



Friends of the Santa Clara River

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November 22, 2021

Anthony Emmert
Executive Director
Fillmore and Piru Basins Groundwater Sustainability Agency
PO Box 1110
Fillmore, CA 93016

Submitted via email: evai@unitedwater.org

Re: Public Comment Letter on the Piru Basin Draft Groundwater Sustainability Plan – Response to Comments

Dear Mr. Emmert and Board of the Directors:

Thank you for the opportunity to comment on the Piru Basin Draft Groundwater Sustainability Plan (GSP) prepared in accordance with the Sustainable Groundwater Management Act (SGMA). As you are aware, Friends of the Santa Clara River represents the Santa Clara River Environmental Groundwater Committee and local environmental interests in the development of the GSPs, to ensure that Groundwater Dependent Ecosystems (GDE) are identified and that significant and unreasonable adverse impacts on all recognized beneficial uses and users of groundwater and related surface waters are adequately considered. Furthermore, Friends of the Santa Clara River has been an implementing agent for the Watersheds Coalitions of Ventura County's Integrated Regional Water Program Disadvantaged Community Involvement grant, doing focused outreach to underserved communities in the Piru and Fillmore basins. To that end we offer the following recommendations on the Draft GSP considering environmental users, surface water users, and disadvantaged communities:

1. Adequately Identifying Beneficial Uses and Users

TNC et. al SMC/Disadvantaged Communities and Drinking Water Users

Access to water is an international human right, officially recognized in California through Assembly Bill 685, which states, "every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes."

We acknowledge that the Fillmore and Piru Basins Groundwater Sustainability Agency's engagement in the WCVC's DACIP program, and that the agency tabled and presented at our hosted event in Piru and online via Zoom. While it is important to engage in local DACIP efforts, the GSA is also required to do their own focused

effort to adequately engage and consider DAC and homeless¹ feedback (i.e., adequately capture the extent of DAC's and homeless and their use of groundwater).

Recommendations:

- Engage in local DAC efforts at the County of Ventura
 - o Coordinate with Lynn Rodriguez at Watershed Coalition of Ventura County to complete the WaterTalks Institutional Interview Form
 - o Engage with the County of Ventura regarding their Homeless Outreach and Support Task Force. A task force was initiated in Districts 1 and 5. The task force is a multi-agency and law enforcement group that have convened and planned initial survey dates to further assess areas with homelessness. The assessment could be expanded to include District 3. A Santa Clara River Encampment Assessment was developed, including questions on potential alternative placement, health conditions, and current connection to services. Of particular interest is the access to safe and affordable drinking water and sanitation. Survey and outreach outings aim to provide information to people in the watershed area. Teams have representation across services, including the County's Human Services Agency, Health Care Agency Healthcare for the Homeless, Whole Person Care and Behavioral Health. This will provide a better assessment of DAC water needs in the basin.
 - o Evaluate 2021 WaterTalks Survey results for Fillmore and Piru Communities. Needs Assessments were conducted earlier this year, as well as the plan for the final phase of the DAC Involvement Grant Program which is beginning in winter 2021. This phase will include training and technical assistance, project identification and project development. Consider projects identified through the DACIP grant that meet GSP goals for incorporation in the GSP.
 - o Recognize that DAC stakeholders are not adequately considered by lumping them with other stakeholders (i.e, Piru Community or pumpers, as a DAC pumper is not a large-scale pumper/agricultural corporation). The water needs for DACs outside of the cities proper need to be assessed, and how basin wide monitoring may disproportionately impact these DACs needs to be mitigated appropriately through project selection.
 - o Consider 2016 DACIP Program Survey Results, available from the WCVL.
- Consider GSA specific mailers to underserved community members identified in the DAC in the Fillmore and Piru Basins, particularly where their drinking water is reliant on groundwater. The WCVL DACIP grant did focused newspapers that were successful in targeting underserved individuals.

Public Notice and Communications

Posting information on the Agency website and social media is helpful, but Plan commenters should also be informed by email when updates or additional information is posted.

¹ This right goes largely unmet for many Californians experiencing homelessness because they are overlooked or in some cases, overtly discriminated against.

Recommendation

- Focused mailings should be done in DAC's to promote better engagement and support their involvement.

The Plan's Obligation to Address the Public Trust and CA Department of Fish and Wildlife Comments

The Public Trust Doctrine imposes an obligation to consider how groundwater management affects public trust resources, including navigable surface waters and fisheries. Groundwater hydrologically connected to surface waters are also subject to the Public Trust Doctrine to the extent that groundwater extractions or diversions affect or may affect public trust uses (*Environmental Law Foundation v. State Water Resources Control Board* (2018), 26 Cal. App. 5th 844; *National Audubon Society v. Superior Court* (1983), 33 Cal. 3d419).²

Accordingly, groundwater plans should consider potential impacts to and appropriate protections for interconnected surface waters and their tributaries, and interconnected surface waters that support fisheries, including the level of groundwater contribution to those waters. In the context of SGMA statutes and regulations, and Public Trust Doctrine considerations, groundwater planning should carefully consider and protect environmental beneficial uses and users of groundwater, including fish and wildlife and their habitats, groundwater dependent ecosystems, and interconnected surface waters. Availability of surface flow, riparian vegetation and riparian canopy cover for instream fish, nesting birds and wildlife migration etcetera is an important part of ensuring species viability. Therefore, we urge further clarification of the following response to comments by CDFW:

Hydrological Conceptual Model data gaps

Please explain and provide references as to why streamflow gages recommended by CDFW is infeasible. Identify under what conditions streamflow gages may be made possible via a project and/or management action.

Fish Hatchery Pumping and SMC Southern steelhead

Response states that the "lack of evidence of spawning/rearing of steelhead to support the significance of NMFS defined critical habitat". Without steelhead presence/absence monitoring or a limiting factors analysis, one cannot assume that federally listed critical habitat is purely a migration corridor. This assumption does not meet the rigor or meet our due diligence as an Agency under the Federal Endangered Species Act or Public Trust Doctrine. Please verify what monitoring or assessment confirms that statement/response. It is not an adequate response for the magnitude of the concern to a listed species. Presence absence monitoring and a steelhead limiting factor analysis remain data gaps that need to be executed to inform management within the 1-5 year timeframe. Furthermore, like CDFW stated, Friends of the Santa Clara River also requested temperature monitoring as a SMC and minimum threshold for steelhead to adequately address the impact of groundwater management. As the GSA supports providing mitigation for pumping affects on GDE vegetative communities, if

² The Environmental Law Foundation June 3, 2020 letter to the California Department of Water Resources regarding their Legal Obligation to Consider the Public Trust Doctrine in Groundwater Sustainability Plan Decisions was provided to the Clerk of the Board, Executive Director and Chair for consideration.

steelhead is rearing and or spawning in these GDE areas, supplemental water and/or appropriate mitigation actions would be warranted. We need to identify reasonable measure with timelines to address these data gaps.

Sensitive Species and Habitats

Please clarify the source for stating that surface water diversions in this basin average less than 100 AF/year. Is this the State Water Resource Control Board, Los Angeles Regional Water Quality Control Board, and does it include known illegal diversion activities?

Environmental Conclusions

The Santa Clarita Valley GSA incorrectly stated in their draft GSP that:

“The context for the sustainability goal is the recognition that no undesirable effects have occurred in the Basin to date.” (Page 8-6)

Perhaps it is intended to mean that the wells recovered after a dry period. However, as you are aware, locally and statewide we have not seen recovery of ground water. DWR and others estimate we would need 140% of precipitation to recover lost storage and ground water³. With the extreme reduction in precipitation in the upper basin, wells have not recovered except where they have been shut off due to PFAS or Perchlorate pollution. How are we coordinating discrepancies between the two basins, and how their findings inform the inputs into our basins?

Their draft plan also fails to mention tree die off that occurred in upland areas such as the die off of oaks in the Valley Oak Savannah west of I-5 between there are several elimination of this

“But the Groundwater Management Plan, Santa Clara River Valley Groundwater Basin, East Subbasin, Los Angeles County, California (Basin Operating Plan) described in Section 6 contemplates groundwater levels lower than historical levels during dry years, to accommodate future buildout, conjunctive use operating strategies, and climate change (LSCE, 2003). (emphasis added) (p. 8-4)

It appears from this statement that the agency intends to inflict these lower levels and undesirable impacts permanently on the natural and human community to accommodate massive and unsustainable building in the Santa Clarita Valley by finding there will be no impact. This is of grave concern, when coupled with the Newhall Ranch developments and how these build outs will impact inflow into the basin. Cooperative agreements are required under SGMA, and we need clearer language and communications on key findings and or actions from the upper watershed, especially in terms of long-range planning

³ **“This is how much rain California needs to get out of the drought” Sept. 20th 2021,** <https://www.sfgate.com/weather/article/How-much-rain-California-need-end-drought-16497191.php>
“Drought expected to persist in much of the Western US through 2022 and beyond, according to NOAA report”, Sept. 30th, 2021 <https://abcnews.go.com/US/drought-expected-persist-western-us-2022-noaa-report/story?id=80309340>

Recommendations:

- Implement a Southern steelhead limiting factors analysis to better inform assumptions about steelhead presence, absence and usage of critical steelhead habitat.
- Provide a timeline as to when data gaps will be addressed
- Improve focused outreach to DAC's to ensure human right to water considerations, as well as safe and affordable drinking water. Consider a risk analysis to DAC's as a project in the GSP.
- Climate change consideration remain lacking, especially in light of mega drought trends, and future conditions and allocation from both the Colorado River and Delta.

FSCR appreciates the opportunity to comment regarding on the Draft Piru GSP Response to Comments. These are intended to be and are preliminary comments; FSCR reserves its rights to submit other, different and/or additional comments on the Draft Final GSPs following its release and, where appropriate, throughout subsequent phases of the Agencies' review process for the plan. If you have any follow up questions regarding this letter, please contact Candice Meneghin on (805) 628-2250 or contact@fscr.org. Thank you in advance for your consideration of these concerns.

Sincerely,

A handwritten signature in black ink, appearing to be the name 'Candice Meneghin'.

Candice Meneghin
Board Member