



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Water Agency
Department No.: 054
For Agenda Of: December 6, 2016
Placement: Departmental
Estimated Time: 2 hour
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Directors, Water Agency

FROM: Department Scott D. McGolpin, Public Works Director, 568-3010
Director(s)
Contact Info: Thomas D. Fayram, Deputy Public Works Director, 568-3436

SUBJECT: Sustainable Groundwater Management Act and Groundwater Sustainability Agency Formation, All Supervisorial Districts

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence: N/A

Recommended Actions:

- a) Receive and file a report on activities and progress to date related to the Sustainable Groundwater Management Act of 2014 and the formation of Sustainable Groundwater Agencies;
- b) Approve and authorize the Chair to execute the “Memorandum of Agreement for the Formation of a Groundwater Sustainability Agency for the Western Management Area in the Santa Ynez River Valley Groundwater Basin under the Sustainable Groundwater Management Act” to form a Groundwater Sustainability Agency in the Santa Ynez Valley Groundwater Basin Western Management Area;
- c) Adopt the Resolution entitled “Resolution to Participate in the Formation of a Groundwater Sustainability Agency Pursuant to the Sustainable Groundwater Management Act for the Western Management Area for the Santa Ynez Valley Groundwater Basin”;
- d) Approve and authorize the Chair to execute the “Memorandum of Agreement for the Formation of a Groundwater Sustainability Agency for the Central Management Area in the Santa Ynez River Valley Groundwater Basin under the Sustainable Groundwater Management Act” to form a Groundwater Sustainability Agency in the Santa Ynez Valley Groundwater Basin Central Management Area;

- e) Adopt the Resolution entitled “Resolution to Participate in the Formation of a Groundwater Sustainability Agency Pursuant to the Sustainable Groundwater Management Act for the Central Management Area for the Santa Ynez Valley Groundwater Basin”;
- f) Direct staff to proceed with formation of a Groundwater Sustainability Agency in the San Antonio Creek Groundwater Basin, with one voting member per agency (voting option B);
- g) Direct staff to proceed with Groundwater Sustainability Agency formation in the non-adjudicated fringe portion of the Santa Maria Groundwater Basin (option A); and
- h) Determine that the proposed actions are not a project under the California Environmental Quality Act, pursuant to Guidelines Section 15378(b)(5), organization or administrative activities that will not result in a direct or indirect physical change in the environment.

Summary Text:

This item is on the agenda for two reasons: (1) to provide an update as to Water Agency’s participation in Groundwater Sustainability Agency (GSA) formation pursuant to the Sustainable Groundwater Management Act of 2014 (SGMA), and (2) to request Board direction on specific GSA formation actions. SGMA directs local public agencies with water or land use authority to form GSAs in groundwater basins designated by the California Department of Water Resources (DWR) as medium- or high-priority by June 30, 2017. At the July 12, 2016 Board meeting, the Santa Barbara County Water Agency (Water Agency) presented to the Board a briefing on SGMA, including an overview of GSA formation. At that hearing, the Board directed Water Agency staff to proceed with formation of GSAs in the Cuyama Valley, San Antonio Creek Valley, and Santa Ynez River Valley groundwater basins. Since that time, the Water Agency has worked with other local agencies in each of these basins to begin forming GSAs. In addition, staff has collaborated with the County of San Luis Obispo to explore GSA formation in the non-adjudicated fringe areas of the Santa Maria River Valley Groundwater Basin.

The following is a summary of work that the Water Agency has conducted to date in each basin as well as requests for specific guidance on GSA formation from the Board. Each basin is unique in its conditions, issues, and proposed governance approach. The Water Agency’s role in each basin may change in response to DWR’s on-going and developing SGMA guidelines, issues related to GSA development, or direction from the Board. In all cases, final details of GSA responsibilities, estimated future costs, and GSA voting options will be developed and will be subject to your Board’s approval.

Santa Ynez River Valley Groundwater Basin (medium priority)

The Santa Ynez River Water Conservation District (SYRWCD) covers the majority of this basin and is best positioned to be the lead for GSA formation. The SYRWCD is proposing three GSAs representing the three main areas of the basin (Western, Central, and Eastern Management Areas, see Attachment A) based on jurisdictional and hydrogeological differences. An overarching Basin Coordination Agreement would link the three GSAs, as is required by SGMA in basins with multiple GSAs. Portions of this basin are outside of the SYRWCD boundaries. The Water Agency will be the lead in providing data and stakeholder outreach for these areas and the County retains land use authority in all unincorporated areas. Staff will return to the Board with recommendations for Board member appointees in all three management areas at a later date.

Western Management Area: The Western Management Area GSA is proposed to include the SYRWCD, the City of Lompoc, the Vandenberg Village Community Services District, and the Mission Hills Community Services District. The area outside of the SYRWCD is less than 1 percent of the overall basin area, with little water use. Therefore, the Water Agency is proposed to be a non-voting member of the GSA. A Memorandum of Agreement (MOA) has been drafted reflecting this voting structure (Attachment B). The MOA has been agreed upon in principle by staff of the participating agencies, and will be brought before each agency's decision-making body for approval. The MOA exempts the Water Agency from any costs other than staff participation in GSA meetings, and indemnifies the Water Agency from legal liability. A public meeting was held in Lompoc on November 17, 2016 to inform interested parties about SGMA and GSA formation.

Central Management Area: In the Central Management Area, the GSA is proposed to include the SYRWCD, the City of Buellton, and the Water Agency. However, because the area outside of the SYRWCD is 0.05 percent of the overall basin area, with little water use, the Water Agency is currently proposed to be a non-voting member of the GSA. Staff of the participating agencies have agreed upon the MOA (Attachment D) in principle, and will bring it to the Buellton City Council and the Santa Ynez River Water Conservation District Board for approval. The MOA exempts the Water Agency from any costs other than staff participation in GSA meetings, and indemnifies the Water Agency from legal liability. A public meeting was held on November 9, 2016 to inform the community and gather feedback on the GSA formation process.

Eastern Management Area: The Water Agency is working to form a GSA in the Eastern Management Area with the SYRWCD, the City of Solvang, and Santa Ynez River Water Conservation District Improvement District No. 1. Approximately 60 percent of this area is outside of the SYRWCD boundaries, and within the Water Agency's jurisdiction. Collaboration and outreach in this area is in the early stages. The Water Agency and the SYRWCD have met with representatives of the Santa Ynez Band of Chumash Indians to discuss their desire for participation. Chumash representatives indicated a desire to participate in at least an advisory capacity for lands not held in trust by the federal government. Water Agency staff will return to the Board as needed as GSA formation in the Eastern Management Area proceeds.

Cuyama Valley Groundwater Basin (medium priority, critically overdrafted)

The Water Agency is currently participating in GSA formation with five other public agencies: Cuyama Basin Water District (which is currently in the process of forming), the Cuyama Community Services District, and the Counties of San Luis Obispo, Ventura, and Kern. The Cuyama Basin Water District is a new agency being formed by landowners to allow them to participate as a voting member of the GSA. The Cuyama Basin Water District has been approved by LAFCO, and is expected to form a Board of Directors by March 2017. SGMA specifies that only public agencies with water or land use management authority have the ability to form GSAs. The Water Agency has held five working group meetings with these agencies since April 2016. A community informational meeting was held on August 24, 2016, and a public workshop was held on October 27, 2016 to inform the community and gather feedback on the GSA formation process.

Workgroup discussions have focused on two primary issues: the type of legal agreement used to form the GSA and the voting structure. Currently, the workgroup is working towards a Joint Powers Agreement (JPA) to form the GSA. A JPA creates a separate public entity with the ability to protect member agencies from liability, issue bonds, and independently exercise SGMA authorities. JPAs are

subject to the requirements of the Brown Act, are required to carry insurance, and conduct audits. With regard to voting structure, the Water Agency recommends a simple, unweighted voting structure with appointees from each agency having one vote. Representatives of most of the other agencies support this structure in principle. However, the representative for the Cuyama Basin Water District has expressed concerns over the equity of an equally-weighted structure, as their landowners constitute the majority of the water use in the basin and would likely be providing the majority of the funding for the GSA. Various options for certain types of votes (e.g. approving a budget or the GSP) requiring more than a simple majority or even unanimity for approval have been discussed, but not yet agreed upon, by the workgroup. Once the workgroup agrees upon the details of the JPA, staff will bring the final JPA to the Board for approval.

San Antonio Creek Valley Groundwater Basin (medium priority)

The Water Agency is currently participating in GSA formation discussions with the Cachuma Resource Conservation District (CRCD), Vandenberg Air Force Base (VAFB) and the Los Alamos Community Services District (LACSD). CRCD is involved in these discussions in response to being asked by agricultural stakeholders in the basin to provide representation for agriculture. VAFB and the LACSD have indicated a preference to serve in an advisory capacity to the GSA. A working group, consisting of the agencies in the basin and stakeholders, has met roughly monthly since April to work on GSA formation. Currently, the working group is working towards a JPA to form the GSA. A public workshop was held on August 9, 2016 in Los Alamos to inform the community and gather feedback on this process.

Through the course of the workgroup discussions, one of the most critical issues has been the question of how voting membership in the GSA's governing board would be structured. Several options discussed by the workgroup are as follows:

Option A: In this structure, preferred by agricultural stakeholders present at early workgroup meetings, the CRCD would appoint seven voting members to the GSA Board of Directors, and the Water Agency would appoint one. The seven CRCD board members would be appointed by the CRCD Board of Directors to represent various basin interests, based roughly on water use, as follows: Vines (2 votes), Row Crops (2 votes), Orchards (1 vote), Cattle (1 vote), and Transitional Land Use (1 vote). Under this structure, the Water Agency would have the ability to appoint a single voting member. This option would grant the basin's water users effective control over the GSA and groundwater governance under SMGA. An advisory committee to the GSA would include the following: the LACSD, VAFB, and representatives from the Farm Bureau, environmental interests, and other land use interests. The Board of Supervisors briefly discussed this option at the July 12, 2016 hearing, with at least one Supervisor indicating that this 7 to 1 voting structure would not be preferred.

Option B: A second option would have parity in voting, with the CRCD and the Water Agency each appointing one voting member to the GSA Board. This option gives each public agency equal influence over the activities of the GSA. In addition, by requiring that all decisions be unanimous it gives each agency veto power over any and all decisions. The various agricultural interests identified as voting members under Option A would be able to serve on an advisory committee, along with the LACSD, VAFB, and other interests. A potential risk to this option is that with only two voting members, decision-making may be difficult and deadlocked votes are a real possibility. However, staff recommends this option to mitigate concerns associated with the Water Agency joining the GSA as a minority partner to the CRCD.

Option C: A third option is for the Water Agency to opt out of the SGMA process, which would allow the CRCD to file with DWR as the sole GSA for the basin. If the CRCD failed to form a GSA, or failed to prepare a GSP approved by DWR, the SWRCB would act as the State backstop in the Basin.

Option D: A fourth option is to direct staff to return to the Board with a resolution to file with DWR as the sole GSA for the basin. However, the CRCD would still have the ability to also file to be the GSA, in which case DWR would not validate either filing until the two agencies resolve the overlap. The Water Agency would continue to collaborate with stakeholders to develop a GSA structure that is fair and considers all beneficial water uses in the basin. This option would include formation of an advisory committee to allow for wide representation and community participation.

Option E: A fifth option is for the Board to direct staff to continue negotiating with the CRCD, and provide specific direction regarding parameters for voting structure. Examples could include direction to negotiate an agreement such that:

- the Water Agency is not in a minority of votes; or
- appointments are made jointly by the Boards of both the Water Agency and the CRCD; or
- voting would be equally weighted between agencies, but not necessarily with one vote each. At the most recent workgroup meeting on November 9, 2016, the workgroup proposed equally-weighted voting, but with the CRCD and the Water Agency each appointing 4 members to the Board as set forth in the table below. Under this option the Water Agency Board would be constrained to appoint representatives of specific interests in the basin as opposed to Water Agency representation. Appointees in this scenario would be required to be residents or landowners within the basin.

	Water Agency Appointee	CRCD Appointee
Vines	1	1
Row Crops	1	1
Cattle	1	1
Transitional Land Use		1
Residential/Business (Los Alamos)	1	

If negotiations failed, the Water Agency could opt out (option C) or file as the sole GSA (option D) for the basin. These negotiations would need to take place over the next several months, given the necessity to bring any negotiated agreement back to each Board for approval and considering the June 30, 2017 deadline for notifying DWR.

Adjudicated Basins

Basins that have been previously adjudicated are not subject to SGMA, with the exception of specific reporting requirements. There are two medium- and high-priority adjudicated basins in the County: the Goleta Valley Groundwater Basin and the Santa Maria Valley Groundwater Basin. For both of these basins, the boundary of the adjudication does not completely match with the basin boundary as defined in DWR’s Bulletin 118, leaving “fringe” areas which are not managed pursuant to the adjudication. SGMA requires that all portions of a basin be managed, and a GSA is therefore required for these fringe areas. If a GSA is not formed in these fringe areas they will be subject to State Water Resources Control Board (SWRCB) reporting and fee requirements. The SWRCB is developing a draft fee schedule for water users in basins not managed by a GSA (Attachment G).

Santa Maria River Valley Groundwater Basin. For the Santa Maria Groundwater Basin, there are small fringe areas on the eastern edge of the adjudicated basin with limited groundwater use or agricultural production. These areas, shown on the map included as Attachment F, include a portion of the Cuyama River Valley from Twitchell Reservoir to the adjudicated basin, an area along Tepesquet Road, and a short reach of the Sisquoc River. Larger fringe areas are located in the County of San Luis Obispo. If a GSA is not formed, water users in these areas would become subject to the SWRCB reporting and fee requirements detailed in Attachment G. In addition, the SWRCB has not yet clarified what, if any, impacts to adjudicated portions of a basin there may be if fringe areas are unmanaged. The Water Agency has partnered with the County of San Luis Obispo to explore GSA formation in these fringe areas, a public meeting was held on September 14, 2016. The Water Agency has proposed two options with respect to these areas.

Option A: Form a GSA by the June 30, 2016 deadline, likely in partnership with the County of San Luis Obispo. Recommended by staff, this option protects Water Agency residents in the fringe areas from SWRCB reporting and fee requirements, while giving the Water Agency time to work with DWR and the SWRCB to determine how to manage these small areas with limited water use and limited impact on the adjudicated basin. There is also the possibility of requesting a basin boundary revision from DWR in 2018 to remove some or all of these areas from the DWR Bulletin 118 basin.

Option B: Direct the Water Agency to submit a letter to DWR opting out of its presumed role as manager of areas outside the jurisdiction of any other water or land use agency. This would preclude any Water Agency funds or staff time being spent on SGMA compliance in these areas, but could result in SWRCB reporting requirements and fees being imposed on the residents and landowners of these areas.

Goleta Valley Groundwater Basin. For the Goleta Valley Groundwater Basin, the fringe area outside of the adjudicated boundary is entirely within the boundary of the Goleta Water District. The Goleta Water District has indicated that it will be applying to be the sole GSA for these areas. There are currently no plans for formal Water Agency participation.

Background:

SGMA was signed into law by Governor Brown in 2014. SGMA provides a framework for the sustainable management of groundwater supplies by local agencies and provides tools, authority, and a timeline for local agencies during the 20-year implementation period. SGMA requires sustainable management of the County's basins that are designated as medium- or high-priority by DWR. In Santa Barbara County these basins include the Cuyama Valley, San Antonio Creek Valley, Santa Ynez River Valley, Goleta Valley, and Santa Maria River Valley Groundwater Basins.

SGMA allows any local agency with water or land use management authority to become a GSA; in some cases, there may be multiple agencies that are interested in jointly managing the groundwater resources. SGMA allows multiple local agencies to act as a single GSA through a Memorandum of Agreement (MOA), a Joint Powers Agreement (JPA), or any other legal agreement (California Water Code, Section [§] 10723.6 (a)). Additionally, although the federal government and federally-recognized Indian Tribes are not required to form GSAs, they may voluntarily participate in SGMA through a JPA or other agreement (§ 10720.3 (c)).

Submitting a GSA notification to DWR initiates a 90-day period after which the submitting agency is presumed to be the exclusive GSA in the area covered by the notification. If local agencies submit GSA notifications for overlapping areas, no agency will become the GSA until the agencies reach agreement on sharing the authority to manage the basin (§ 10723.8 (c)). If the local agencies cannot reach agreement, the basin may be designated as a probationary basin and the SWRCB may develop an interim plan for managing the basin until the agencies can reach agreement and identify a GSA or GSAs (§ 107352.2(a)(1)).

Each basin’s GSA will be responsible for developing a Groundwater Sustainability Plan (GSP) for the basin. DWR regulations to guide local GSP development were approved by the California Water Commission on May 18, 2016 and go into effect June, 2016. GSPs must be adopted by January 31, 2020 for those basins deemed by the State to be critically overdrafted (Cuyama), and by January 31, 2022 for all other medium- or high-priority basins (San Antonio, Santa Ynez, Santa Maria, Goleta).

Earlier this year the Water Agency was awarded a “Counties with Stressed Basins Grant” under the Proposition 1, Sustainable Groundwater Planning Grant Program in the amount of \$249,240 from DWR for GSA formation. This grant was brought to the Board and approved on April 5, 2016. The Water Agency has contracted with Dudek for assistance with GSA formation and governance and SGMA grant tracking and application services through June 30, 2018 in an amount not to exceed \$509,760, of which approximately half of the contract will consist of the above mentioned grant funds. This contract was also brought to the Board and approved on April 5, 2016. The Water Agency intends to actively pursue funding opportunities for the development of GSPs in the required basins.

Fiscal and Facilities Impacts:

Budgeted: Yes

<u>Funding Sources</u>	<u>Current FY Cost:</u>	<u>Annualized On-going Cost:</u>	<u>Total One-Time Project Cost</u>
DWR Grant funds			\$ 249,240.00
Water Agency funds			\$ 311,496.00
Federal			
Fees			
Other:			
Total	\$ -	\$ -	\$ 560,736.00

Fiscal Analysis:

Narrative:

The costs associated with forming these GSAs are included in the adopted FY 2016-17 budget in the Water Resources Division of the Public Works Department on page D-319 in the budget book. No General Fund monies will be utilized for this project.

Special Instructions:

Direct the Clerk of the Board to return all signed originals of the MOAs, copies of the resolutions, and minute order of these actions to the Water Agency office: Attn: Christina Lopez.

An original of each MOA will be returned to the COB’s office once SYRWCD has approved and executed the MOAs. After all other agencies have approved the MOA, the SYRWCD will take the final

approval action because final approval of the MOAs will trigger a 30-day GSA filing deadline with DWR.

Attachments:

- Attachment A – Santa Ynez River Valley Groundwater Basin Map
- Attachment B – Memorandum of Understanding – Santa Ynez River Valley Groundwater Basin, Western Management Area (6 originals)
- Attachment C – Resolution – Santa Ynez River Valley Groundwater Basin, Western Management Area
- Attachment D – Memorandum of Understanding – Santa Ynez River Valley Groundwater Basin, Central Management Area (4 originals)
- Attachment E – Resolution – Santa Ynez River Valley Groundwater Basin, Central Management Area
- Attachment F – Santa Maria River Valley Groundwater Basin Fringe Area Map
- Attachment G – State Water Resources Control Board Draft Fee Schedule
- Attachment H – PowerPoint Presentation

Authored by:

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