



July 20, 2016

**VIA EMAIL AND HAND DELIVERY**

California Water Commission  
Attn: Mr. Joseph Byrne, Chairperson  
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**RE: Comments on DWR's Draft Denial of the Los Osos Groundwater Basin Boundary Modification Request (Bulletin 118 No. 3-08)**

Dear Chairperson Byrne:

The Golden State Water Company ("GSWC") is writing this letter to urge the California Water Commission ("CWC") and the Department of Water Resources ("DWR") to deny DWR's draft denial ("Draft Denial") of the County of San Luis Obispo's ("County") request to modify the boundaries of the Los Osos Groundwater Basin (Bulletin 118 Basin No. 3-08 ("Los Osos Basin")) ("Boundary Modification Request"). As set forth in the Technical Memorandum prepared by Cleath-Harris Geologists ("Los Osos Technical Memorandum"), as well as the comment letter submitted to DWR on July 12, 2016 (*available at* <http://www.slocountywater.org/site/Water%20Resources/SGMA/pdf/SLO%20County%20Letter%20to%20DWR%20Basin%20Boundary%20Modifications.pdf>), the County's Boundary Modification Request is based on the most up-to-date scientific assessment of the Los Osos Basin. The Boundary Modification Request also promotes sustainable management by conforming the Los Osos Basin boundaries to the area that will be actively managed pursuant to the court-approved groundwater management plan for the adjudicated portion of the Los Osos Basin ("Basin Plan").

Along with the County, Los Osos Community Services District, and S&T Mutual Water Company, GSWC is a member of the Basin Management Committee ("BMC") for the Los Osos Basin. The BMC was formed pursuant to the San Luis Obispo County Superior Court approval of the resolution of the groundwater basin adjudication in *Los Osos Community Services District v. Southern California Water Company [Golden State Water Company] et al.* (San Luis Obispo County Superior Court Case No. CV 040126) ("Los Osos Adjudication"). Concurrent with resolving the Los Osos Adjudication and forming the BMC, the Court also approved the Basin Plan, which sets forth a comprehensive plan for the long-term sustainable management of the Los Osos Basin. Pursuant to the Court's order in this matter, the BMC is the entity responsible for implementing the Basin Plan.

GSWC would like to thank the CWC for the opportunity to provide these comments and urges the CWC and DWR to reverse DWR's Draft Denial. GSWC's focus in providing these comments is twofold—to preserve the time, money, and resources the BMC has already committed to developing and implementing the Basin Plan and to promote the sustainable management of the Los Osos Basin.

### **Bulletin No. 118 Basin Boundaries Not Intended for Groundwater Management**

The Sustainable Management Groundwater Act ("SGMA") defines a basin's boundaries as those "identified and defined in Bulletin 118." (Wat. Code § 10721(b).) Bulletin 118, however, was not developed—or intended—to be used as a basis for groundwater management. (See Wat. Code § 12924.) Instead, Bulletin 118 boundaries were based strictly on geological and hydrogeological studies, which did not account for the feasibility for management. Such practical considerations are necessary if the state is serious about achieving SGMA's central goal of sustainable groundwater management. We urge the CWC to request that DWR take a more flexible approach in accepting proposed basin boundary modifications that may not strictly conform to the boundaries set forth in Bulletin 118, but that have a high chance of success in terms of promoting and maintaining a sustainable groundwater management structure.

### **Creation of Additional Fringe Areas with Not Supported by Best Available Science**

The Draft Denial will result in the creation of "fringe areas"<sup>1</sup> along the southwestern and eastern boundaries of the adjudicated portion of the Los Osos Basin. Inclusion of these areas within the Los Osos Basin is not based on the best available scientific data and historical reports. As described in the Los Osos Technical Memorandum, there is a physical separation that prevents groundwater flow between the southwestern portion of the Los Osos Basin (as delineated by DWR) and the adjudicated portion of the Los Osos Basin. Faulting, both adjacent and within basin sediments, is present in this area, which significantly impedes and impacts groundwater flow between these two portions of the Los Osos Basin. Based on this scientific data, the Boundary Modification Request excluded this area from the proposed boundaries.

The proposed eastern boundary, as set forth in the Boundary Modification Request, is based off of numerous historical studies (including a DWR study published in 1989), which also excludes the Eastern Valley area alluvial deposits from the Los Osos Basin. As DWR noted in this report, "[o]nly in areas less than 4 miles from the coast do water-bearing sediments of significant thickness occur. Farther east, bedrock is overlain by sediments of low permeability . . . [t]hus, the groundwater basin begins about 4 miles inland and deepens to the west." The proposed boundaries submitted in the Boundary Modification Request are consistent with DWR's findings in its 1989 study.

For these reasons, GSWC does not believe that the Draft Denial is based on the best available science and respectfully requests the CWC to urge DWR to reconsider the Draft Denial.

### **Need for Alternative Management Mechanism for "Fringe Areas" in Adjudicated Basins**

As an adjudicated basin subject to ongoing judicial oversight, the Los Osos Basin is expressly exempted from SGMA's groundwater sustainability plan ("GSP") requirement. (See Wat. Code, § 10720.8, subd. (a)(4).) As in many areas within the state, however, there are incongruities between the Los Osos Basin's Bulletin 118 boundaries and those boundaries covered by the adjudication. This incongruity results in areas of the Bulletin 118 defined boundaries extending outside the adjudication boundaries and creating "fringe areas." As noted above, the Draft Denial creates two disconnected fringe areas on the southwestern and eastern border of the adjudicated portion of the Los Osos Basin.

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<sup>1</sup> DWR has described these areas, in its Discussion Paper: Topic 5 – Boundaries (Aug. 3, 2015) as "fringe areas."

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Because SGMA's exemption of adjudicated basins applies only to the extent of the adjudicated boundaries, fringe areas are not exempted from SGMA's GSP requirement. The requirement of a GSP in a fringe area that abuts an adjudicated basin may raise the concern of inconsistency in the management within and outside the adjudication, and additional—though unnecessary—requirements for coordination of the management pursuant to an adjudication. In the Los Osos Basin, the BMC (and the parties to the adjudication) have invested substantial time and resources to craft a basin management structure—the Basin Plan—that is specifically tailored to provide sustainable management of the Basin. As the result of the time, effort, and resources invested by those parties, they reasonably expect to be able to rely on the management structure carried forward through the Basin Plan. If faced with the potential for inconsistent groundwater management in multiple fringe areas, as the result of a required GSP, the BMC may be faced with the choice of seeing its efforts and investments frustrated or reallocating time and money to coordination efforts that will have little material impact on the Basin's sustainable groundwater management.

Although DWR's draft issue papers have shown that DWR is aware of the need to address fringe areas, particularly in the situation of incongruity between adjudicated and Bulletin 118 boundaries, the Proposed Groundwater Sustainability Regulations ("Proposed GSP Regulations") do not include a mechanism—or any flexibility— expressly addressing such concerns regarding fringe areas. (See Discussion Paper 5, *supra*, at 4-5.) GSWC encourages DWR to work with the BMC—and other similarly situated basins—to develop an alternative mechanism to address the concerns described consistent with SGMA's exemption of adjudicated basins, including recommending amendment of the Proposed GSP Regulations and/or the Basin Boundary Modification Regulations.

Once again, GSWC thanks you for your continued assistance throughout this process and for the opportunity to provide comments.

Sincerely,



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Water Resources Manager/Chief Hydrogeologist

CC: California Water Commission, Commissioners  
Los Osos Basin Management Committee  
Carolyn Berg, San Luis Obispo County