

## LOS OSOS GROUNDWATER BASIN, BASIN MANAGEMENT COMMITTEE

### NOTICE OF MEETING

**NOTICE IS HEREBY GIVEN** that the Los Osos Groundwater Basin, Basin Management Committee Board of Directors will hold a **Regular Board Meeting at 1:30 P.M. on Wednesday, August 26, 2020**. Based on the threat of COVID-19 as reflected in the Proclamations of Emergency issued by both the Governor of the State of California and the San Luis Obispo County Emergency Services Director, as well as the Governor's Executive Order N-29-20 issued on March 17, 2020 relating to the convening of public meetings in response to the COVID-19 pandemic, this meeting will be conducted as a phone-in/web-based meeting only. There will be no physical meeting location for this BMC Meeting. Members of the public can participate via phone or by logging into the web-based meeting.

For quick access, go to <https://us04web.zoom.us/j/778762508>  
(This link will help connect both your browser and telephone to the call)

**If not using a computer**, dial 1 (669) 900-6833 or 1 (346) 248-779 and enter **778 762 508**

All persons desiring to speak during any Public Comment can submit a comment by:

- Email at [dheimel@wsc-inc.com](mailto:dheimel@wsc-inc.com) by 5:00 PM on the day prior to the Committee meeting.
- Teleconference by phone at 1 (669) 900-6833 and enter **778 762 508**
- Teleconference by phone at 1 (346) 248-7799 and enter **778 762 508**
- Teleconference meeting at <https://us04web.zoom.us/j/778762508>
- Mail by 5:00 PM on the day prior to the Committee meeting to:  
Attn: Dan Heibel (Basin Management Committee)  
2122 9th St.  
Suite 110  
Los Osos, CA 93402

Additional information on how to submit Public Comment is provided on page 3 of this Agenda

*Directors: Agenda items are numbered for identification purposes only and may not necessarily be considered in numerical order.*

*NOTE: The Basin Management Committee reserves the right to limit each speaker to three (3) minutes per subject or topic. In compliance with the Americans with Disabilities Act and Executive Order N 29-20, all possible accommodations will be made for individuals with disabilities, so they may participate in the meeting. Persons who require accommodation for any audio, visual or other disability in order to participate in the meeting of the BMC are encouraged to request such accommodation 48 hours in advance of the meeting from Dan Heibel at [dheimel@wsc-inc.com](mailto:dheimel@wsc-inc.com).*

### BASIN MANAGEMENT COMMITTEE BOARD OF DIRECTORS AGENDA

#### 1. CALL TO ORDER

#### 2. ROLL CALL

#### 3. BOARD MEMBER COMMENTS

Board members may make brief comments, provide project status updates, or communicate with other directors, staff, or the public regarding non-agenda topics.

#### 4. CONSENT AGENDA

The following routine items listed below are scheduled for consideration as a group. Each item is recommended for approval unless noted and may be approved in their entirety by one motion. Any member of the public who wishes to comment on any Consent Agenda item may do so at this time.

Consent items generally require no discussion. However, any Director may request that any item be withdrawn from the Consent Agenda and moved to the "Action Items" portion of the Agenda to permit discussion or to change the recommended course of action. The Board may approve the remainder of the Consent Agenda on one motion.

- a. **Approval of Minutes from June 17, 2020 meeting**
- b. **Approval of Warrants, Budget Update and Invoice Register through August 2020**

**5. EXECUTIVE DIRECTOR'S REPORT**

**6. ACTION ITEMS**

**a. Draft 2020 Spring Lower Aquifer Groundwater Basin Monitoring**

Recommendation: Receive an update on early findings for the Spring 2020 Lower Aquifer Groundwater Monitoring results.

**b. Implementation Plan and Budget Authorization**

Recommendation: Review and provide direction on the proposed approach for preparing an Implementation Plan for the BMC and provide authorization for staff to utilize additional budget to complete the Implementation Plan development; or provide alternate direction to staff.

**c. AB1600 Funding Study**

Recommendation: Review the provided description of an AB1600 Funding Study and provide direction to staff on how to proceed.

**d. Update on Status of Basin Plan Infrastructure Projects**

Recommendation: Receive report and provide input to staff on future direction.

**7. PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA**

The Basin Management Committee will consider public comments on items not appearing on the agenda and within the subject matter jurisdiction of the Basin Management Committee. The Basin Management Committee cannot enter into a detailed discussion or take any action on any items presented during public comments at this time. Such items may only be referred to the Executive Director or other staff for administrative action or scheduled on a subsequent agenda for discussion. Persons wishing to speak on specific agenda items should do so at the time specified for those items. The presiding Chair shall limit public comments to three minutes.

**8. ADJOURNMENT**

*Notice of Meeting*  
**LOS OSOS GROUNDWATER BASIN, BASIN MANAGEMENT  
COMMITTEE**

**\*\*\*CONFERENCE CALL/WEBINAR ONLY\*\*\***

Wednesday, August 26, 2020 at 1:30 PM

**Important Notice Regarding COVID-19: Based on guidance from the California Department of Public Health and the California Governor's Office, in order to minimize the spread of the COVID-19 virus, please note the following:**

1. The meeting will only be held telephonically and via internet via the number and website link information provided on the agenda. After each item is presented, Committee Members will have the opportunity to ask questions. Participants on the phone or on the computer will then be provided an opportunity to speak for 3 minutes as public comment prior to Committee deliberations and/or actions or moving on to the next item. If a participant wants to provide public comment on an item they should select the "Raise Hand" icon on the Zoom Online Meeting platform or press \*9 if on the phone. The meeting host will then unmute the participant when it is their turn to speak and allow them to provide public comment.
2. The Committee's agenda and staff reports are available at the following website:  
[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)
3. If you choose not to participate in the meeting and wish to make a written comment on any matter within the Committee's subject matter jurisdiction, regardless of whether it is on the agenda for the Committee's consideration or action, please submit your comment via email or U.S. Mail by 5:00 p.m. on the day prior to the Committee meeting. Please submit your comment to Dan Heibel at [dheibel@wsc-inc.com](mailto:dheibel@wsc-inc.com). Your comment will be placed into the administrative record of the meeting.
4. If you choose not to participate in the meeting and wish to submit verbal comment, please call (805) 457-8833 x104 and ask for Dan Heibel. If leaving a message, state and spell your name, mention the agenda item number you are calling about and leave your comment. The verbal comments must be received by no later than 9:00 a.m. on the morning of the noticed meeting and will be limited to 3 minutes. Every effort will be made to include your comment into the record, but some comments may not be included due to time limitations.

Mailing Address:  
Attn: Dan Heibel  
Basin Management Committee  
2122 9<sup>th</sup> St.  
Suite 110  
Los Osos, CA 93402

*All Americans with Disabilities Act (ADA) accommodations shall be promptly reviewed and resolved.* Persons who require accommodations for any audio, visual or other disability in order to review an agenda, or to participate in the meeting of the Basin Management Committee per the ADA, are encouraged to request such accommodation 48 hours in advance of the meeting from Dan Heibel at (805) 457-8833 x104.

**BASIN MANAGEMENT COMMITTEE BOARD OF DIRECTORS**

**Agenda Item 4a: Minutes of the Meeting of June 17, 2020**

<b>Agenda Item</b>	<b>Discussion or Action</b>
1. <b>CALL TO ORDER</b>  2. <b>ROLL CALL</b>	Chairperson Ochylski called the meeting to order at 1:30 pm.  Mr. Heimel, acting Clerk, called roll to begin the meeting. Chairperson Ochylski, Director Gibson, Director Cote, and Vice Chairperson Zimmer were all present.
3. <b>BOARD MEMBER COMMENTS</b>	<u><b>Board Comments</b></u> None
<b>4. CONSENT AGENDA</b>	
4a. <b>Minutes of the Meeting of May 20<sup>th</sup>, 2020</b>	Review of minutes from May 20, 2020 Meeting  <u><b>Public Comment</b></u> None
4b. <b>Approval of Budget update and Invoice Register through June 2020</b>	<u><b>Board Action</b></u> The Board of Directors approved Item 4a and 4b.  <b>Ayes: Chairperson Ochylski, Director Gibson, Director Cote, and Vice Chairperson Zimmer</b> <b>Nays: None</b> <b>Abstain: None</b> <b>Absent: None</b>
5. <b>EXECUTIVE DIRECTOR'S REPORT</b>	Staff recommends that the Committee receive and file the report and provide staff with any direction for future discussions.  <u><b>Public Comment</b></u> Jeff Edwards  <u><b>Board Direction</b></u> None
<b>6. ACTION ITEMS</b>	
6a. <b>Draft Land Use Planning Documents Presentation</b>	Receive a presentation from County Planning Staff Kylie Heinsely on the Draft 2016-18 Resources Summary Report, Growth Management Ordinance and Los Osos Community Plan, review the Draft Program U and C Sustainable Yield Update Technical Memorandum and provide direction to staff.  <u><b>Public Comment</b></u> Chris Gardner Meg Lynnette Jeff Edwards

	<p><b><u>Board Direction</u></b></p> <p>1. Purveyors to provide comments to the SLO County Planning Commission before the July 9<sup>th</sup>, 2020 Meeting. The BMC to reconsider this item after Planning Commission findings and before it is taken to the Board of Supervisors.</p> <p>2. Consider a future agenda item regarding the threat of nitrate contamination in the lower aquifer.</p>
<b>6b. Implementation Plan Approach</b>	<p>Review and provide direction on the proposed approach for preparing an Implementation Plan for the BMC and provide authorization for staff to initiate the Implementation Plan development; or provide alternate direction to staff.</p> <p><b><u>Public Comment</u></b> Jeff Edwards</p> <p><b><u>Board Direction</u></b> Executive Director to initiate initial steps of Implementation Plan and bring back a cost estimate to complete the Implementation Plan and results of the initial steps to the next BMC Meeting.</p>
<b>6c. Final 2019 Annual Report</b>	<p>Receive the Final 2019 Annual Report, authorize submission to the Court, and provide direction to Staff on future Annual Report review and approval procedures; or provide alternate direction to staff.</p> <p><b><u>Public Comment</u></b> Jeff Edwards</p> <p><b><u>Board Action</u></b> The Board of Directors authorized approval of the 2019 Annual Report and submission to the Court and elected to defer discussion regarding report development and review procedures.</p> <p><b>Ayes: Chairperson Ochylski, Director Gibson, Director Cote, and Vice Chairperson Zimmer</b> <b>Nays: None</b> <b>Abstain: None</b> <b>Absent: None</b></p>
<b>6d. Update on Status of Basin Plan Infrastructure Projects</b>	<p>Receive report and provide input to staff on future direction.</p> <p><b><u>Public Comment</u></b> None</p>
<b>7. PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA</b>	<p><b><u>Public Comment</u></b> None</p> <p><b><u>Board Comments</u></b> None</p>
<b>9. ADJOURNMENT</b>	<p>Meeting was adjourned at approximately 3:43 PM. The next meeting is scheduled for July 15<sup>th</sup>, 2020.</p>

**Attachment 1: Cost Summary (January 2020 to Current Date) for Calendar Year 2020 Preliminary Budget**

<b>Item</b>	<b>Description</b>	<b>Budget Amount</b>	<b>Costs Incurred</b>	<b>Percent Incurred</b>	<b>Remaining Budget</b>
1	Monthly meeting administration, including preparation, staff notes, and attendance	\$70,000	\$37,943.75	54.2%	\$32,056
2	Meeting expenses - facility rent (if SBCC needed for larger venue)	\$1,500	\$120.00	8.0%	\$1,380
3	Meeting expenses - audio and video services	\$6,000	\$875.00	14.6%	\$5,125
4	Adaptive Management - Groundwater Modeling & Well Head Surveying	\$15,000	\$0.00	0.0%	\$15,000
5	Semi annual seawater intrusion monitoring	\$40,000	\$20,853.19	52.1%	\$19,147
6	2020 Annual Report	\$38,000	\$39,187.50	103.1%	-\$1,188
7	Grant writing (outside consultant)	\$5,000	\$0.00	0.0%	\$5,000
	Subtotal	\$175,500	\$98,979		\$76,521
	10% Contingency (rounded to nearest \$100)	\$17,600			
	<b>Total</b>	<b>\$193,100</b>	<b>\$98,979</b>	<b>51.3%</b>	<b>\$94,121</b>
	LOCSD (38%)	\$73,378			
	GSWC (38%)	\$73,378			
	County of SLO/SLOCFC&WCD (20%)	\$38,620			
	S&T Mutual (4%)	\$7,724			



ATTACHMENT 3

Current Invoices Subject to Approval for Payment (Warrant List as of August 2020):

<b>Vendor</b>	<b>Invoice #</b>	<b>Amount of Inv.</b>	<b>Date of Services</b>
WSC	4785	\$14,588.75	May/Jun-20
CHG	20200607	\$1,485.00	Jun-20



**TO:** Los Osos Basin Management Committee

**FROM:** Dan Heimel, Executive Director

**DATE:** August 26, 2020

**SUBJECT:** Item 5 – Executive Director’s Report

## Recommendations

Staff recommends that the Committee receive and file the report and provide staff with any direction for future discussions. Sections of the Executive Director’s Report that have been updated or significantly changed from the previous meeting’s version are underlined.

## Discussion

This report was prepared to summarize administrative matters not covered in other agenda items and to provide a general update on staff activities.

## Funding and Financing Programs to Support Basin Plan Implementation

**Prop 1 GWGP:** As indicated in the January 2018 meeting, the State Board confirmed that sea water intrusion mitigation projects under Program C are eligible for low interest loans but are not currently eligible for grants under the Proposition 1 Groundwater Grant Program (GWGP). New wells in the upper and lower aquifer are viewed as aquifer management, not aquifer clean-up as defined by the State, therefore we will need to look for future funding rounds and other opportunities.

**IRWM:** The Program A upper aquifer well at 8th Street was submitted by Los Osos CSD to the local IRWM process in 2019 and was subsequently selected to be a part of the application for the current funding opportunity. The application for this grant was submitted in December 2019 and the Project was included in the Department of Water Resource’s July 2020 Final Funding Award List for the full grant request (\$238,000). Additional details regarding status are included in the Basin Plan Status Update.

**Prop 1 SWGP:** The concept of urban storm water recovery at 8th and El Moro was ranked in the County Stormwater Resource Plan, and a grant opportunity may be available through the Prop 1 Storm Water Grant Program (SWGP). Round 2 of SWGP funding is now open and accepting applications until July 2nd. The Stormwater Resource Plan can be found here:

<https://www.slocounty.ca.gov/Departments/Public-Works/Committees-Programs/Stormwater-Resource-Plan.aspx>

And information about the Storm Water Grant Program can be found here:

[https://www.waterboards.ca.gov/water\\_issues/programs/grants\\_loans/swgp/prop1/](https://www.waterboards.ca.gov/water_issues/programs/grants_loans/swgp/prop1/)

**WRFP:** The State Water Resource Control Board (SWRCB) recently increased the amount for Water Recycled Program Planning (WRFP) grants from \$75k to \$150k. This could provide a grant funding opportunity to advance Basin Plan initiatives with a reduced cost to the community of Los Osos. Potential scope items for the RWFPS could include:

- Transient Groundwater Model Development
- Soil Aquifer Treatment (SAT) Assessment
- Broderson/Creek Discharge Scenario Analysis
- Stormwater and Perched Water Recovery Project – Feasibility Study
- Adaptive Management Groundwater Modeling
- RWFPS Report Development

## Status of Basin Plan Implementation and Funding Plans

The BMC has requested an integrated funding plan for project implementation and BMC monitoring and administration. Discussions are expected to continue with the following goals:

- Funding plan for on-going BMC administration and monitoring, with options for funding in the absence of a community-wide special tax.
- Funding and execution plan for Basin Infrastructure Programs B and D, as appropriate. Note that funding already exists for Programs A and C.
- Additional progress for plans to supplement basin yield and provide for the community's needs consistent with the Los Osos Community Plan, including creek discharge, storm water recovery, or other supply augmentation projects.
- Clear governance structure to accomplish objectives, including detailed consideration of a JPA if needed as discussed in previous meetings.

Recent discussions with BMC Party Staff have identified that the BMC could benefit from a Strategic Planning initiative to establish a common baseline understanding for the roles and responsibilities and to guide future actions and investments. This process is ongoing.

**JPA Formation:** Staff level discussions continue to focus on the need for, and benefits of, forming a JPA, see table below, to assist with implementation of the Basin Plan.

Table 1. JPA Formation Considerations

Pros	Cons
• Common ownership of basin assets	• Complexity and community perception
• Ability to contract for services as an entity	• Potential for more difficulty in formal proceedings - less nimble
• GSWC can participate as a director	• More difficult to exit/change if needed
• Could cover entire limits of basin for funding	
• If carefully done, incremental costs could be limited to insurance and up-front legal expenses	
• Ability to carry-over funds from one budget year to another	

As indicated in previous meetings, it was determined that GSWC could serve as an appointed JPA director without forming a separate Mutual Water Company entity, which would simplify the process.

Recent discussions with BMC Party Staff indicate that the BMC Parties would like to execute the Implementation Plan initiative to first develop a roadmap for the BMC and then evaluate the potential formation of a JPA or other governance structure once there is a more defined plan for future BMC initiatives.

**Program B Implementation Process and Funding:** The existing nitrate removal facility owned by GSWC is intended to serve existing development, so it is likely that a Program B facility intended for future development would be jointly owned by either a JPA or by one of the public agencies.

- Likely next steps for the implementation of Program B projects include:
  - Technical Studies to validate and update cost estimates
  - Siting Studies to identify project locations
  - AB 1600 analysis to evaluate funding options relative to future development in coordination with the Los Osos Community Plan
  - Environmental Review (CEQA)
  - Land Use Permitting (e.g. Coastal Development Permits, etc.)

BMC staff is continuing to investigate funding frameworks that would provide for equitable implementation of the Basin Plan.

### Land Use Planning Process Update

**Los Osos Community Plan:** The Board authorized preparation of this update on December 11, 2012. A series of community outreach meetings to unveil the Community Plan were conducted in the Spring of 2015. The plan was prepared to be consistent and coordinated with the draft groundwater basin management plan and the draft Habitat Conservation Plan. The plan may be

reviewed at the Department of Planning and Building, the Los Osos Library and on the Department's website. The draft Environmental Impact Report was released on September 12, 2019, comments were due December 11, 2019. A Community Meeting on the Draft Environmental Impact Report for the Los Osos Community Plan and the Habitat Conservation Plan and associated Environmental Documents was held on October 28, 2019. The Final Environmental Impact Report and Public Hearing Draft were released on June 8, 2020. The Planning Commission held hearings on July 9, 2020 and August 13, 2020. At the August 13, 2020 hearing, the Planning Commission asked for additional information regarding Environmentally Sensitive Habitat Areas and continued the item to October 8, 2020.

**Growth Management Ordinance:** Establish a growth rate for the community of Los Osos (a companion to the Los Osos Community Plan). The Planning Commission held hearings on July 9, 2020 and August 13, 2020. At the August 13, 2020 hearing, the Planning Commission asked for additional information regarding Environmentally Sensitive Habitat Areas and continued the item to October 8, 2020.

**Habitat Conservation Plan:** The public review draft HCP and the associated Environmental Impact Report and Environmental Assessment was released on October 2, 2019 and the comment period ended on November 18, 2019. A Community Meeting on the HCP and associated Environmental Documents as well as the Draft Environmental Impact Report for the Los Osos Community Plan was held on October 28, 2019. Staff is currently working on finalizing the Environmental Documents and the Management Plan for the Preserve system.

**Accessory Dwelling Units (ADU):**

On January 28, 2020, the Board of Supervisors considered and adopted a resolution to amend Title 22 and 23 for the replacement of the Secondary Dwelling Ordinance with a new ordinance for Accessory Dwelling Units (ADUs). Final action on the amendments to Table "O" of the Coastal Framework for Planning was originally scheduled to be taken by the Board of Supervisors on April 7, 2020, but has been postponed due to the COVID-19 pandemic.

The adopted ordinance would allow ADUs to be established in the Community of Los Osos. It is anticipated that the amendments to Title 23 and Table "O" of the Coastal Framework for Planning will be going before the California Coastal Commission for approval later this year. Until such amendments are approved by the California Coastal Commission, the County will review ADU applications for consistency with State ADU law, which would allow for the construction of ADUs in the Coastal Zone.

## Los Osos Wastewater Project Flow and Connection Update

**Wastewater Flows:** Influent flows to the treatment facility averaged 0.50 MGD for the month of July, and 0.49 MGD since January 1, 2020

**Recycled Water:** Sea Pines Golf Course received:

- 620,000 gallons of recycled water in January;
- 1,412,000 gallons in February; and

- 1,131,400 gallons in March
- 2,355,100 gallons in April
- 3,972,800 gallons in May
- 3,337,100 gallons in June
- 3,372,900 gallons in July

**Effluent Disposal:** Effluent disposal was:

- 40.80 AF to Broderson and 0.02 AF to Bayridge Leach Fields in January;
- 37.20 AF to Broderson and 0.00 AF to Bayridge Leach Fields in February;
- 45.68 AF to Broderson and 0.08 AF to Bayridge Leach Fields in March;
- 35.46 AF to Broderson and 0.99 AF to Bayridge Leach Field in April;
- 32.92 AF to Broderson and 1.07 AF to Bayridge Leach Field in May
- 31.50 AF to Broderson and 1.03 AF to Bayridge Leach Field in June;
- 33.20 AF to Broderson and 1.04 AF to Bayridge Leach Field in July; and
- The cumulative effluent disposal for the calendar year as of 8/1/2020 was 260.99 AF.

**Enforcement:** A list of properties that were not connected were transferred to County Code Enforcement and Notice of Violations were issued last year in Feb. 2019. That list was about 70 properties. As of 4/2/2020, the sewer service area had a 99.2% connection status with a total of 44 properties not yet connected. Of those, one is not required to connect because there is no structure (demolished), 24 have expired building permits, and the rest have an open Code Enforcement case. Expired permits did not receive a Code Enforcement case because those properties have their own noticing process through the Building Department which, if not corrected, could result in a Notice of Violation.

The County has assigned new staff in code enforcement to Los Osos. They will be reviewing the status of cases that were issued earlier last year.

## Water Conservation Update

**Rebate Update:** There has been an increase of 1 washing machine rebate since last report.

For this fiscal year, there have been rebates for six (6) toilets, one (1) showerhead, four (4) washing machines and (1) one hot water recirculatory. Average indoor water usage for 2019 was estimated to be 40 gpd per person.

## Cannabis and Hemp Information

**Hemp:** According to the Ag Commissioners Office there is one Hemp grow located at APN 067-011-057 with approximately 5 acres planted outdoor and .1 acre indoor, total 5.1 acres. Hemp is not currently regulated under a land use permit, therefore no DRC tracking number has been assigned.

**Cannabis:** The County is processing DRC2018-00215 a Development Plan to establish a cannabis cultivation site. The County is requiring the applicant to offset the increased water use

for the project, and the current proposal is to retrofit urban reverse osmosis systems to increase their efficiency. The total proposed offset volume is 3.5 acre feet per year.

## Pending Task List for Executive Director

As requested at the January 2019 meeting, the following list of pending tasks has been created for BMC input and reference.

Task Description	Estimated Schedule	Budget Consideration
<u>Implementation Plan</u>	<u>Completed by end of 2020</u>	<u>Additional budget requested</u>

## Sustainable Groundwater Management Act (SGMA)

**SGMA Overview:** The SGMA took effect on January 1, 2015.<sup>1</sup> SGMA provides new authorities to local agencies with water supply, water management or land use responsibilities and requires various actions be taken in order to achieve sustainable groundwater management in high and medium priority groundwater basins. Los Osos Valley Groundwater Basin (Los Osos Basin) was subject to SGMA based on the 2014 Basin Prioritization by the California Department of Water Resources (DWR) that listed the Los Osos Basin as high priority and in critical conditions of overdraft.<sup>2</sup>

**Basin Prioritization:** On December 18, 2019, DWR released the SGMA 2019 Basin Prioritizations. Basins or subbasins reassess to low or very low priority basins or subbasins are not subject to SGMA regulations. A summary of DWR's Final SGMA Prioritizations for the Los Osos Area Subbasin and Warden Creek Subbasin are listed below:

- Los Osos Area Subbasin is listed as **very low** priority for SGMA<sup>3</sup> and in critical conditions of overdraft<sup>4</sup>
  - SGMA does not apply to the portions of Los Osos Basin that are adjudicated provided that certain requirements are met (Water Code §10720.8).
- Warden Creek Subbasin is listed as **very low** priority for SGMA<sup>3</sup>

For more information on DWR's basin boundary modification and prioritization process, please visit:

<https://water.ca.gov/Programs/Groundwater-Management/Basin-Prioritization>

<sup>1</sup> On September 16, 2014, Governor Jerry Brown signed into law a three-bill legislative package, composed of AB 1739 (Dickinson), SB 1168 (Pavley), and SB 1319 (Pavley), collectively known as SGMA

<sup>2</sup> SGMA mandates that all groundwater basins identified by DWR as high- or medium-priority by January 31, 2015, must have groundwater sustainability agencies established by June 30, 2017. The act also requires that all high- and medium-priority basins classified as being subject to critical conditions of overdraft in Bulletin 118, as of January 1, 2017, be covered by groundwater sustainability plans, or their equivalent, by January 31, 2020. Groundwater sustainability plans, or their equivalent, must be established for all other high- and medium-priority basins by January 31, 2022.

<sup>3</sup> As noted by DWR, the priority for the subbasin has been set to very low (0 total priority points) as a result of conditions being met under sub-component C of the Draft SGMA 2019 Basin Prioritizations.

<sup>4</sup> Critical conditions of overdraft have been identified in 21 groundwater basins as described in Bulletin 118 (Water Code Section 12924). Bulletin 118 (updates 2003) defines a groundwater basin subject to condition of critical overdraft as: "A basin is subject to critical conditions of overdraft when continuation of present water management practices would probably result in significant adverse overdraft-related environmental, social, or economic impacts."

**TO:** Los Osos Basin Management Committee

**FROM:** Daniel Heimel, Executive Director

**DATE:** August 26, 2020

**SUBJECT:** Item 6a – Draft 2020 Spring Lower Aquifer Groundwater Basin Monitoring Results

**Recommendations**

Receive an update on early findings for the Spring 2020 Lower Aquifer Groundwater Monitoring results.

**Discussion**

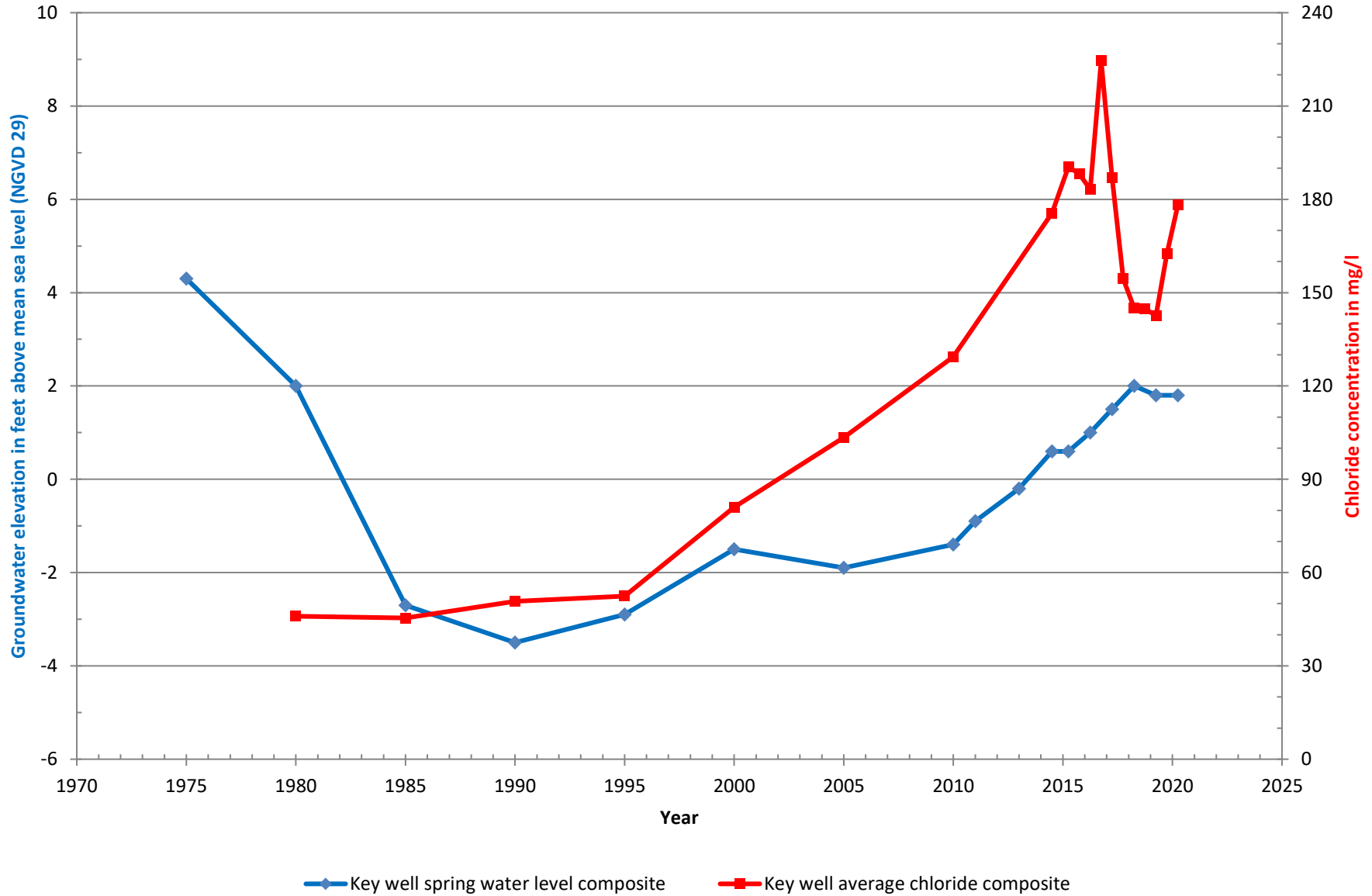
As described in Section 5.14 of the Stipulated Judgment and Chapter 7 of the Basin Plan, the Basin Management Committee (BMC) established a groundwater monitoring program to provide the BMC, parties to the adjudication, private Basin water users and public agencies with continuously updated information on groundwater resources in the Basin. The BMC retained Cleath Harris Geologists (CHG) to perform the groundwater monitoring program for 2020. The following attachments include the draft results from the Spring 2020 lower aquifer groundwater monitoring and updated Water Level and Chloride Metrics. Final results, including water levels and results from the first water and upper aquifer monitoring, will be included in the 2020 Annual Report.

**Financial Considerations**

Budget items 5 in the adopted calendar year 2020 budget address monitoring. At this time, no budget adjustments are recommended.

# Spring 2020 DRAFT

## Chloride and Water Level Metric Lower Aquifer





### Water Quality Results - Lower Aquifer Monitoring

Station ID	Well Name	Basin Plan Well ID	Aquifer Zone	Date	HCO3	Total Hardness	Cond	pH	TDS	Cl	NO3-N	SO4	Ca	Mg	K	Na
					mg/l	mg/l	umhos/cm	units	mg/l	mg/l	mg/l	mg/l	mg/l	mg/l	mg/l	mg/l
30S/10E-11A2	Sand Spit #1 East	LA2	D	3/14/2005	180	4600	16000	7.3	8900	5400	ND	430	770	640	20	1300
				10/21/2015	150	6640	17700	7.4	13100	6300	ND	740	1030	990	31	1560
30S/10E-12J1	MBO5 DWR Obs.	LA11	E	2/14/2005	350	370	1300	8.1	840	77	ND	190	51	58	6.1	110
				11/20/2009	300	360	1150	7.5	732	83	ND	190	51	58	4.4	95
				7/24/2014	360	489	1290	7.7	780	105	ND	212	69	77	5	88
				4/22/2015	360	475	1290	7.8	810	112	ND	189	65	76	5	88
				10/1/2015	250	486	1280	7.3	840	117	ND	188	68	77	4	85
				4/20/2016	330	524	1370	n/a	840	151	ND	193	73	40	5	83
				10/10/2016	350	497	1370	7.1	930	173	ND	189	69	79	4	81
				4/11/2017	350	541	1380	7.5	880	167	ND	186	75	86	4	81
				10/4/2017	300	543	1370	7	850	162	ND	191	76	86	5	90
				4/10/2018	350	595	1390	7.6	820	173	ND	192	85	93	5	97
				10/2/2018	350	497	1340	7.4	870	160	ND	160	69	79	3	87
				4/9/2019	350	539	1430	7.4	860	196	ND	189	76	85	4	85
				10/2/2019	250	290	1520	7.6	1000	187	ND	189	80	90	5	91
				4/14/2020	350	667	1580	7	950	222	ND	187	81	113	5	83
30S/10E-13Bb	Lupine Zone D	LA41	D	11/7/2019	210	312	1310	7.7	760	136	3.1	188	69	34	4	140
				4/8/2020	310	204	943	7.8	560	68	0.3	109	44	23	2	101
30S/10E-13Ba	Lupine Zone E	LA40	E	11/6/2019	210	2090	5330	7	4750	1460	1.3	224	388	272	6	182
				4/7/2020	240	3300	7360	7.6	6340	2190	0.3	202	569	458	7	203
30S/10E-13J1* Highlighted chloride values from GSWC water quality monitoring (dates vary from those listed)	GSWC Rosina	LA10	D,E	12/20/2004	72	230	720	7.1	410	150	1.6	14	38	33	1.4	29
				1/14/2010	35	260	778	6	435	200	1.6	13	41	38	1.5	33
				7/24/2014	80	418	1200	7.3	910	303	1.7	16	67	61	2	39
				4/22/2015	80	431	1230	7.1	750	331	1.9	20	69	63	2	39
				10/5/2015	70	460	1280	7	950	329	1.7	19	74	67	2	41
				4/26/2016	80	412	1170	7.1	840	299	1.8	18	66	60	2	37
				10/12/2016	60	509	1430	6.8	1100	389	1.8	27	82	74	2	44
				4/10/2017	80	327	957	6.9	720	300	2.6	15	52	48	2	35
				10/12/2017	80	245	702	6.9	510	220	3.4	13	39	36	2	33
				4/24/2018	70	188	620	7.4	400	190	4.3	12	29	28	1	29
				10/9/2018	70	265	730	7.1	450	210	3.2	13	42	39	2	34
				4/15/2019	80	251	744	7	600	174	1.9	10	38	38	2	31
				10/14/2019	80	332	961	7.1	830	229	2	13	54	48	1	33
				4/21/2020	80	353	1310	6.4	970	250	2.1	14	59	50	2	32
30S/10E-13M2	Howard East	LA31	C,D	11/22/2004	51	810	2900	7.3	1500	810	0.5	140	60	120	4.7	210
				12/9/2009	55	1100	3740	7.1	2170	1100	0.5	220	160	160	4.8	370
				8/4/2014	60	757	3340	7.1	2450	990	0.6	178	117	113	5	382
				4/21/2015	60	739	3430	7.3	1930	950	0.6	178	117	113	5	382
				10/6/2015	30	756	3370	7.1	2140	960	0.5	185	115	114	5	342
				4/20/2016	50	726	3520	7.2	2190	941	0.7	179	113	108	5	400
				10/19/2016	70	722	3420	7.4	2190	943	0.6	182	113	107	4	398
				4/17/2017	60	733	3380	6.8	2060	907	0.6	178	114	109	4	413
				10/5/2017	60	738	3350	7.5	2190	960	0.7	160	116	109	5	411
				4/24/2018	70	664	3370	7.2	2020	946	0.6	2.8	103	99	4	367
				10/17/2018	60	740	3400	7.3	2180	834	0.6	153	115	110	5	414
				4/3/2019	70	640	3290	7.8	2010	940	0.6	179	103	93	4	341
				10/3/2019	70	574	3120	7.4	2120	827	0.7	169	90	85	4	340
				4/9/2020	70	519	2970	7.8	1740	738	0.6	152	86	74	4	258

### Water Quality Results - Lower Aquifer Monitoring

Station ID	Well Name	Basin Plan Well ID	Aquifer Zone	Date	HCO3	Total Hardness	Cond	pH	TDS	Cl	NO3-N	SO4	Ca	Mg	K	Na
					mg/l	mg/l	umhos/cm	units	mg/l	mg/l	mg/l	mg/l	mg/l	mg/l	mg/l	mg/l
30S/10E-13N	S&T #5	LA8	D	11/23/2004	42	80	390	6.9	200	67	5.9	9.2	13	12	1.7	38
				11/19/2009	41	89	386	6.8	267	73	6.1	11	15	13	1.4	38
				7/24/2014	50	100	438	7.4	270	76	7	10	17	14	2	38
				4/21/2015	50	98	445	6.9	280	77	7.7	11	16	14	2	38
				10/6/2015	40	98	422	7.2	310	75	6.8	10	16	14	1	38
				4/20/2016	20	97.5	446	7	320	76	7.2	12	16	14	1	38
				10/13/2016	50	104	470	8	320	79	7.2	12	17	15	1	40
				4/11/2017	50	100	434	7.4	270	77	7.3	12	17	14	1	38
				10/2/2017	30	95	438	7.2	290	78	7.6	13	15	14	1	36
				4/11/2018	60	104	440	7	260	79	7.9	14	17	15	1	39
				10/3/2018	60	107	430	6.5	340	66	6.7	13	18	15	2	40
				4/3/2019	50	100	434	6.3	250	75	7.3	13	17	14	1	36
10/7/2019	60	95	446	7.6	250	77	7.7	14	15	14	1	37				
4/13/2020	60	104	443	8	300	75	7.4	15	17	15	2	37				
30S/10E-14B2	Sand Spit #3 Deep	LA3	D	3/15/2005	100	3600	30000	8	17000	8500	ND	960	1200	130	34	4300
				10/21/2015	ND	7140	29500	11	24700	10000	ND	530	2830	20	80	4040
30S/10E-24C1	GSWC Cabrillo	LA9	D	12/20/2004	64	130	610	7	310	110	4.5	19	22	19	1.6	50
				11/20/2009	60	150	611	7.1	347	130	4.1	22	23	22	1.6	52
				7/24/2014	40	69	339	7.6	240	46	8.4	6	11	10	1	32
				4/22/2015	70	117	530	7.3	320	95	5.5	16	19	17	2	45
				10/5/2015	50	75	349	7.6	270	50	7.6	7	12	11	1	34
				4/26/2016	70	115	499	7	300	90	5.6	16	18	17	2	44
				10/12/2016	70	111	506	7.1	320	93	5.5	15	18	16	1	44
				4/10/2017	70	111	490	7	310	89	5.7	16	18	16	1	43
				10/12/2017	70	117	484	7	270	89	6	16	19	17	2	46
				4/24/2018	70	115	486	7.8	300	90	6.2	17	18	17	1	43
				10/9/2018	60	135	477	6.9	280	76	5.8	17	21	20	2	50
				4/15/2019	70	112	488	7.1	310	92	5.7	16	17	17	2	45
10/14/2019	no sample (off-line)															
4/21/2020	50	75.2	492	6.7	290	80	9.1	8.4	12	11	1	34				
30S/11E-7Q3	LOCSD 8th St.	LA12	D	11/18/2004	250	270	790	7.5	410	73	ND	39	44	40	2.3	48
				11/19/2009	220	290	782	7.4	465	92	ND	46	46	42	1.9	53
				7/23/2014	290	303	876	7.6	460	91	ND	43	49	44	2	54
				4/21/2015	290	305	897	7.7	500	101	ND	55	48	45	2	59
				10/6/2015	280	298	828	7.4	490	91	ND	46	47	44	2	55
				4/20/2016	190	307	907	7.7	520	91	ND	49	49	45	2	54
				10/11/2016	280	278	827	4.9	490	93	ND	46	44	41	2	52
				4/10/2017	300	294	839	7.3	480	91	ND	50	47	43	2	54
				10/4/2017	220	305	826	6.5	470	92	ND	45	48	45	2	56
				4/10/2018	300	319	814	7.7	440	93	ND	46	52	46	2	56
				10/2/2018	290	283	822	7.3	470	78	ND	50	46	41	1	53
				4/9/2019	300	301	844	7.5	480	94	ND	50	48	44	2	53
10/2/2019	290	312	877	8	530	91	ND	51	49	46	2	56				
4/16/2020	310	301	883	7.8	500	94	ND	55	48	44	2	52				

### Water Quality Results - Lower Aquifer Monitoring

Station ID	Well Name	Basin Plan Well ID	Aquifer Zone	Date	HCO3	Total Hardness	Cond	pH	TDS	Cl	NO3-N	SO4	Ca	Mg	K	Na
					mg/l	mg/l	umhos/cm	units	mg/l	mg/l	mg/l	mg/l	mg/l	mg/l	mg/l	mg/l
30S/11E-17E8	So. Bay Obs. Middle	LA22	D	1/14/2005	150	150	440	7.5	290	34	2.2	11	24	22	1.4	28
				11/20/2009	120	160	455	7.3	255	42	4.3	12	25	23	1.3	29
				7/23/2014	150	166	500	7.6	270	43	6.3	10	27	24	2	28
				4/21/2015	150	157	481	7.6	270	49	7.1	13	25	23	1	28
				10/1/2015	120	164	475	7.4	290	44	6.6	10	26	24	1	28
				4/19/2016	150	164	476	6.9	290	45	6.9	12	26	24	1	29
				10/13/2016	140	161	521	7.3	290	46	6.9	12	25	24	1	29
				4/13/2017	150	164	466	7.3	300	46	6.7	13	26	24	1	29
				10/11/2017	150	168	476	7.7	260	47	7.2	14	26	25	1	29
				4/16/2018	150	165	473	6.4	310	47	6.7	14	25	25	1	29
				10/10/2018	150	160	471	7.5	250	43	6.1	15	26	23	1	28
				4/10/2019	180	153	466	7.2	290	46	5.8	14	25	22	1	28
10/9/2019	150	155	485	7.3	270	49	7	15	24	23	1	28				
4/14/2020	160	164	482	8	280	48	6.3	15	26	24	1	27				
30S/11E-17N10	GSWC So. Bay #1	LA20	C,D,E	Jan 2003	250	--	510	7.1	290	37	ND	21	41	25	1.3	35
				11/20/2009	230	220	638	7.3	357	41	0.5	30	35	33	1.7	37
				7/24/2014	280	232	646	7.7	370	37	0.5	24	37	34	2	41
				4/22/2015	290	234	653	7.4	360	43	0.6	27	36	35	2	42
				10/5/2015	280	227	614	7.2	370	38	0.5	23	35	34	2	41
				4/26/2016	230	227	629	7.1	360	39	0.6	27	35	34	2	40
				10/12/2016	290	221	631	7	370	40	0.6	25	34	33	2	40
				4/10/2017	280	227	624	7.2	380	39	0.6	27	35	34	2	40
				10/12/2017	260	240	583	6.6	320	41	0.7	28	37	36	2	43
				4/24/2018	200	166	515	7.4	330	43	3.2	23	27	24	2	31
				10/9/2018	290	273	632	7.2	340	38	0.6	29	42	41	3	47
				4/15/2019	200	181	559	7.4	310	42	3.1	22	28	27	2	34
10/14/2019	290	221	626	7.2	380	41	0.7	29	34	33	2	40				
4/21/2020	300	230	705	7	400	50	0.7	27	36	34	2	42				
30S/11E-18K8	10th St. Obs. East (Deep)	LA18	E	1/19/2005	260	290	650	7.5	370	33	ND	38	62	33	2.5	28
				11/20/2009	230	220	620	7.5	378	32	ND	40	51	24	1.8	23
				7/24/2014	290	271	647	7.5	380	28	ND	34	56	32	2	27
				4/21/2015	290	265	634	7.7	400	33	ND	39	55	31	2	27
				10/19/2015	230	256	621	7.3	370	29	ND	33	53	30	2	26
				4/20/2016	190	265	700	7.5	390	31	ND	38	55	31	2	26
				10/18/2016	290	256	615	6.8	370	31	ND	36	53	30	2	26
				4/12/2017	290	274	616	7.5	450	31	ND	38	57	32	2	27
				10/10/2017	220	271	619	7.8	350	30	ND	36	56	32	2	27
				4/17/2018	290	260	625	7.3	390	33	ND	40	53	31	2	27
				10/10/2018	290	254	608	7.5	360	31	ND	40	54	29	2	26
				4/10/2019	290	245	620	7.6	380	32	ND	37	52	28	2	25
10/9/2019	290	253	647	7.9	390	33	ND	41	52	30	2	26				
4/14/2020	290	269	629	7.5	400	33	ND	40	55	32	2	26				

## Water Quality Results - Lower Aquifer Monitoring

Station ID	Well Name	Basin Plan Well ID	Aquifer Zone	Date	HCO3	Total Hardness	Cond	pH	TDS	Cl	NO3-N	SO4	Ca	Mg	K	Na
					mg/l	mg/l	umhos/cm	units	mg/l	mg/l	mg/l	mg/l	mg/l	mg/l	mg/l	mg/l
30S/11E-18K9	LOCS D 10th St.	LA32	C,D	May 2002	250	--	550	6.9	320	37	0.2	26	31	32	--	39
				11/20/2009	180	160	539	7.2	307	36	1	27	27	24	1.3	32
				7/23/2014	220	190	546	7.7	300	32	1	20	30	28	1	35
				4/21/2015	190	108	504	7.6	270	38	1.6	20	17	16	1	27
				10/6/2015	50	62	248	7.2	190	31	5.9	3	10	9	ND	21
				4/20/2016	130	121	382	7.5	220	32	3.3	12	19	18	1	27
				10/11/2016	200	168	511	6.6	270	36	1.2	22	26	25	1	34
				4/10/2017	190	155	461	7.3	270	35	1.9	19	24	23	1	31
				10/9/2017	200	168	493	7.6	270	36	1.4	23	26	25	1	33
				4/10/2018	50	75.2	256	7.7	150	35	6.5	29	12	11	ND	23
				10/2/2018	210	168	492	7.3	270	36	1.3	22	26	25	ND	33
				4/9/2019	200	172	474	7.6	270	34	1.6	22	26	26	1	33
				10/2/2019	200	185	531	7.4	310	36	1.4	25	28	28	1	35
4/16/2020	60	72.7	272	8.1	190	35	6	5.4	11	11	ND	20				
30S/11E-18K	GSWC Los Olivos #5	LA39	D	4/15/2019	290	230	619	8.1	350	38	ND	27	33	36	2	41
				10/14/2019	300	225	628	7.2	370	37	ND	29	34	34	1	41
				4/21/2020	300	236	674	6.9	370	37	0.2	28	37	35	2	42
30S/11E-18L2**	LOCS D Palisades	LA15	D,E	11/18/2004	220	330	880	7.3	420	120	ND	31	54	48	2.2	40
				11/19/2009	200	590	1460	7.2	890	360	0.4	39	94	86	2	44
			D	7/23/2014	250	293	783	7.8	390	90	0.4	26	48	42	2	40
				4/29/2015	80	78	348	7.4	230	43	5	10	13	11	ND	30
				10/28/2015	230	288	782	7.4	420	104	0.6	29	46	42	ND	36
				4/27/2016	230	264	796	7.3	450	93	0.9	28	43	38	2	43
				10/11/2016	200	221	694	7	380	91	1.7	26	36	32	1	35
				10/5/2017	180	306	768	7.6	400	102	0.7	27	50	44	2	40
				4/10/2018	250	311	767	7.3	420	100	0.8	32	52	44	2	40
				10/23/2018	250	288	772	7.7	440	83	0.6	31	48	41	1	38
				4/9/2019	250	301	774	7.4	460	102	0.8	29	48	44	1	38
				11/14/2019	210	303	806	7.8	430	107	0.7	33	49	44	2	39
				4/16/2020	260	299	832	7.7	460	109	0.8	33	49	43	2	37

ND = Not Detected

**Chloride Metric Wells in Green (13J1 weighted x2); current chloride concentrations in red**

\*Chloride concentrations at 13J1 can vary seasonally by 100+ mg/l and are affected by well production and borehole leakage, so fluctuations are expected.

\*\*Water from 18L2 affected by wellbore leakage/upper aquifer influence when inactive

### Legend and Detection Limits

Constituent	Description	Practical Quantitation Limit*
HCO3	Bicarbonate Alkalinity in mg/L CaCO3	10.0
Total Hardness	Total Hardness in mg/L CaCO3	--
Cond	Electrical Conductance in umhos/cm	1.0
pH	pH in pH units	--
TDS	Total Dissolved Solids in mg/L	20.0
Cl	Chloride concentration in mg/L	1.0
NO3-N	Nitrate as Nitrogen concentration in mg/L	0.1
SO4	Sulfate concentration in mg/L	2.0
Ca	Calcium concentration in mg/L	1.0
Mg	Magnesium concentration in mg/L	1.0
K	Potassium concentration in mg/L	1.0
Na	Sodium concentration in mg/L	1.0

\*where dilution not required

**TO: Los Osos Basin Management Committee**

**FROM: Dan Heimel, Executive Director**

**DATE: August 26, 2020**

**SUBJECT: Item 6b – Implementation Plan and Budget Authorization**

**Recommendations**

Review and provide direction on the proposed approach for preparing an Implementation Plan for the BMC and provide authorization for staff to utilize additional budget to complete the Implementation Plan development; or provide alternate direction to staff.

**Discussion**

During the development of the CY 2020 BMC Budget, it was identified that the BMC could benefit from an updated evaluation of the water resource initiatives potentially available to the BMC parties. The evaluation is described as an Implementation Plan. It is intended to help the BMC build consensus around how to focus its efforts and funds for future water resources initiatives, provide a structure for developing future BMC budgets, and to aid in the further implementation of the Basin Plan.

At the June 2020 BMC Meeting, the BMC directed the Executive Director to initiate the very initial phases of the Implementation Plan development, which included summarizing roles and responsibilities for the BMC and coordinating with BMC Party Staff to develop a list of Strategic Initiatives and Strategic Initiative Scoring Criteria. A compilation of the roles and responsibility descriptions from the Basin Plan, Stipulated Judgement and the BMC Rules and Regulations is included as Attachment 1. As part of the Implementation Plan, these will be further summarized and consolidated to provide a more concise description of the BMC roles and responsibilities.

Additionally, included in the tables below are the current lists of proposed Strategic Initiatives and Scoring Criteria that were developed through collaboration with BMC Party Staff for the BMC Board of Director’s review and approval.

**Proposed Implementation Plan Strategic Initiatives**

<b>Category</b>	<b>Strategic Initiatives</b>	<b>Basin Plan Program</b>
Recycled Water	Creek Discharge Program	Program U
	Reuse Project Priorities (School retrofit, ag reuse, Sea Pines)	
Conservation	Enhanced Water Conservation Programs	Program E
New Water Supplies	Morro Bay Intertie (Drought Resiliency)	
	Supplemental Water Program (rainwater harvesting, stormwater capture, greywater reuse, brackish water desalination)	Program S
	Urban Stormwater Capture	Program U
	Warden Creek Stormwater Capture	Program S
Enhanced Groundwater Utilization	Community Nitrate Removal Facility	Program B
	Program D Expansion Wells (consider each well separately)	Program D
	Program C Expansion Wells (consider each well separately)	Program C
	Los Osos Valley Road Main Upgrade (to move water from expansion wells)	Program C
	Water Conveyance Between Parties (scenarios on how to use interties to wheel water)	Program A and C
Growth Accommodation	Evaluation of Growth Allowance Criteria	
	Funding & Organization Studies (New development funding mechanism)	
Monitoring and Metrics	Re-evaluate Water Level Metric	
	Re-evaluate Chloride Metric	
	Monitoring Well Modifications (evaluate additional monitoring wells)	Program M
	Develop Rating Curve for Los Osos Creek Stream Flow Sensor	Program M
	Mandatory Metering of All Wells in Basin	
	Volunteer Metering and Reporting (BMC Administrative Effort)	
	Formalize Annual Establishment of the Sustainable Basin Yield	
	Formalize Adaptive Management Procedures	
	Installation of Transducers to Monitor Development of Broderson Mound	

Category	Strategic Initiatives	Basin Plan Program
Modeling & Analysis	Transient Model (must evaluate which programs it benefits)	
	Ongoing Upgrades to Steady State Model	
	Peer Review of Basin Model (required every 10 years by the Stipulated Judgement)	
	Updated Assessment of Climate Change Impacts using updated sustainable basin yield estimate, accounting for sea level rise, and increased temperature as well as evaluating the change in precipitation	
	Broderson Recharge Analysis	
	Lower Aquifer Nitrate Investigation and Metric Development	
	Water Supply Resiliency Study (Alternatives evaluation of different projects to increase sustainable yield)	
Water Quality	Expansion of Basin Area Connected to Sewer	
	Wellhead Protection Program	Program P
	S&T Interconnection	

**Proposed Strategic Initiatives Scoring Criteria**

<b>Category</b>	<b>Scoring Criteria</b>
Cost	Capital Cost
	Water Cost
	O&M Cost
	Eligible for grant funding (One time or continuous enrollment)
Supply/Demand	Increases potable water supply
	Beneficiaries (Specific Utilities, All Basin Users, etc.)
	Benefits Existing or Future Users
	Reduces water demand
Water Quality	Decreases nitrates and other pollutants
	Decreases sea water intrusion
Feasibility/Complexity	Project Constraints (Permits / EIR; funding; cost; asset owner; ordinance amendment required; political feasibility; etc.)
	Legally required - listed in the SJ, LOBP, Rules & Regulations (section/page)
	Requires amending the Basin Plan, SJ, or Rules & Regulations
	LOBP Program (New Project / Listed Project)
	Governance/Ownership Structure - LOCSD, Golden State, S&T, County, JPA (basin-wide/project); MOA (basin-wide/project)
	Legally required - listed in the SJ, LOBP, Rules & Regulations (section/page)
	Project Funding (Grant, Loan, joint funding, BMC Parties, LOCSD, Golden State, S&T, County)
	Timeline to Implementation
Monitoring/Management	Improves water resource accounting (improved monitoring of program effectiveness, accuracy of basin metrics and modeling assumptions)



## **Implementation Plan Level of Effort Estimate**

To develop an estimate for the level of effort required to complete the Implementation Plan, the following list of remaining tasks and associated number of hours was developed:

### **Implementation Plan Remaining Tasks**

1. Role/Responsibilities Documentation
  - a. Roles & Responsibilities Summary (8 hrs)
2. Strategic Initiative Identification & Evaluation
  - a. Strategic Initiative Refinement (2 hrs)
  - b. Strategic Initiative Summary Sheets (15 hrs)
  - c. Scoring Criteria Framework Development (3 hrs)
  - d. Strategic Initiative Scoring & Ranking (20 hrs)
3. Implementation Plan Technical Memorandum (TM)
  - a. Draft Implementation Plan TM (22 hrs)
  - b. Final Implementation Plan TM (10 hrs)

It is estimated that the Implementation Plan will require about 80 hrs of time for the Executive Director and supporting staff to complete and cost approximately \$16,000. It is additionally recommended that Spencer Harris (Cleath-Harris Geologists) participate in the development of the Implementation Plan because of his long history with the Stipulation Judgement and BMC and extensive knowledge of the Basin Plan and associated projects. For Spencer to assist in the Implementation Plan development, it is estimated that it would take about 20 hrs and cost approximately \$3,000. The total estimated fee to complete the Implementation Plan is approximately \$19,000. Any unutilized Executive Director services budget could be utilized to cover a portion of the costs for the remaining Implementation Plan costs, however, at the current spend rate there is not anticipated to be substantial unutilized Executive Director services budget.

### **Financial Considerations**

The development of an Implementation Plan was not included in the Baseline Budget that was approved by the BMC for Calendar Year (CY) 2020. However, included in that budget was \$17,600 of Contingency funds; \$1,200 of the Contingency funds has been authorized and spent; leaving \$16,400 of remaining Contingency funds that could be utilized to fund a portion of the costs to complete the Implementation Plan. In addition to the Contingency funds, there are several other budgeted items that may have funds remaining at the end of the year, if meetings continue to be held remotely or certain services are not needed, including: Meeting Expenses – facility rent \$1,000; Meeting Expenses – audio and video services ~\$4,000; and Grant writing \$5,000.

## Summary of Documented Goals & Responsibilities of the BMC

### 2015 Stipulated Judgment – Section 3 Physical Solution (Page 12)

Consistent with the California Constitution and the decisions of the California Supreme Court, the Court hereby adopts and orders the parties to comply with the physical solution set forth in this Stipulated Judgment (“Physical Solution”). The purpose and objective of these provisions are to provide a legal and practical means for accomplishing the most economic, long-term, sustainable utilization of groundwater from the Basin to meet the needs and requirements of water users dependent thereon, while respecting existing water rights. Through the BMC and the Basin Plan, the parties intend to manage the Basin in a manner that will create greater certainty and reliability for continued access to groundwater for all users in the Basin, including non-parties.

The BMC is authorized to use existing, as well as new and developing, technological, social and economic concepts to the fullest benefit for all those dependent upon the Basin. Thus, it is essential that the Physical Solution hereunder provide for maximum flexibility and adaptability. To that end, the Court has retained continuing jurisdiction to supplement the broad discretion granted to the BMC as set forth in Section 7.1 of this Stipulation.

### 2015 Stipulated Judgment – Section 3.1 Iterative Nature of the Physical Solution (Page 13)

The parties, individually and by and through the BMC, shall evaluate the Basin Plan on a periodic basis to determine whether the Basin Plan is being implemented as agreed upon, whether the Basin Plan actions are having the predicted impact to halt seawater intrusion, and whether the parties should implement additional actions in the Basin Plan or new actions that were not originally included in the Basin Plan. Material, substantive changes to the Basin Plan shall require unanimous approval of the parties.

### 2015 Stipulated Judgment – Section 5 Establishment and Composition of BMC (Page 18)

The BMC shall be established to administer, enforce and implement the provisions of this Stipulated Judgment, the Basin Plan, and any subsequent instructions or orders of the Court under the Stipulated Judgment. The BMC shall be responsible for its day-to-day operations and shall have general authority to carry out the powers enumerated in this Stipulated Judgment. This Section generally sets forth the standards for the BMC in fulfilling its responsibilities regarding implementation of the Basin Plan, including the application of these standards to BMC conduct and decisions under the Stipulated Judgment, and its rules and regulations.

### 2015 Stipulated Judgment – Section 5.3 Purpose & Goals (Page 19)

The purpose of the BMC is to implement the Stipulated Judgment and the Basin Plan, and to engage in such other activities as may be necessary or appropriate to ensure their successful implementation, once a designated source(s) of funding has been established in accordance with all constitutional and statutory requirements, including Article 13 of the California Constitution. It is essential that the BMC have flexibility to adapt to changing conditions in the Basin to implement the Basin Plan taking advantage of existing and future technological, social, and institutional options to maximize beneficial use of the waters of the Basin. The BMC shall exercise its best efforts to:

1. Protect and enhance the long-term integrity of the Basin through implementation of the Basin Plan;
2. Evaluate the long-term hydrologic balance within all areas and subareas of the Basin;
3. Produce and distribute annual written reports assessing the hydrologic balance in the Basin as further provided in Section 5.8.3 and use and consider the information provided in the reports when modifying or updating the Basin Plan and setting the Sustainable Yield.

4. It is not intended, nor shall the BMC provide resources to, facilitate or participate in the purchase or acquisition, of any party's water rights or water production and distribution facilities or wastewater treatment and water recycling facilities through any means of forced or involuntary sale or transfer, including but not limited to condemnation.

2015 Stipulated Judgment – Section 5.5 Rules & Regulations (Page 20)

The BMC shall adopt and amend from time to time subject to unanimous approval, such rules and regulations as may be reasonably necessary to carry out its duties, powers and responsibilities under the provisions of this Stipulated Judgment.

2015 Stipulated Judgment – Section 5.6 Powers of the BMC (Page 20)

The BMC shall, subject to the limitations contained in this Stipulated Judgment, have the power to:

1. Take all acts as are necessary and appropriate to carry out the purposes and goals described in this Stipulated Judgment;
2. Take all acts as are necessary and appropriate to arrange for the funding of the implementation of this Stipulated Judgment, including the activities of the BMC, and any or all aspects of the Basin Plan, as more specifically described in Section 5.13 of this Stipulated Judgment;
3. Perform other ancillary tasks relating to the implementation of the Basin Plan and the Stipulated Judgment;
4. Make and enter into and perform contracts and agreements as necessary for the full exercise of its powers;
5. Develop, and amend from time to time, an operating budget as necessary to obtain the funds and financing necessary to implement this Stipulated Judgment and the Basin Plan;
6. Take possession of, lease and own any or all of the facilities necessary or associated with the implementation of the Basin Plan and to acquire such ancillary real and personal property assets as may be necessary to carry out the Basin Plan by lease, purchase or dedication, and to hold, enjoy, lease or sell, or otherwise dispose of, such assets subject to Section 5.3.4 of this Stipulation;
7. Apply for, accept and receive state, federal or local licenses, permits, grants, loans or other aid and assistance from the United States, the State or other public agencies or private entities necessary for the BMC's full exercise of its powers;
8. Employ, or otherwise contract for the services of, agents, officers, employees, attorneys, engineers, planners, financial consultants, technical specialists, advisors and independent contractors;
9. Undertake any investigations, studies and matters of general administration arising out of or relating to the implementation of this Stipulated Judgment and the Basin Plan;
10. Adopt rules, policies, regulations and procedures governing the operation of the Management Committee consistent with this Stipulated Judgment;
11. Establish and maintain a website regarding the Basin and BMC activities;
12. Collect and analyze Groundwater production records for each party producing groundwater from the Basin;
13. Publish a periodic report on the status of the Basin and implementation of the Basin Plan, which shall be made publicly available (Groundwater extraction data included in the report shall be reported in the aggregate);
14. Own and operate all property, equipment, supplies, funds and records of the BMC, except as otherwise provided in this Stipulated Judgment or subject to the terms of any agreement through which the BMC may enter;

15. Collect, analyze and report monitoring data for the Basin (any Ground-water extraction data included in the report shall be reported in the aggregate);
16. Collect, analyze and report monitoring data for the Basin (any Ground-water extraction data included in the report shall be reported in the aggregate);
17. Collect, analyze and report data regarding urban water use efficiency in the Basin;
18. Collect, analyze and report data on recycled water use within the Basin;
19. Maintain the Model and make improvements deemed appropriate for management of the Basin;
20. Conduct a peer review of the Model at least once every 10 years;
21. Determine the Sustainable Yield<sub>x</sub> of the Basin for each Year (consistent with the provisions of this Stipulated Judgment), based on the Model and other appropriate analyses;
22. Review and revise (if necessary) Pool allocations after the intervention of additional parties;
23. Review and certify proposals for creation of marginal Sustainable Yield<sub>x</sub>;
24. Implement Basin Plan projects;
25. Create an Advisory Committee from time-to-time as it may deem appropriate to provide assistance to the BMC during the ongoing implementation of the Stipulated Judgment; and
26. Perform all other acts necessary or proper to carry out fully the purposes of this Stipulated Judgment and the Basin Plan, including any available authority granted under Chapter 5 of Part 2.74 of Division 6 of the California Water Code consistent with any applicable limitations in this Stipulated Judgment.

#### 2015 Stipulated Judgment – Section 5.7 Special Authority Over Purveyor Pool (Page 22)

Once appropriate elements of the Basin Plan are implemented, the BMC shall re-evaluate any policies and regulations regarding extraordinary mandatory conservation measures and restrictions on the issuance of new water service connection commitments.

The BMC shall adjust its regulations and policies based on existing Basin and hydrologic conditions. To the extent feasible, the BMC shall develop trigger point criteria from which it shall consider imposition of the restrictions described above, based upon objective hydrologic criteria.

#### 2015 Stipulated Judgment – Section 5.9.1 Duties of the BMC (Page 25)

The BMC shall be the policymaking body responsible for the implementation of its responsibilities under the Stipulated Judgment. The BMC shall have oversight of all business and affairs under the Basin Plan and the Stipulated Judgment and shall have the exclusive authority to approve such items as are reserved to the BMC as provided in the Stipulated Judgment.

The BMC may contract with third parties, to carry out all or any portion of the Basin Plan and this Stipulated Judgment, and other administrative and accounting functions arising out of or related to the implementation of this Stipulated Judgment.

#### 2015 Stipulated Judgment – Section 5.11 Voting (Page 28)

A quorum of any meeting of the BMC shall consist of at least three (3) Directors or such larger number as constitutes a majority of the Directors appointed.

Each Director's vote shall be weighted with LOCS and GSWC each holding thirty-eight percent (38%), the County holding twenty percent (20%) and S&T holding four percent (4%).

All affirmative decisions of the Management Committee shall require the affirmative vote of Directors with a collective voting weight of more than fifty percent (50%)

If a Director is disqualified from voting on a matter before the BMC because of a conflict of interest, the Alternate Director shall be entitled to vote on the matter, but if the Alternate Director is disqualified from voting on the matter because of a conflict of interest, that Director and Alternate Director shall be excluded from the calculation of the total number of Directors that constitute a majority.

Unanimous approval of the BMC Directors is required to act on the following:

1. Material change to the Basin Plan;
2. Material change to any Member's use of water (extracted, developed or available) within the Basin that is materially inconsistent with the Basin Plan or Stipulating Judgement;
3. Change in rules and regulations of the BMC;
4. Adoption of regulations/restrictions on the Purveyors' delivery of water and consumption within the Basin;
5. Adoption of supplemental fees, taxes or assessments necessary to address shortfalls or unanticipated expenses;
6. Revising the weighted vote;
7. Approving/Revising/Ratifying the BMC budget;
8. Adoption of funding targets for O&M reserves;
9. Entering any contract or agreement with delegates BMC duties to a third party; and
10. Establishing and implementing a mechanism(s) to fund the operation of the BMC and the actions provided in the Stipulated Judgment and the Basin Plan.

#### 2019 Annual Report – Section 1.0 Introduction (Page 8)

The LOBP Groundwater Monitoring Program is also necessary to support other LOBP goals, including prevention of seawater intrusion, establishing a long-term environmentally and economically sustainable and beneficial use of the Basin, and the equitable allocation of costs associated with Basin management (ISJ Group, 2015). The program will provide significant overlap with several regulatory requirements, including:

1. The Sustainable Groundwater Management Act (SGMA)
2. California Statewide Groundwater Elevation Monitoring (CASGEM) Program
3. State Water Resource Control Board's (SWRCB) salt and nutrient monitoring guidelines as adopted in the state Recycled Water Policy. The County Board of Supervisors adopted the Salt and Nutrient Management Plan (SNMP) for the Los Osos Groundwater Basin on January 23, 2018. The SNMP has been reviewed by the Regional Water Quality Control Board.
4. Recycled Water Management Plan requirements for the Los Osos Water Recycling Facility (LOWRF)

#### 2015 Basin Plan – Section 2.4 Basin Plan Goals (Page 21)

The goals of this Basin Plan are divided into two categories: Immediate and Continuing. Immediate Goals are designed to balance supplies and demands in the Basin in the immediate future and will be pursued at the commencement of Basin Plan implementation, to the extent they have not already been pursued by the Parties and other stakeholders in the Basin. Continuing Goals will be implemented over time in order to promote and maintain the long-term balance and health of the Basin. The goals are as follows:

Immediate Goals:

1. Halt or, to the extent possible, reverse seawater intrusion into the Basin
2. Provide sustainable water supplies for existing residential, commercial, community and agricultural development overlying the Basin
3. Set water conservation goals and establish mandatory standards and policies that promote water use efficiency and innovation for residential, commercial and institutional water users for both indoor and outdoor usage.

Continuing Goals:

1. Provide for a continuously updated hydrologic assessment of the Basin, its water resources and sustainable yield.
2. Create a water resource accounting which is able to meet the information needs for planning, monitoring, trading, environmental management, utility operations, land development and agricultural operations.
3. Establish a strategy for maximizing the reasonable and beneficial use of Basin water resources
4. Provide sustainable water supplies for future development within Los Osos, consistent with local land use planning policies.
5. Set water conservation goals and establish strategies to promote water use efficiency and innovation for agricultural water users, including use of recycled water
6. Clarify the assignment of risk arising from future changes in the availability of groundwater for extraction
7. Allocate costs equitably among all who benefit from the Basin's water resources
8. Protect environmentally sensitive areas within the Basin or influenced by Basin hydrology
9. Develop strategies to maximize grant and other funding and financing opportunities for ongoing Basin Plan implementation

2015 Basin Plan – Section 2.5 Water Management Principles (Page 22)

The Parties agree to implement this Basin Plan in recognition of the continuing local and state imperative to increase the productivity and efficiency of water use in the Basin, the need to service the Los Osos community and to ensure the health of the Basin by establishing environmentally sustainable levels of extraction.

For purposes of this Basin Plan, sustainable use of the Basin means that:

1. Groundwater will be available to meet all reasonable, beneficial water demands within the Plan Area
2. Groundwater elevations will remain sufficiently high to prevent seawater intrusion, land subsidence or other negative impacts of falling groundwater levels
3. Groundwater quality will be protected for use as a source of drinking water with reasonable treatment
4. Groundwater levels and quality will support or enhance groundwater-dependent ecosystems in the Plan Area based on conditions in existence as of adoption of the Basin Plan
5. Water-related costs for purveyor customers, private domestic well owners, community facilities and agricultural water users in the Plan Area will be reasonable in light of the economic value of Basin groundwater resources
6. Groundwater resources are managed for the long term, considering climatic and hydrologic variability and potential change and limits to human understanding of the Basin
7. Water supplies and demands of the Basin will be managed to avoid the need for imported water supplies in the Plan Area, to the extent possible

The objective of the Parties in implementing this Basin Plan is to provide greater certainty for the Los Osos community and the environment and underpin the capacity of the Basin's water management regime to deal with competing water demands and change responsively and equitably.

Rules and Regulation – Article 2 Powers (Page 3)

The Basin Management Committee shall be responsible for its day-to-day operations and shall have general authority to carry out the powers enumerated in the Section 5.6 of the Stipulated Judgment.

Rules and Regulation – Article 7 Voting (Page 5)

Basin Management Committee Approval Requirements. In the following instances, the Basin Management Committee may act only with the unanimous approval of the Directors:

- 7.5.1 Authorizing or implementing any material change to the Basin Plan;
- 7.5.2 Authorizing or approving any material change to any Member's use of water extracted, developed or available for use within the Basin in a manner materially inconsistent with the Basin Plan or the Stipulated Judgment;
- 7.5.3 Adoption and/or any change in the rules and regulations of the Basin Management Committee;
- 7.5.4 Adoption of any regulations or restrictions on the Purveyors' delivery of water and its consumption within the Basin as provided in section 5.7 of the Stipulated Judgment;;
- 7.5.5 Adoption of any supplemental fees, taxes or assessments necessary to address shortfalls or unanticipated expenses for which reserves are unavailable;
- 7.5.6 Revising the weighted voting as provided in Section 7.2, including but not limited to the insolvency, addition or withdrawal of a Member of the Basin Management Committee;
- 7.5.7 Approving, revising or ratifying the Basin Management Committee Budget.
- 7.5.8 Adoption of funding targets for operational and maintenance reserves;
- 7.5.9 Entering into any contract or agreement which delegates the duties of the Basin Management Committee to any third party; and
- 7.5.10 Establishing and implementing a mechanism(s) to fund the operation of the Basin Management Committee and the actions provided in this Stipulated Judgment and the Basin Plan.

Rules and Regulation – Article 11 Reporting, Modeling and Monitoring (Page 10)

Annual Report. The Basin Management Committee shall prepare and make available an annual report, which shall be filed on or before one hundred and eighty (180) days after December 31 of each year and shall contain details as to aggregate water production to the extent the information is available, water quality, monitoring data, and a certified audit of all assessments and expenditures pursuant to the Basin Management Committee and a review of Basin Management Committee activities. The report shall generally include an update on the status of the Members' efforts to implement the Basin Plan. The report shall include an appendix which contains a specific "State of the Basin" report including an update on the status of individual Basin Plan related activities. The report shall also include a compilation of the current Basin Management Committee Rules and Regulation, including all amendments made within the previous twelve (12) month period. All annual reports shall be filed with the Court and made available to the public.

**Studies.** In accordance with the Stipulated Judgment, the Basin Management Committee may undertake relevant studies of hydrologic conditions, both quantitative and qualitative, and operating aspects of implementation of the Basin Plan.

**Modeling.** The Basin Management Committee shall maintain the Model and conduct a peer review of it at least once every ten (10) years. Based on results from the peer review, or as otherwise deemed appropriate by the Basin Management Committee, the Basin Management Committee shall make improvements to the Model for the improved management of the Basin. The results of any peer review and all changes to the model shall be included in the annual report for the applicable year.

**Monitoring.** The Basin Management Committee shall carry out the monitoring activities described in Chapter 7 of the Basin Plan in accordance with the provisions of the Stipulated Judgment. Monitoring procedures not described in Chapter 7 of the Basin Plan shall be implemented through development of appropriate Basin Management Committee policies and procedures as necessary. Findings and a summary of activities as well as any supplemental policies and procedures adopted by resolution or minute action shall be reported to the Court in the Basin Management Committee's Annual Report.

**Groundwater Production Monitoring.** Each of the Purveyors shall install meters and/or measuring devices on all groundwater extraction facilities and shall provide the Basin Management Committee with a groundwater production log by January 31 of each year for the period of January 1 through December 31 of the prior year. This information shall be included in the Basin Management Committee's annual report. All meters/measuring devices shall be subject to regular inspection and testing as the Basin Management Committee may, from time to time, deem necessary. Nothing in this provision shall be construed to require or to permit the Basin Management Committee to require the County Board of Supervisors to adopt an ordinance requiring the reporting of groundwater production.

Rules and Regulation – Article 12 Basin Plan (Page 11)

**Periodic Review of Basin Plan.** The Basin Management Committee shall evaluate the Basin Plan on a periodic basis as deemed necessary. The review shall, at a minimum, evaluate the items described in Section 3.1 of the Stipulated Judgment, which include whether the Basin Plan is being implemented as agreed upon in the Stipulated Judgment, whether the Basin Plan actions are having the predicted impact to halt seawater intrusion, and whether the Members should implement additional actions in the Basin Plan or new actions that were not originally included in the Basin Plan. Evaluation of additional items shall be implemented through development and adoption of appropriate Basin Management Committee policies and procedures. Findings and a summary of the review, as well as any resulting amendments to the Basin Plan, shall be included the first annual report following completion of the review.

Rules and Regulation – Article 13 Determination of Sustainable Yield (Page 12)

**Annual Determination of Sustainable Yield.** Starting in 2020, the Basin Management Committee shall annually evaluate and establish the Sustainable Yield<sub>x</sub> for the upcoming year at its first meeting following December 1 of each Year. Any change to the Sustainable Yield<sub>x</sub> shall require unanimous consent of the Members. The Sustainable Yield<sub>x</sub> shall be established using the process set forth in Section 4 of the Stipulated Judgment. The Sustainable Yield<sub>x</sub> shall be reported in the annual report for the applicable year.



**TO: Los Osos Basin Management Committee**

**FROM: Daniel Heimel, Executive Director**

**DATE: August 26, 2020**

**SUBJECT: Item 6c – AB1600 Funding Study**

### **Recommendations**

Review the provided description of an AB1600 Funding Study and provide direction to Staff on how to proceed.

### **Discussion**

As the Los Osos Community Plan (Community Plan) advances through the Land Use Authority (i.e. San Luis Obispo County and California Coastal Commission) review process, it is important for the BMC to understand the options and/or mechanisms for funding water infrastructure projects that may be required to support new development and potential increased water demand in the Los Osos Basin. In 2016, the BMC Parties previously evaluated options for establishing a Special Tax to support BMC administrative costs and to fund implementation of basin plan programs, see Attachment 1 (Phase 1 Finance Plan Report for the Los Osos Groundwater Basin). The study recommended that when new development resumes a Benefit Area Fee Program (AB1600) should be implemented to ensure, "that new development pays its fair share of the prioritized capital facilities." An AB1600, or Development Impact Fee, is one possible funding mechanism that could be utilized to fund infrastructure projects necessary to support new development and is further described in the paragraph below.

A Development Impact Fee is a monetary exaction other than a tax or special assessment that is charged by a local governmental agency to an applicant in connection with approval of a development project for the purpose of defraying all, or a portion of, the cost of public facilities related to the development project (Gov. Code § 66000(b)). The legal requirements for enactment for developing an impact fee program are set forth in the "Mitigation Fee Act" (Government Code §§ 66000-66025), the bulk of which were adopted as 1987's AB 1600 and therefore are commonly referred to as "AB 1600 requirements." A development impact fee is not a tax or special assessment; by its definition, a fee is voluntary and must be reasonably related to the cost of the service provided by the local agency (PETER N. BROWN & GRAHAM LYONS, 2003)

Procuring consultant services to complete an AB1600 Study would assist the BMC in better understanding the requirements, constraints, and mechanisms for developing a Development Impact Fee. As discussed in Agenda Item 6b, the Implementation Plan includes a comprehensive evaluation of the various water resources initiatives available to the BMC and is intended to assist in focusing the BMC's efforts on the prioritized initiatives. It is anticipated that following the completion of the Implementation Plan, the BMC may need to evaluate the different governance, ownership, and funding options available to implement the prioritized

initiatives. Completion of an AB1600 Study in parallel with the Implementation Plan would improve the BMC's understanding of the available funding options.

**Financial Considerations**

The CY 2020 BMC Budget does not include funds for completing an AB1600 Study. A Funding and Organization Study budget item was proposed for the CY 2020 budget with an estimated cost of \$40,000. Obtaining proposals from specialized consultants could determine the cost of completing an AB1600 Study.

**PHASE 1 FINANCE PLAN  
REPORT FOR THE LOS OSOS  
GROUNDWATER BASIN**

**LOS OSOS BASIN  
MANAGEMENT COMMITTEE  
("BMC")**

PREPARED FOR:

**SAN LUIS OBISPO COUNTY FLOOD CONTROL AND  
WATER CONSERVATION DISTRICT  
1055 MONTEREY STREET  
SAN LUIS OBISPO, CA 93408**

JULY 15, 2016

Public Finance  
Public Private Partnerships  
Urban Economics  
Clean Energy Bonds

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Newport Beach  
Riverside  
San Francisco  
San Jose  
Dallas, TX

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## I. Executive Summary

The intent of this Phase 1 Finance Plan Report (the “Report”) is for David Taussig & Associates (“DTA”) to evaluate funding mechanisms for the San Luis Obispo County Flood Control and Water Conservation District (“Client”) consistent with Section 5.13 of the Stipulated Judgment, which contemplates sponsorship of an initial funding mechanism to fund the administrative and other appropriate costs of the Basin Management Committee (“BMC”) associated with implementing the Basin Plan.

The financing mechanisms detailed in this Report could provide: (i) \$300,000 in annual revenues to fund certain ongoing implementation costs, including preparation of the annual report (including all necessary monitoring) as described in Section 5.8.3 of the Stipulated Judgment, periodic evaluation of the Basin Plan pursuant to the Adaptive Management Plan described in Section 16.2.4 of the Basin Plan and general administration of the BMC (“General Implementation”) (“Scenario 1”); (ii) \$6.5 million in revenues for Basin Infrastructure Program C *plus* the General Implementation noted above (“Scenario 2”); or (iii) a medium-term goal of \$25 million to fund Basin Infrastructure Program C and the General Implementation noted above, as well as the reimbursement of the County for \$18.3 million, referred to as the Urban Water Reinvestment Program, previously expended on the recycled water element of the Los Osos Wastewater Project (“Scenario 3”).<sup>1</sup> This goal of \$25 million still would satisfy only a portion of the costs identified in Chapter 15 of the Basin Plan for the Existing Population Scenario. It is anticipated that the BMC (rather than the Client) would explore funding mechanisms and strategies necessary to cover other elements of the Basin Plan in the future.

The \$300,000 per year would satisfy the immediate need to fund the ongoing General Implementation costs associated with the Stipulated Judgment entered by the Superior Court of San Luis Obispo County.

The challenge in providing financing to meet the BMC’s and Client’s funding needs is that all realistic alternatives involve the approval of registered voters or of agencies other than the BMC itself. The most obvious example would be the use of a special tax (“Special Tax”) that would require the support of two-thirds (2/3) of the ballots

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<sup>1</sup> The three scenarios are intended to provide examples of potential combinations and other combinations, including, without limitation, General Implementation and reimbursement of the \$18.3 million (without implementation of Program C) could also be pursued consistent with the analysis herein. Similarly, costs associated with implementation of an expanded Urban Water Use Efficiency Program could be included in (added to) Scenario 1.

cast by registered voters who would pay the Special Tax. DTA's expectation is that more than one financing program will be necessary to cover all of the BMC's funding needs, in part to lessen the financial burden of some alternatives on property owners and other agencies who might otherwise oppose those alternatives.

Critically, DTA's ranking of the potential financing mechanisms varies depending on which Scenario is selected by the Client and the BMC. For this Report, each potential financing mechanism was analyzed independently, and no assumptions were made regarding the replacement of one type of financing mechanism by another, or by State grants or impact fees, as such assumptions would be purely speculative.

Funding Sources	Scenario 1	Scenario 2	Scenario 3
Use of Funds	General Implementation	Basin Infrastructure Program C + General Implementation	Basin Infrastructure Program C + Urban Water Reinvestment Program + General Implementation
Proceeds	\$300,000 (Annually)	\$6,540,000 + \$300,000 (Annually)	\$24,830,000 + \$600,000 (Annually) <sup>2</sup>
Prop 1 (Round 2) Proceeds	TBD	TBD	TBD
Recommended Mechanism	FCD Special Tax	CFD Special Tax <sup>3</sup>	CFD Special Tax <sup>4</sup>
Recommended Entity	FCD	County/FCD, BMC JPA, or CSD	County/FCD, BMC JPA, or CSD
JPA Required	Most Likely	TBD	TBD

Furthermore, DTA's analyses and discussions should serve to provide an overview of the issues, challenges, and potential strategies related to this financing, and should not be construed as legal advice related to any of the approaches identified in the Report. DTA encourages the Client to engage its counsel on any legal ramifications related to any approach or combination thereof, prior to implementing any of the strategies discussed herein.

<sup>2</sup> Assumes larger General Implementation component associated with development of more elements of the Basin Plan.

<sup>3</sup> However, see Section III regarding limitations of a CFD Special Tax with respect to funding General Implementation services.

<sup>4</sup> See Footnote 3.

**Feasibility Rankings:**

Scenario 1

- (1) FCD Special Tax (\$50 per Parcel if uniform)
- (2) CFD Special Tax <sup>6</sup>

Scenarios 2 and 3

- (1) CFD Special Tax (\$100+ per Unit) <sup>5</sup>
- (2) FCD Special Tax
- (3) Special Assessment

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<sup>5</sup> See Footnote 3.

<sup>6</sup> See Footnote 3.

## II. Introduction: Entities, Responsibilities, and Opportunities

The intent of the Report is to ensure that the financial goals and objectives of the Client are achieved, and that Client's public financing policies are appropriately addressed. For example:

- All General Implementation services and all other public services as well as all public facilities in the Report must be adequately financed and provided in a timely manner;
- Public financing must be equitable, financially feasible, efficiently utilized and consistent with Client guidelines and public policies, and, when necessary, meet all relevant nexus, special purpose and benefit criteria;
- Public financing mechanisms must avoid, as much as possible, creating a financial and administrative burden to the Client.

To evaluate responsibilities and costs to include in the Report, DTA has:

- Reviewed the Stipulated Judgment, including the Updated Los Osos Basin Plan (January 2015), the Sustainable Groundwater Management Act (Water Code §§ 10720 *et seq.*) ("SGMA") and related information prepared by the Department of Water Resources ("DWR"), and the San Luis Obispo County Flood Control and Water Conservation District Act (Act 7205 of the Uncodified Acts of the Water Code) ("FCD Act");
- Reviewed the statutory financial powers of the Client and of the parties to the Stipulated Judgment (and members of the BMC), namely the Los Osos Community Services District, the County of San Luis Obispo, Golden State Water Company, and S&T Mutual Water Company, and of a Joint Powers Authority comprised of the parties as described in Section 1.4.4 of the Stipulated Judgment ("BMC JPA");
- Reviewed administrative and operational costs and other expenses as outlined in the BMC 2016 Annual Budget.

However, any analysis of financing the BMC must begin with a brief discussion of the responsibilities and legal capabilities of the BMC.

The purpose of the BMC is both simple and not; to implement the Stipulated Judgment and the Basin Plan, and to engage in such other activities as may be necessary or appropriate to ensure their successful implementation, once a



designated source of funding has been established under all constitutional and statutory requirements. This designated source of funding is the impetus for this Report.

Pursuant to the Stipulated Judgment, the Basin Management Committee will exercise its best efforts to accomplish the following (and more):

- ✓ Protect and enhance the long-term integrity of the Basin through implementation of the Basin Plan;
- ✓ Evaluate the long term hydrologic balance within all areas and subareas of the Basin;
- ✓ Produce and distribute annual written reports assessing the hydrologic balance in the Basin and use and consider the information provided in the reports when modifying or updating the Basin Plan and setting the Sustainable Yield.

However, the BMC requires approximately \$300,000 in annual revenues to fund General Implementation and only once this General Implementation is financed can the BMC evaluate and implement the identified remediation programs outlined in the Basin Plan.<sup>7</sup>

<b>Table 52. Basin Plan Programs for Existing Population Scenario</b>	
<b>Program</b>	<b>Cost (\$1000)</b>
Groundwater Monitoring Program	650
Urban Water Use Efficiency Program	5,500
Urban Water Reinvestment Program	18,290
Basin Infrastructure Program A	2,835
Basin Infrastructure Program C	6,540
Wellhead Protection Program	0
<b>Total</b>	<b>33,815</b>

\*Source – Updated Basin Plan for the Los Osos Groundwater Basin (January 2015).

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<sup>7</sup> The Los Osos Basin Management Committee’s Total Budget for the Calendar Year 2016 was estimated to be \$314,600.

All cost figures subject to change.

In order to levy or raise funding for this General Implementation, or any potential facilities or other services, there needs to be a decision regarding the entity that would levy the revenue(s) pursuant to its available statutory authorities. A brief description of the options is provided below:

**A. San Luis Obispo County Flood Control and Water Conservation District through Creation of a Zone(s) of Benefit**

*Pros: Broad statutory authorities, jurisdiction over entire Basin Plan Area, most efficient, lowest preliminary costs, expedited*

*Cons: Heavy burden on staff time*

**B. Los Osos Community Services District (“CSD”)**

*Pros: Strong focus within Los Osos*

*Cons: Resources, limited jurisdiction, special tax must be uniform with limited exception (Government Code § 61121)*

**C. BMC JPA**

*Pros: Security (risk management) (Government Code § 6508.1), special purpose*

*Cons: Only possesses powers common to the members or powers otherwise set forth in the Stipulated Judgment (special tax would likely need to be levied and transferred by the Client) (Government Code § 6502), time and costs associated with finalizing agreement creating JPA*

The financing of General Implementation (as defined above) not in combination with other services (e.g. Urban Water Use Efficiency Program) or facilities presents three main challenges:

**(1) Authorization/Entity**

The unique responsibilities and obligations of the BMC make fitting the General Implementation component within a statutory authorization other

than a Special Tax levied by the Client and transferred to the JPA pursuant to Section 13 of the Flood Control District Act a significant challenge. For example, as discussed in Section III below, it would be extremely difficult to define the General Implementation services in such a way that they would fall within the services enumerated in Government Code Section 53313.<sup>8</sup>

Very much related to this question is: given that the (clearly) most feasible option under Scenario 1 likely requires the formal formation of the BMC as the BMC JPA, should the parties consider finalizing the Joint Powers Agreement (which would form the BMC JPA) in the near term?

## **(2) Public Perception**

Voters (whether registered voters or property owners) are hesitant to approve “administrative” components. In DTA’s experience, public agencies will even break-out administrative costs from a larger sales tax measure or property-related tax or fee so as to not jeopardize the larger goals. However, many of the General Implementation costs are not purely administrative; thus, if Scenario 1 is selected, DTA recommends that the Client clearly identify all such costs as actual implementation costs, e.g. costs to implement certain Basin Plan programs (Groundwater Monitoring Program) as well as to meet the reporting requirements required by both the Stipulated Judgment and SGMA, as appropriate.

## **(3) The Vote**

Any vote, whether a 50% or 66% threshold, will burden Client staff and elected officials. Any subsequent votes are even more demanding. A financing strategy that requires multiple votes should be adopted carefully.

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<sup>8</sup> See Page 10 for statutory text.

### III. Recommended Public Financing Mechanisms

**Special Tax Program** – A Special Tax could be adopted through the support of two-thirds (2/3) of the registered voters residing within the Basin Plan Area, or a portion of the Basin Plan Area, casting ballots to approve the imposition of a Special Tax through the establishment of a Zone of Benefit and tax levied pursuant to Section 13 of the FCD Act or other available authority (“FCD Special Tax”), or of a Special Tax through the establishment of a special district called a Community Facilities District (“CFD”) levied pursuant to the Mello-Roos Community Facilities District Act (Government Code §§ 53311 *et seq.*) (“CFD Act”) (“CFD Special Tax”).<sup>9</sup> However, both a FCD Special Tax or a CFD Special Tax could be structured to take advantage of a specific set of circumstances existing within the Basin Plan Area that increase the likelihood of achieving the two-thirds (2/3) vote threshold for approval. These circumstances include:

- (i) **Current Monthly Charges to Homeowners in Sewer Service Area** – Residents of the current Sewer Service Area (“SSA Residents”), who amount to approximately 80% - 85% of the homeowners in the Basin Plan Area pay \$160 per month (“Sewer Charges”) for their sewer services (across three components – an assessment, a fixed service charge, and a variable service charge), which includes supporting the County’s debt service payments for a recently constructed treatment plant. Including SSA Residents in a Special Tax Program spread over a larger area by adding in developed (water-using) properties outside of the SSA could lower these current Sewer Charges, thereby gaining the support of SSA residents in a registered voter election.<sup>10</sup> The three keys for this Special Tax Program to succeed might be (a) structuring the Special Tax Program so it lowers the current Sewer Charges imposed on SSA Residents, encouraging them to vote in its favor, (b)

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<sup>9</sup> If there are approximately 9,000 registered voters within the Special Tax zone/district, assuming turnout of 40%, approximately 2,400 “yes” votes would be required.

<sup>10</sup> The Client could also explore the possibility of spreading the Special Tax Program to undeveloped (non-water using) properties both within and outside of the SSA. However, Chapter 15 (Funding of the Basin Plan) adopts the following cost allocation principles: “First, all water-using properties should pay for the cost of achieving a sustainable Basin under current conditions, because all such properties contributed to the overall decline in Basin conditions. Second, properties that may be developed in the future should pay for the costs of achieving and maintaining a sustainable Basin in light of future water demand associated with the development of those properties.”

keeping Special Tax rates low enough on any new properties being added to the Special Tax Program to avoid creating allocation problems, and (c) finding sufficient other financing sources to complement the portion of any facilities, services, and General Implementation costs not covered by the Special Tax Program.

(a) **Developed (Water-using) Residential Properties Outside of the SSA** – While many of the residents outside of the SSA will vote against having a Special Tax levied against them since they are not paying the Sewer Charges, such residents, if any, who intend to eventually annex into the SSA may actually be in support of the Special Tax.

**Developed (Water-using) Agricultural Properties Outside of the SSA** – A large percentage of the land within the Basin Plan Area is agricultural land using wells and is not paying the Sewer Charge. However, again, residents of these properties are likely to represent only a small percentage of registered voters within the Special Tax zone/district.

(b) **Undeveloped (Non Water-using Properties)** – There are several property owners of undeveloped land both within and outside of the SSA not paying Sewer Charges. Again, based on Coastal Development Permit Conditions 6 and 86 and/or the pending Los Osos Community Plan, these undeveloped land property owners will likely need to have the facilities, services, and General Implementation for Current Population successfully funded and implemented if they are to develop their properties, so many may favor the Special Tax Program, particularly if it means they can avoid paying a Benefit Area Impact Fee (see page 16).<sup>11</sup> Finally, the County could provide some level of entitlements to undeveloped properties if their owners agreed to support the Special Tax Program (only if they are included in the Special Tax zone/district), while those who oppose the Program could be

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<sup>11</sup> See Footnote 10 regarding the question associated with including undeveloped properties within the initial funding Special Tax zone/district.

exempted if they agreed to a deed restriction ensuring that they will never develop their undeveloped properties.

### **CFD Special Tax**

The CFD Act authorizes local agencies to create a special district called a Community Facilities District (“CFD”), which can finance certain types of services as well as public facilities (may issue tax-exempt municipal bonds) through the imposition of a Special Tax (explicitly not *ad valorem*) solely on those properties within the CFD. Government Code Section 53313 contains an exhaustive list of those services that can be funded under the CFD Act:

*A community facilities district may be established under this chapter to finance any one or more of the following types of services within an area:*

- (a) Police protection services [...]*
- (b) Fire protection and suppression services, and ambulance and paramedic services.*
- (c) Recreation program services, library services, maintenance services for elementary and secondary schoolsites and structures, and the operation and maintenance of museums and cultural facilities [...]*
- (d) Maintenance and lighting of parks, parkways, streets, roads, and open space.*
- (e) Flood and storm protection services [...]*
- (f) Services with respect to removal or remedial action for the cleanup of any hazardous substance released or threatened to be released into the environment [...]*
- (g) Maintenance and operation of any real property or other tangible property with an estimated useful life of five or more years that is owned by the local agency or by another local agency pursuant to an agreement entered into under Section 53316.2.*

Thus, the problem with a CFD is that the General Implementation services and other services identified in the Basin Plan do not squarely fall within any of the above-described services.

In contrast to the description of services capable of financing under the CFD Act, the description of facilities capable of financing under the CFD Act is not exhaustive. Government Code Section 53313.5 provides in pertinent part:

*A community facilities district may also finance the purchase, construction, expansion, improvement or rehabilitation of any real or other tangible property with an estimated useful life of five years or longer or may finance planning and design work that is directly related to the purchase, construction, expansion or rehabilitation of any real or tangible property [...] For example, a community facilities district may finance facilities, including, but not limited to [...] Any other governmental facilities that the legislative body creating the community facilities district is authorized by law to contribute revenue to, or construct, own, or operate.*

With respect to bonds issued pursuant to the CFD Act to fund public facilities, the ultimate security behind these bonds is the property within the CFD, not the local agency's General Fund, its ability to tax property throughout its jurisdiction, or any other municipal revenue source. This funding is also non-recourse off-balance sheet financing for the landowner, with the remedy for non-payment of CFD special taxes being the foreclosure of any delinquent Assessor's Parcel within the CFD. The local agency issuing the CFD bonds essentially acts only as a conduit for the sale of these tax-exempt bonds to finance public improvements. The maximum term of a CFD bond issue is forty (40) years.

DTA estimated bonding capacity based on the Scenarios 2 and 3 as described above. As Scenario 1 simply finances General Implementation (services), it was not included. For either Scenario 2 or 3, the land use assumptions are shown on Table 2A below.

**TABLE 2A  
Land Use Assumptions**

Land Use Assumptions	All Scenarios
Single Family Units	4,922
Multi-Family Units	225
Developed Non-Residential Acres	753

\* Subject to change, as these assumptions were made for conceptual estimating, but would need to be verified pending selection of appropriate funding mechanism(s).

At this time, DTA excluded the undeveloped (non water-using) acreage within the Basin Plan Area consistent with the allocation principles identified in Footnote 10 above.

Table 2B below summarizes the bond assumptions utilized for the preliminary CFD cash flow analysis.

**TABLE 2B  
Bond Assumptions**

CFD Bond Assumptions	Scenario 2	Scenario 3
Issuance Date	September 2017	Multiple
Average Coupon Rate	5.50%	5.50%
Bond Term (Years)	30	30
Cost of Issuance / Discount	5.00%	5.00%
Reserve Requirement	9.21%	9.21%
Capitalized Interest (12 Mos.)	5.22%	5.22%
Debt Service	2% Escalating	2% Escalating
Minimum Coverage	110%	110%
Services/Administration Component <sup>12</sup>	\$300,000	600,000

Noted below are conceptual estimates among land use categories, but the provided range of per unit/acre costs could be considered as appropriate to the selected Scenario.

In Scenario 2, DTA estimates that levying a \$100 Special Tax for Single Family residential units, a \$75 Special Tax for Multi-Family residential units, and \$364 per acre Special Tax for non-residential development can support \$8,120,000 in bonded indebtedness, with \$6,542,234 in construction proceeds (in addition to the General

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<sup>12</sup> See Section III regarding limitations of a CFD Special Tax with respect to funding General Implementation services.



Implementation component). In Scenario 3, DTA estimates that levying a \$300 Special Tax for Single Family residential units, a \$225 Special Tax for Multi-Family residential units, and a \$1,190 per acre Special Tax for non-residential development can support \$30,820,000 in bonded indebtedness, with \$24,831,484 in construction proceeds (in addition to the General Implementation component). Please see Table 2C and Appendix A for more information. It is important to note that with respect to both scenarios these figures are merely placeholders and are simply intended to illustrate a simple allocation formula – any actual allocation formula would likely be structured to reflect (estimated) water usage/burden on the relevant resource as discussed below with respect to the FCD Special Tax (e.g. separate rate for irrigated versus non-irrigated acreage).

**TABLE 2C  
CFD Public Financing Conceptual Conclusions**

	Scenario 2	Scenario 3
<b>Special Taxes (per Unit or Acre)</b>		
Single Family (per Unit)	\$100	\$300
Multi-Family (per Unit)	\$75	\$225
Non-Residential (per Acre)	\$364	\$1,190
<b>Bond Conclusions</b>		
Total Bonded Indebtedness	\$8,120,000	\$30,820,000
Total Construction Proceeds	\$6,542,234	\$24,831,484

As indicated above, the challenge with this funding mechanism is the ability (or lack thereof) to define the General Implementation services authorized to be financed under the CFD law, particularly since most of the services are not directly connected to the proposed facilities. Notwithstanding the foregoing, DTA recommends that Client confirm the above-described concern with Bond Counsel and explore any and all available legally supportable approaches to maximizing the services that can be covered by the CFD Special Tax.

A list of the general advantages and disadvantages of a CFD Special Tax (not specific to Los Osos) is attached as Appendix A-3.

### CFD Special Tax, Summary Pros and Cons:

**Pros:** Revenue potential (perhaps up to approximately \$24,831,484, shown in Table 2C above), ability to reflect Allocation Principles

**Cons:** Difficulty of funding General Implementation services, approval of two-thirds (2/3) of registered voters

### FCD Special Tax

Pursuant to Section 13.3 of the FCD Act, the Flood Control District can levy a special tax within a zone of the Flood Control District:

*The board shall have the power, in any year [...] [t]o levy taxes or assessments upon all taxable property in each or any of said zones, according to the special benefits derived or to be derived therein to pay the cost and expense of carrying out any of the objects or purposes of this act of special benefit to such zones, including the constructing, maintaining, operating, extending, repairing, or otherwise improving any or all works of improvement established or to be established within or on behalf of said respective zones.*

In addition, the Flood Control District can transfer the revenue from such tax to any governmental body with whom the Flood Control District has a contract to perform the financed services on behalf of the Flood Control District.

The FCD Special Tax would constitute a “special tax” under Article 13C, Section 1 of the California Constitution (a tax imposed for “specific purposes”) and thus, like the CFD Special Tax, would require approval by a two-thirds (2/3) vote of registered voters within the zone.

It is DTA’s opinion that the FCD Special Tax is the best mechanism if, and only if, Scenario 1 is pursued. **Based on information provided to DTA, each parcel would be subject to an approximately \$50 Special Tax levy under this scenario** if uniform rates were applied (which is unlikely) (in lieu of a uniform rate, the Flood Control District would likely factor in land use as well as (estimated) water usage). If any other scenario is pursued, DTA believes the Client should first attempt to pursue a CFD Special Tax. However, as indicated above, this recommendation has the strong potential to result in unfunded General Implementation costs. A two-thirds (2/3) vote is required under either framework, and DTA believes the charges outlined in Table 2C are reasonable enough to pass, should the General Implementation (\$300,000) be capable of passing itself.

**FCD Tax, Summary Pros and Cons:**

**Pros:** Statutory flexibility

**Cons:** Approval of two-thirds (2/3) of registered voters, bond market reception (vs. CFD)

**Special Assessments**

Special Assessments are constitutionally governed by Article XIID and by applicable enabling legislation. Primary examples of enabling legislation would be the Flood Control District Act and the Municipal Improvement Act of 1913 (Streets and Highways Code §§ 10000 *et seq.*) (authorizes financing of, among other things, the following along a legislative body's streets and highways: water mains, pipes, conduits, tunnels, hydrants, and other necessary works and appliances for providing water service). Similar to the CFD Special Tax, although a special assessment could likely be levied to fund facilities, it is a less feasible option for General Implementation. DTA is not aware of any applicable enabling legislation (other than the FCD Act) which would specifically authorize an assessment to cover the costs of such services. More significantly, even assuming such statutory authority exists, the California Constitution places significant requirements on special benefit assessments (that do not apply to Special Taxes). Specifically, no assessment can be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and an agency must separate the general benefits from the special benefits conferred on a parcel. Thus, the impact of the pending boundary determination (currently being considered by DWR) is potentially significant if a special benefit assessment were selected and the Basin Plan (Funding) Area is not in alignment with the DWR boundary. Moreover, in any legal action contesting the validity of any assessment, the burden shall be on the agency to demonstrate that the property or properties in question received a special benefit over and above the benefits conferred on the public at large and that the amount of any contested assessment is proportional to, and no greater than, the benefits conferred on the property or properties in question.

**Special Assessment, Summary Pros and Cons:**

**Pros:** 50% vote threshold (landowner ballots weighted according to proportional financial obligation)

**Cons:** Statutory Authorization, difficulty of funding General Implementation Services Proposition 218, General vs. Special Benefit

## Other Finance Opportunities, Facilitated by BMC

### **Benefit Area Fee Program**

A Fee Program can be adopted unilaterally by the County without being subject to a registered voter election, as long as it satisfies the nexus requirements of AB 1600 (California Mitigation Fee Act, Government Code §§ 66000 et seq.). As indicated in Footnote 10 above, the two allocation principles from the Basin Plan state:

*All water-using properties should pay for the cost of achieving a sustainable Basin under current conditions, because all such properties contributed to the overall decline in Basin conditions [and] properties that may be developed in the future should pay for the costs of achieving and maintaining a sustainable Basin in light of future water demand associated with the development of those properties.*

This financing alternative would therefore guarantee that new development pays its fair share of the costs of facilities from which it benefits, including sewer facilities. Impact fees (“Fees”) would be assigned to Assessor’s Parcels based on the relative benefit received by each acre of property within the area benefiting from the facilities (“Benefit Area”) according to their potential land uses, if available. The Fees could be paid at building permit issuance (consistent with the allocation principles), or at final map recordation if the County wanted to accelerate the funding. The existence of a Fee Program could also incentivize undeveloped land property owners to support the Special Tax Program cited above (if included in the Special Tax zone/district) because (i) the Special Tax Program ensures that existing development pays its fair share of the costs for Basin Plan implementation, (ii) participating in the Special Tax Program now could eliminate the need for undeveloped land property owners to pay future Fees, and (iii) if an annual escalator is attached to the Fee Program to cover the financing cost of the facilities, future development could avoid paying the Fee escalator by participating in the Special Tax Program now.

#### **Benefit Area Fee Program, Summary Pros and Cons:**

**Pros:** Focused only on Future Development (equity)

**Cons:** Focused only on Future Development (less revenue, timing)

## **Increase Cost of Water to Purveyors Based on Capital and General Implementation Costs Associated with Increasing Sustainable Yield Levels**

As the State Public Utilities Commission (“PUC”) controls the rates that certain private water purveyors can charge their customers, the ability of Golden State Water Company (“Golden State”) to raise rates depends on its ability to document unavoidable increases in water costs it must pass on to its customers to remain economically viable. If an entity were to directly charge Golden State and the other purveyors for the increased costs of providing sufficient amounts of water to current and future retail water consumers within their service areas, Golden State should be able to prove to the PUC that its cost of water has been increased, requiring higher retail water rates. Similarly, the other purveyors can justify raises in their rates if the costs of water have risen to encompass these facilities, services, and administration costs.

### **Land Dedication**

If certain property owners with parcels in suitable locations could dedicate land in a manner that assisted in the development of the facilities, in lieu of participating in alternative programs that would involve the payment of a Special Tax or Fee, their support for a Special Tax Program or Fee Program might be secured.

### **State Proposition 1 Water Bond Program (“Prop 1”), Round 2**

Another potential source of funding for public facilities could be federal and State grants and loans that are available to finance many types of public improvements. Although many grant and loan programs have been authorized by the federal and California State governments, most only provide funding occasionally, due to a lack of legislative appropriations stemming from budgetary shortfalls at both the federal and State levels. The good news, however, is that the State appears to be very concerned about water quality, supply and infrastructure improvements, especially as they relate to alleviating current drought conditions and creating water system resiliency, and the electorate’s approval of Proposition 1 in November, 2014 has authorized the sale of \$7.45 billion exclusively for water-related improvements.

Prop 1, as approved by the voters in November 2014, provides for the sale of State bonds to finance water-related planning, facilities, and programs intended to mitigate the impacts of climate change and the current drought, and ensure resilient and sustainable water resources. This program offers potential funding for up to 50% of

the cost of the project, or a higher percentage if the project funded is selected under the disadvantaged community program (at present, several large blocks with the Central Area (Los Osos/Baywood Park) are classified as Disadvantaged Community Block Groups by the State). Although the BMC might not be eligible for Round 1, there will be a Round 2 (expected in 2017/2018). There are various other Prop 1 funding programs that may also be suitable for facilities funding, or for other purposes that could take advantage of the fungible nature of infrastructure grants. DTA recommends that the BMC explore Prop 1 funding programs as they become available, and align to appropriate basin management elements where possible.

#### **IV. Summary of Phase 1 Finance Plan Report**

If the Client is immediately interested in financing General Implementation (\$300,000), a FCD Special Tax measure is the best option. Importantly, a financing strategy that requires multiple votes should be adopted carefully.

Should infrastructure be the ultimate focus of the vote to be conducted next year, DTA recommends first evaluating a CFD Special Tax with Bond and Legal Counsel, particularly any and all ways to include the General Implementation services within the CFD Special Tax.

At such time that new development resumes, DTA recommends the development of a Benefit Area Fee Program (AB 1600) to ensure that new development pays its “fair share” of the prioritized capital facilities, under a methodology to be developed and approved at that time.

The scenario and funding mechanism(s) chosen will impact the agency or agencies eligible to sponsor the measure(s) as discussed in the Report and DTA again recommends evaluating all possible arrangements with Legal Counsel.

Finally, as previously stated in the Report, DTA’s analyses and discussions should serve to provide an overview of the issues, challenges, and potential strategies related to this financing, and should not be construed as legal advice related to any of the approaches identified in the Report. DTA encourages the Client to engage its counsel on any legal ramifications related any approach or combination thereof, prior to implementing any of the strategies discussed herein.

**APPENDIX A-1**

**CASHFLOW – SCENARIO 2**



**APPENDIX A-2**

**CASHFLOW – SCENARIO 3**

## APPENDIX A-3

### GENERAL ADVANTAGES AND DISADVANTAGES OF CFDS

### **Advantages of CFDs (Generally):**

- CFDs can finance a wide variety of public facilities.
- CFDs burden only property owners within the CFD itself with Special Taxes, not property owners throughout the jurisdiction. The election prior to formation only applies to residents within the CFD.
- CFD bonds are non-recourse to the Issuer, so the Issuer's General Fund and taxing capacity are not at risk.
- Improvements financed through a Mello-Roos Program may benefit property owners outside of the CFD, and can be located outside of the CFD.
- The Special Tax may be considerably lower on vacant property than developed property.
- Increased flexibility with allocations.
- The Special Tax allocation can adapt to changes in development plans and relate to the ultimate land use developed.
- CFDs provide an Issuer with the option of paying for public improvements through bond sale or through tax revenues to pay directly for construction, or through a combination of the two.
- Revenues from other sources, such as State, Federal or local grants, can be used to reduce the Special Tax for all property owners in the CFD.
- CFD bonds are tax-exempt and, therefore, generally carry an interest rate much lower than conventional construction financing.
- CFD bonds are non-recourse to landowners, since the only collateral for the bonds is the property within the CFD.
- CFDs provide landowners with off-balance sheet financing, since a property's only lien under a CFD is the annual Special Tax, not the full bond principal which could be apportioned to the property.
- Capitalized interest can be included in a CFD bond issue to cover the debt service payments for up to two (2) years and reduce the cost of carry for the

undeveloped property owner.

- CFDs can support multiple bond issues without requiring increases in homeowners Special Taxes each time a new bond issue is sold.
- CFD bonds lower the size of the down payment and the mortgage required of prospective homeowners.
- CFD bond financing will permit the timely construction of public improvements, as compared to pay-as-you-go financing.
- When structured properly, CFD bonds can be pre-paid by a builder if a homeowner does not wish to pay a Special Tax.

**Disadvantages of CFDs (Generally):**

- Due to the negative press that Mello-Roos financing has received, the political and marketing ramifications of a CFD must be considered.
- CFD bond issues require a reserve fund and at least a 4:1 property value to public lien ratio to meet the minimal market standards.
- Future CFD bond issues, as well as Special Taxes to fund public services, may be canceled through future actions of the electorate (see discussion of Proposition 218 below).
- The Special Tax must be re-levied each year by the Issuer.
- CFD bonds require a reserve fund (typically 7%-10% of the bond amount) and a revenue to debt service ratio (typically 110%)
- Only a limited number of services are specifically authorized to be funded by a CFD.

### **Advantages of CFDs Versus Special Assessment Districts as a result of Proposition 218:**

Aside from the general advantages noted above, the following additional advantages exist as compared to special assessment districts, based on the Constitutional requirements placed on assessment districts (see above):

- CFDs are not affected by the special benefit requirement that affects the apportionment of liens on assessment districts. CFD Special Taxes, like all Special Taxes, must only be apportioned in a “reasonable manner.”
- Publicly-owned properties that benefit from assessment district financing must be assessed based on their level of benefit. CFDs do not require that Special Taxes be levied on publicly-owned properties, even if they benefit from CFD-financed improvements.
- CFDs can fund public services that are not eligible for financing through an assessment district under Proposition 218.



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**TO: Los Osos Basin Management Committee**

**FROM: Dan Heimel, Executive Director**

**DATE: August 26, 2020**

**SUBJECT: Item 6d – Update on Status of Basin Plan Infrastructure Projects**

**Recommendations**

Recommendation: Receive report and provide input to staff on future direction.

**Discussion**

The Basin Management Plan for the Los Osos Groundwater Basin (Plan) was approved by the Court in October 2015. The Plan provided a list of projects that comprise the Basin Infrastructure Program (Program) that were put forth to address the following immediate and continuing goals:

Immediate Goals

1. Halt or, to the extent possible, reverse seawater intrusion into the Basin.
2. Provide sustainable water supplies for existing residential, commercial, community and agricultural development overlying the Basin.

Continuing Goals

1. Establish a strategy for maximizing the reasonable and beneficial use of Basin water resources.
2. Provide sustainable water supplies for future development within Los Osos, consistent with local land use planning policies.
3. Allocate costs equitably among all parties who benefit from the Basin’s water resources, assessing special and general benefits.

The Program is divided into five parts, designated Programs A through D and Program M. Programs A and B shift groundwater production from the Lower Aquifer to the Upper Aquifer, and Programs C and D shift production within the Lower Aquifer from the Western Area to the Central and Eastern Areas, respectively. Program M was established in the Basin Management Plan for the development of a Groundwater Monitoring Program (See Chapter 7 of the BMP), and a new lower aquifer monitoring well in the Cuesta by the Sea area was recommended in the 2015 Annual Report and completed in December 2020. Program U is the Urban Water Reinvestment Program that addresses the use of recycled water within the Basin. The attached table provides a comprehensive project status and summary.

### Update on Status of Basin Plan Infrastructure Projects

Program Name	Project Name	Parties Involved	BMC Budgeted Amount	Funding Status	Anticipated Planning/Pre-Construction Cost	Anticipated Capital Cost	Status/Notes
<b>Program A –</b> Shift groundwater production from Lower Aquifer to Upper Aquifer	Water Systems Interconnection	LOCS D/ GSWC	NA	NA	NA	NA	<b>Completed</b>
	Upper Aquifer Well (8 <sup>th</sup> Street)	LOCS D	NA	Fully Funded	NA	\$250,000	Well was drilled and cased in December 2016. Budget remaining \$250,000 to equip the well. <u>The well equipping was included in an IRWM Grant Application that was approved by the Department of Water Resources in July 2020. Executed agreements are anticipated in Spring 2021 and construction to be completed Summer 2021.</u>
	South Bay Well Nitrate Removal	LOCS D	NA	NA	NA	NA	<b>Completed</b>
	Palisades Well Modifications	LOCS D	NA	NA	NA	NA	<b>Completed</b>
	Blending Project (Skyline Well)	GSWC	NA	NA	NA	NA	<b>Completed</b>
	Water Meters	S&T	NA	NA	NA	NA	<b>Completed</b>
<b>Program B -</b> Shift groundwater production from Lower Aquifer to Upper Aquifer	LOCS D Wells (Upper Aquifer)	LOCS D		Not Funded	TBD	BMP: \$2.7 mil	Project not initiated
	GSWC Wells (Upper Aquifer)	GSWC		Not Funded	TBD	BMP: \$3.2 mil	Project not initiated
	Community Nitrate Removal Facility	LOCS D/GSWC/S&T	TBD	Partial, GSWC portion funded	TBD	GSWC: \$1.23 mil	GSWC's Program A Blending Project might be capable of expanding to be the first phase of the Program B Community Nitrate Removal Facility.
<b>Program C -</b> Shift production within the Lower Aquifer from the Western Area to the Central and Eastern Areas	Expansion Well No. 1 (Los Olivos)	GSWC	NA	NA	NA	NA	<b>Completed</b>
	Expansion Well No. 2 (Lower Aquifer)	LOCS D is currently leading the project with potential GSWC and S&T involvement, depending on final location		LOCS D is currently leading the project with respect to funding	TBD	BMP: \$2.0 mil	<u>As reported in the last update, LOCS D contracted with SWCA to prepare an environmental constraints analysis (ECA) for the five potential Program C Well sites. The field work has been completed and the ECA document will be submitted to CSD by the end of August. It is anticipated that the analysis and site recommendation will go to the Board of Directors at their October 1, 2020 meeting.</u>
	Expansion Well 3 (Lower Aquifer) and LOVR Water Main Upgrade	GSWC/LOCS D		Cooperative Funding	TBD	BMP: \$1.6 mil	This project has been deferred under Adaptive Management.
	LOVR Water Main Upgrade	GSWC		May be deferred	TBD	BMP: \$1.53 mil	Project may not be required, depending on the pumping capacity of the drilled Program C wells. It may be deferred to Program D.
	S&T/GSWC Interconnection	S&T/ GSWC		Pending	TBD	BMP: \$30,000	<u>Currently on hold, pending the completion of S&amp;T's water meter cellular updates.</u>



Program Name	Project Name	Parties Involved	BMC Budgeted Amount	Funding Status	Anticipated Planning/Pre-Construction Cost	Anticipated Capital Cost	Status/Notes
<b>Program D</b> - Shift production within the Lower Aquifer from the Western Area to the Central and Eastern Areas							Currently being considered for deferment through Adaptative Management. BMC to review on an annual or semi-annual basis.
<b>Program M</b> – Groundwater Monitoring Plan	New Zone D/E lower aquifer monitoring well in Cuesta by the Sea	All Parties	NA	NA	NA	NA	<b>Completed</b>
<b>Program U</b> - Urban Water Reinvestment Program	Creek Discharge Program	All Parties	\$50k included and approved in the CY 2019 BMC Budget	Not included in CY 2020 BMC Budget	\$582,000 through feasibility phase required	TBD	These activities are currently on hold pending the outcome of the BMC Implementation Plan initiative.
	8 <sup>th</sup> and El Moro Urban Storm Water Recovery Project	All Parties	\$15k included in CY 2019 BMC Budget for initial study	Not included in CY 2020 BMC Budget		TBD	These activities are currently on hold pending the outcome of the BMC Implementation Plan initiative.