectives) was unsuccessful in stopping the downward trend in water levels in the Basin. Although Rural Residents unilaterally adopted conservation measures in hopes of staving off the continuation of residential well failures, irrigated Ag acreage continued to grow and consume water from the Basin at accelerated rates. As a result, Rural Residential wells have continued to fail.
- Trying to calculate the number of years that we can continue the growth of irrigated Ag, with annual overdrafts, and still not pump the Basin dry is foolhardy. The consequential impact to the longevity of the Basin is unpredictable at best and unreasonable at the very least.

Goal #3: **Use County authority to re-examine existing ordinances and policies as a mechanism for developing regulations that equitably apply to ALL residents and businesses over the Basin and work towards achieving Basin sustainability.**

- Land use zoning needs to be reviewed and potentially revised to assist with water management.
- Why does the County continue to allow planting of more vineyards? Why are Ag ponds allowed at all? Wind machines are more effective and should be used for frost protection, not water. Should we allow ponds to be filled with groundwater? Restrictions on planting must be implemented. Drought tolerant rootstocks and improved irrigation practices need to be conditions required for any future vineyard planting, or replanting, to occur. The County should implement an allocation program, similar to the one that exists for allowing the construction of new residences, that limits the number of acres of irrigated crops that can be planted each year. Establish a fixed number of acres for irrigated crops, that can be planted, or a fixed number of AF that can be pumped, over the Basin, a number that would ensure Basin sustainability. Hold fast to that limit unless significant recharge of the Basin has occurred.
- A review of the County's Agricultural Element, and the provisions in Right to Farm Ordinance (Title 5, Chapter 5.16) of 2002, and how they are contradictory to the mandate by the State to establish Basin sustainability needs to occur. Agriculture is of great importance to San Luis Obispo County but the degree of deferential treatment should be commensurate and complementary to other equally important goals and mandates that the County is committed to achieving. Once again, the rights of Rural Residents to reasonable and beneficial use of water must be given equal priority.
- Permit applications for the drilling of new wells need to be scrutinized thoroughly before issuance, including an evaluation of the harm that could be done to neighboring properties. Deep wells in particular need to be assessed before permits are granted to avoid a future harmful event such as the Cotta well incident that recently occurred in Creston which cross-contaminated water strata. Deeply drilled wells risk cross contamination of multiple strata of our aquifer(s), can't be replenished in a timely manner and can therefore cause permanent damage.

Additional Comments and Recommendations that do not immediately fall within the above three goals, but would assist in achieving these goals:

[6] Evaluation of Paso Robles Groundwater Basin Pumping, Water Year 2006; Todd Engineering, May 2009

- There should be no exporting of water from the Basin.
- The Creston area is located in the southern most portion of the Paso Robles Groundwater Basin. The Paso basin groundwater aquifers generally run north from Creston[7]. The significant pumping by the City of Paso Robles downstream from Creston, has accelerated aquifer flows out of Creston and is also a contributing factor in the decline of Creston groundwater levels. Creston is the "fountainhead" of a significant portion of the groundwater ultimately contained within the Paso basin. Therefore, pragmatically Creston groundwater deserves to receive specific safeguarding, the benefits of which would accrue ultimately to the entire basin.
- There should be no water banking projects considered. In 2008 a SLO County groundwater study identified the greater Shandon area as having the ideal characteristics for water banking activities.[8] In water banking not all acquisitions of water involve the receipt of wet water. The receipt of "paper water," which is an IOU for water delivery in the future, involves a risk that the water delivery may not be made when the water is needed. Water banking can also involve the transfer of water between water districts for delivery to a third party. A benefit to a water district holding water IOUs can be the manipulation of data on the actual water under their control thereby allowing greater water usage. Big money interests want to control water banking activities within the Paso basin, not unlike the Kern Water Bank. The coastal branch pipeline of the State Water Project traverses Shandon on its way south through SLO County and recently, a "Turnout Valve" was installed on that pipeline in Shandon. With only modest modification this valve could be used as part of a water banking operation. Recognize that water banking is not an acceptable activity to alleviate Paso basin issues. Rather it is a scheme for exceedingly large money interests to control and profit from water.
- Recharge efforts are acceptable but only if the water is left in the Basin for normal usage. It should not be withdrawn for other purposes.
- No transferring water from areas with minimal issues to problem areas (e.g. Creston to Estrella) should be allowed.
- Recognize that the state water project is over committed (by seven fold according to some news reports) and has under delivered by less than, or equal to, half of contracted water during the last few years. The state water project water is not a reliable or satisfactory approach to augmenting Paso basin water. It is unlikely that a new contract for state water project water can be negotiated currently.
- To ensure of full compliance to any regulation set forth, inspections need to be conducted on all monitored landowners to determine their degree of compliance. Where violations are found, serious consequences should be instituted and enforced. Large water users need to pay the majority of the enforcement costs, in particular when violations occur and follow-up is required to ensure compliance.
- When Rural Residential properties lose value due to water issues costing thousands to remedy how will those owners be compensated for the loss of value? Will the property taxes be lowered? Ag gets breaks that Rural Residents do not and current practices are clearly discriminatory. Ag gets

[7] Paso Robles Groundwater Sub-basin Water Banking Feasibility Study, 2002.

[8] Paso Robles Groundwater Sub-basin Water Banking Feasibility Study, 2002. Water banking is: any transaction involving water, wet water movement, water contracts, paper water, and the storage of actual water.

crop insurance for failed crops due to drought. Ag gets property tax breaks through the Williamson Act. Ag gets low interest loans for new wells and other infrastructure projects. Also, tax write-offs for losses and depreciation costs of equipment& fences. Rural residents get no such benefits. Some Rural Residents whose wells failed, and who could not afford to drill a new well ($20,000-$30,000), have had to purchase additional storage tanks and resort to water deliveries…all expenses they could ill afford. Programs to assist Rural Residents need to be implemented to offset the burden some are sure to bear when their wells go dry, especially if the final basin management plan exacerbates the problem and wells continue to fail (e.g. Low interest loans, compensation for losses, no permit fees to drill new wells, reduced property taxes (maybe reduce overall property value, or improvements being taxed, by the cost of the new well), loans (like those for special districts) paid back over time). Ideally fines to violators who over pump could also be used to compensate those whose wells have gone dry, for the cost of drilling a new well. Once again, Rural residents did not cause the problem and should not bear the burden of fixing it.

- It should be noted that there is a reason that the majority (some 78% of the voters overall on AB2453) rejected the idea that we should have a water district managed by a few wealthy landowners as board members. No one believed that these members would have the Rural Residents best interests at heart.
- Finally, and one of the most frequently expressed concerns, is that the final basin management solutions will be driven by big money interests at the expense of the majority of the landowners over the Basin. Rural Resident landowners lack the resources to be represented by lobbyists, or public relations agents, but rather must rely on the efforts of unpaid volunteer community advisory representatives trying to protect their interests.

What will determine success? Has sustainability been achieved?

Successful management of the Basin should have measurable outcomes.

1. Keep the number of Rural Residential wells that have failed due to the drop in the water table to less than 10% of the total.
2. Water tables across the Basin have recovered to their 2014 levels (or previous years) and remained there for 5 years or more.
3. The downward slope of the graph showing overall Basin decline has become measurably more positive. For example, if the current downward slope is 4 ft/yr drop, then a recovery to 2ft/yr or better would be showing a positive improvement.

The majority of landowners on wells within the Basin are in unincorporated areas and most are de minimis water users. The GSP will be developed with the participation of competing interests, some powerful and some with limited influence. Nevertheless, four principles must guide the process, namely; 1) water is a common resource; 2) the quantity of Paso basin water is ultimately finite; 3) damage to the basin has been done and needs to be reversed; 4) the GSP must provide for the equitable use of water by all parties with water rights.

North County Watch

Looking Out Today For Tomorrow

MEMO TO: Paso Robles Groundwater Basin Blue Ribbon Committee

FROM: Susan Harvey, President
North County Watch

DATE: May 17, 2013

RE: Water Code Section 106

North County Watch is a 501 c3 non-profit Public Benefit corporation. We are an all-volunteer organization committed to sustainable development in and around north San Luis Obispo County.

We would like to addresses issues around a discussion at the BRC meeting on May 16th, regarding the accuracy of our *a priori* statement regarding the superior rights of rural residential users. Thank you for raising the issue and this opportunity to elucidate our position.

Water Code Section 106

Water Code Section 106 provides "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."

Court Support for Section 106

California courts have consistently supported the policy codified in Section 106. In *City of Beaumont v. Beaumont Irrigation District* (1965)[i], the court held that Section 106 is a policy that governs administrative agencies' water allocation decisions, stating that application of "section 106 of the Water Code…is binding upon every California agency," including irrigation districts which were parties to the case.

Meridian v. San Francisco (1939)[ii] stated "It should be the first concern of the court in any case pending before it and of the department in the exercise of its powers under the act to recognize and protect the interests of those who have prior and paramount right to the use the waters and streams. The highest use in accordance with the law is for domestic purposes, and next highest use is for irrigation."

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The California Supreme Court in *National Audubon Society v. Superior Court* (1983)[iii] stated "[a]lthough the primary function of [Water Code Sections 106 and 106.5], particularly section 106, is to establish priorities between competing appropriators, these enactments also declare principles of California water policy applicable to any allocation of water resources."

Central & West Water Basin Replenishment District v. So. California Water Co. (2003)[iv] held that court-supervised mass adjudications of water rights are subject to and governed by Section 106, and it therefore rejected a proposal for water banking by some of the adjudicated parties because the proposal did not comply with the policy in Section 106 of prioritizing domestic use.

California Common Law Supports Section 106

California Common Law codifies the longstanding principle that in allocating California's limited water supplies in time and places of scarcity, water needs for domestic purposes must take priority over water needs for commercial profit, including agriculture.

> *Alta Land & Water Co. v. Hancock* (1890)[v] "the rights…to the use of water for the supply of the natural wants of man and beast" must take precedence over "the rights…to use the water for purposes of irrigation."
>
> *Smith v. Carter* (1897)[vi] "both parties [to the water rights dispute] were entitled to have their natural wants supplied, that is, to use so much of water as was necessary for strictly domestic purposes and to furnish drink for man and beast, before any could be used for irrigation purposes" and that "[a]fter their natural wants were supplied each party was entitled to reasonable use of the remaining water for irrigation".
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> *Drake v. Tucker* (1919)[vii] the trial court "properly decided that it would be an unreasonable use of the water under all the facts and circumstances for the plaintiff to use it for irrigation before the domestic uses of the defendant had been satisfied."
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> *Cowell v. Armstrong* (1930)[viii] "Natural uses are those arising out of the necessities of life…such as household use, drinking, [and] watering domestic animals…[and] unquestionably the term 'domestic purposes' would extend to culinary purposes and the purposes of cleaning, washing, the feeding and supplying of an ordinary quantity of cattle, and so on."
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> *Prather v. Hoberg* (1944)[ix] "Without question the authorities approve the use of water for domestic purposes as first entitled to preference. That use includes consumption for the sustenance of human beings, for household conveniences, and for the care for livestock."
>
> *Deetz v. Carter* (1965)[x] "[p]riority conferred on domestic users by Water Code section 106 is a statutory extension of a traditional preference accorded to 'natural' over 'artificial' uses."

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Reasonable and Beneficial

In "The Reasonable Use Doctrine and Agricultural Water Use Efficiency: A Report to the State Water Resources Control Board and the Delta Stewardship Council" authored by Delta Watermaster Craig M. Wilson, Mr. Wilson lays the foundation for the "reasonable use" doctrine based on the California Constitution Section Article 10 Sec. 2, California Statutes Water Code §§100, 275, 1059, 1051, 1825, 10608, 10801, 85023, and several court cases.

Mr. Wilson, comments that the Reasonable Use Doctrine has been broadly implemented: "The State Water Board and the courts have used the doctrine to find unreasonable water uses in a variety of settings: ...7) The storage and diversion of water that jeopardize compliance with water quality standards, the public trust, and other in situ beneficial uses; 8) Excessive use of groundwater by overlying landowners in an overdrafted basin."

Rights of the Rural Residential Overliers to the Basin

Our purpose for raising the issue is to inform the committee of the primary right of domestic user and to reinforce the importance of the standing of the rural residential user. The court cases arose out of adjudicative situations and while some members of the committee and others might argue that enforcement of Section 106 is only the purview of the courts, that is, strictly speaking, that all overliers have equal rights, it is in the best interest of the rural residential overliers to make it clear that the courts have repeatedly recognized the superior right of water uses for residential purposes over irrigated agriculture.

The question in point during the meeting and clarified by Chair Werner was "What issues do we want to see addressed in the investigation of basin management districts?" It is our position that the rights of rural residential users must be secured within the structure of any management district before the district is formed. Thus far, we have not seen discussion or attention given to these rights that are codified in Section 106. We have been attending committee meetings for over 6 months, and it is not an exaggeration to say that focus has been primarily the needs of irrigated agriculture.

California Water District Not Equitable to Rural Residential Overliers

We are even more concerned about the rights of the rural residential overlier when there appears to be a well orchestrated push to form a California Water District. Water Code Section 35003[xi] [Water Code§§ 34000-35003 codify a California Water District] states that voting rights are based on one vote for each dollar of assessed valuation. North County Watch continues to raise the issue of the rights of the rural residential user because we have not heard anything that would give comfort to the thousands of rural residential users as to how their rights and concerns might be addressed in a California Water District.

Conclusion

North County Watch appreciates that this discussion of management districts is nascent and we fully support the efforts to establish a management structure. We clearly stated this position in

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our letter of March 18, 2013 on the failure of the county to manage the basin. We would be remiss if we waited until a district is formed to see if it protects the rights of rural residential users. We all have the goal of avoiding adjudication. Thus, the time to remind the committee and others of the priority rights of the rural residential user, per Section 106, is now, so that we get some acknowledgement and protection of those rights. Furthermore, North County Watch believes that domestic use includes a level of reasonable use commensurate with social and cultural norms of our community.

CC: Mr. Paavo Ogren, Director of Public Works
Ms. Courtney Howard, P.E.,Water Resources Engineer
SLO County Board of Supervisors

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[i] *City of Beaumont v. Beaumont Irrigation District* (1965), 63 Cal.2d 291, 381, 46 Cal.Rptr. 465, 469

[ii] *Meridian v. San Francisco* (1939), 13 Cal.2d424, 450, 90 P.2d 537, 550

[iii] *National Audubon Society v. Superior Court* (1983), 33 Cal3d 419, 448, n.30, 189 Cal.Rptr. 346,366 n.30

[iv] *Central & West Water Basin Replenishment District v. So. California Water Co.* (2003), 109 Cal.App.4th 891, 912-13, 135 Cal.Rptr.2d 486

[v] *Alta Land & Water Co. v. Hancock* (1890), 85 Cal.219, 230

[vi] *Smith v. Carter* (1897), 116 Cal. 587, 592

[vii] *Drake v. Tucker* (1919), 43 Cal.App 53, 58

[viii] *Cowell v. Armstrong* (1930), 210 Cal. 218, 225

[ix] *Prather v. Hoberg* (1944), 24 Cal.2d 549, 5562, 150 P.2d 405, 412

[x] *Deetz v. Carter* (1965), 232,Cal.App2d 851, 854-55, 43 Cal.Rptr. 321, 323

[xi] 35003. Each voter shall have one vote for each dollar's worth of land to which he or she holds title. The last equalized assessment book of the district is conclusive evidence of ownership and of the value of the land so owned except that in the event that an assessment for a district shall not have been made and levied for the year in which the election is held, the last assessment roll of each affected county shall be used in lieu of the assessment book of the district as evidence of ownership. However, the board may determine by resolution that the assessment book or assessment roll of each affected county shall be corrected to reflect, in the case of transfers of land, those persons who as of the 45th day prior to the election appear as owners on the records of the county. If an equalized assessment book of the district does not exist, then each voter shall be entitled to cast one vote for each acre owned by the voter within the district, provided that if the voter owns less than one acre then the voter shall be entitled to one vote and any fraction shall be rounded to the nearest full acre.

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