



Estrella-El Pomar-Creston Water District

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November 22, 2021

Department of Planning and Building
ATTN: Planting Ordinance/Kylie Hensley
976 Osos Street, Room 300
San Luis Obispo, CA 93408

At a special meeting on November 22, 2021, The Board of Directors of the Estrella-El Pomar-Creston Water District (EPCWD) voted to submit the following comments on the Public Review Draft of the Paso Basin Land Use Planting Ordinance (Planting Ordinance).

1. The Sustainable Groundwater Management Act (SGMA) is the appropriate regulatory agent to balance the Paso Robles Groundwater Basin.

This planting ordinance creates an additional regulatory requirement for farmers over the Paso Robles Groundwater Basin and aims to circumvent SGMA. If it is approved, farmers will be bound to satisfy two regulatory structures and different boundaries.

Recommendation: Allow SGMA to serve its purpose in establishing local control over bringing the Basin to sustainable levels.

2. The County must recognize who is growing what crop(s), in what quantity, and where.

The new Planting Ordinance as proposed would, in effect, establish a baseline “annual water demand” for each parcel. As of the date the new Planting Ordinance becomes effective, each parcel in the Basin would receive a baseline “annual water demand credit” for the existing crop(s) in production. This is the de facto method the Offset/WNND Ordinances currently uses. It is understood and works.

Recommendation: This is a sound approach and would allow the County and landowners to agree on the existing land use.

3. Parameters allowing farmers to continue their agricultural operations unimpeded into the future are not clearly explained.

As part of normal and routine agricultural operations, landowners may find it necessary to make changes in crops and or reconfigure planted acreage within a parcel. These operations may include but are not limited to activities such as replanting, crop rotation, grafting, interplanting, irrigation installation, soil preparation, and rehabilitation of existing permanent crops. If changes to farming practices in the parcel’s annual water demand do not result in a net increase in the annual water demand, then farmers may proceed with their operational changes without County involvement.

Recommendation: These normal and routine operations should be exempted from the County's new Planting Ordinance. Normal operations should be able to continue without County involvement.

4. The proposed Planting Ordinance should recognize lands NOT in crop production at the time the Planting Ordinance becomes effective.

Landowners whose lands are not in crop production at the time of the effective date of the Planting Ordinance would be allowed to "look back" and provide evidence that previous crop production has taken place in the six years prior to the effective date of the Planting Ordinance. This would allow the landowner to establish baseline water demands for lands previously irrigated.

Recommendation: The Planting Ordinance should recognize the principle expressed above and provide for a six-year "look back". Language in the Planting Ordinance should establish "look back" criteria and methodology.

5. Termination date of the proposed Planting Ordinance is excessive.

With an expiration date in 2045, this ordinance prevents new or expanded crop production for 23 years without regard to changes in our water resiliency that may be brought about through implementation of our groundwater sustainability plan. Many things can happen over the next 23 years and the Planting Ordinance may become obsolete before its expiration.

Recommendation: The new Planting Ordinance should sunset five years from date of adoption and should provide for five-year extension(s) if approved by the County.

6. The current 5AFY Planting Exemption should not be increased to 25AFY.

The current Urgency/WNND Ordinances provides for an exemption for planting new crops with annual water demands of a maximum of 5AFY. The proposed Planting Ordinance would increase pumping from 5 acre-feet per year (AFY) to 25 AFY without a permit for an estimated 4,800 property owners in the Basin. This could increase the demand on our Basin by 96,000 AFY, an obvious undesirable effect that could trigger management of our Basin by the California Department of Water Resources.

Recommendation: Keep the Exemption Planting carve-out at the current level of 5AFY.

7. The Planting Ordinance should address "new or expanded" plantings.

The purpose of the Planting Ordinance is to prevent any planting that may result in increased demand on groundwater pumping. The two existing Offset/WNND Ordinances currently restrict new net planting increases.

Recommendation: The Planting Ordinance should prohibit plantings where the established annual water demand of a parcel exceeds the parcel's established baseline annual water demand credit.

8. The Planting Ordinance contains confusing and unclear terms and definitions.

The planting ordinance uses the term "site" and assigns an arbitrary definition to the word. This is a special construct present in the proposed new Planting Ordinance. It's not clear why it is

included and to what purpose it serves. Sites create an extra level of complexity. Sites can be easily de-constructed by changes in property Title. Sites can discriminate on how parcels are treated based on ownership.

Recommendation: The term “site” should be eliminated from the Planting Ordinance and the Planting Ordinance should instead focus on parcels.

9. The Dry Cropland section of the Planting Ordinance should be better defined and constructed.

Recommendation: This section of the draft Planting Ordinance should be rewritten to provide clarity.

10. Giving County Planning and Building Department staff authority to conduct annual inspections of farms and ranches is an unacceptable request.

Section E. Procedures allows County staff to “conduct annual site inspections for sites with an approved planting permit or exemption verification...to monitor the planting status before and after confirmation of final planting.” Considering this permission lasts for 23 years, this new authority is a breach of trust and an unreasonable expectation.

Recommendation: Remove language stating that annual site inspections will be conducted.

11. Language with regards to well construction permitting is contradictory and should be edited.

We are concerned that that Planting Ordinance implies that permitting for well construction will be subject to a discretionary permit under the new ordinance. In addition, the language in the Planting Ordinance is contradictory to the existing County Code.

Recommendation: This section should be edited for clarity and consistency with existing County Code.

We offer our sincere thanks for the opportunity to comment and your careful consideration of our concerns.

Sincerely,

Dana Merrill
President, Board of Directors
Estrella-El Pomar-Creston Water District