

AGENDA REPORT



Meeting Date: September 29, 2015

Agenda Item # _____

City Manager Approval:

TO: Honorable Mayor and Members of the City Council

FROM: Rick Crabtree, City Manager/Attorney

SUBJECT: Sustainable Groundwater Management Act of 2014

RECOMMENDED COUNCIL ACTION:

Provide direction to City Staff regarding City designation as a Groundwater Sustainability Agency (GSA).

SUMMARY:

The Sustainable Groundwater Management Act of 2014 (“the Act”) was signed by the Governor in September 2014 and became law on January 1, 2015. The law requires that the groundwater basins within Tehama County be managed by one or more Groundwater Sustainability Agencies (GSA’s) on or before June 30, 2017. Each GSA will need to develop a Groundwater Sustainability Plan (GSP) by January 31, 2022. Groundwater basins may have a single or multiple GSA’s and a single or multiple GSP’s.

Notice of this meeting was included with water bills distributed to City sewer and water customers the week of September 14th. In addition, a display ad describing the meeting ran in the Red Bluff Daily News on September 23, 2015.

PREVIOUS COUNCIL ACTION:

On August 18, 2015, the City Council directed staff to set a special City Council meeting to discuss the County’s proposal to establish the Tehama County Flood Control and Water Conservation District Board of Directors (i.e., Tehama County Board of Supervisors) as the governing board of a County-wide Ground Water Sustainability Agency (GSA).

On May 19, 2015 the City Council directed City staff to meet with County representatives to pursue a joint GSA with shared governance.

On August 18, 2015 the City Council directed City staff to bring this topic back for a special meeting and to send notices to residents and/or property owners noticing the meeting.

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DISCUSSION:

Background

The City of Red Bluff is the largest supplier of domestic groundwater in Tehama County. The City supplies water to 4,756 different metered water connections, serving a population of 15,000 residents. The City operates a network of 13 municipal water wells.

The City Water Department was established in 1921 and employs 6 full-time employees (not including management and administrative staff). The Water Department's operating budget for 2015/2016 is approximately \$2.1 million. The City extracts, pumps and delivers 1,178,953,000 gallons of groundwater per year.

The City routinely collects data regarding all aspects of the City's water supply and use thereof including water quality monitoring. The City brings the resources of the largest water supplier in the County to the table as an active, participating member of the GSA.

The City overlies the Red Bluff East Groundwater Basin. (Exhibit C)

City GSA Proposal

As directed by the City Council, City staff has met multiple times with County staff regarding a joint approach to development of a County wide GSA. Attached hereto as Exhibit A is a written position paper presented to the County by the City. That proposal suggests a joint governance model similar to the existing Tehama County Transportation Commission (ie., 3 voting members from the Board of Supervisors, and 1 voting member from each of the 3 cities). Key to the proposal is a City appointed voting member on the GSA governing board.

County GSA Proposal

The County has proposed a GSA governance structure using the existing Tehama County Flood Control and Water Conservation Board (consisting solely of members of the Board of Supervisors). (Exhibit B) The County has also proposed establishing a "Groundwater Commission," as an advisory body to the Board of Supervisors. Under the County's proposal, the Commission would consist of 11 members including 1 member each from the City of Red Bluff, Corning and Tehama, as well as representatives from 3 water districts and representatives from the each of the 5 County Supervisor Districts. Significantly, under the County's proposal the City would ***not*** have a voting member on the GSA governing Board.

Statutory Background

A GSA is new creation of the legislature with some significant and important powers and duties related to groundwater management. Below is a summary of some of the key statutory provisions related to GSA's.

Summary of the Sustainable Groundwater Management Act of 2014

1. GSA Formation

- Any local agency or combination of local agencies overlying a groundwater basin may elect to be a GSA for that basin. (§ 10723.¹) The Act defines "local agency" as a local public agency with water supply, water management, or land use responsibilities within a groundwater basin. (§ 10721(m).)
- Local agencies may form a GSA by using a joint powers agreement, memorandum of agreement or other legal agreement. (§ 10723.6.) Local agencies must form GSAs by June 30, 2017. (§ 10735.2(1).)
- A local agency or combination of local agencies that elects to form a GSA must hold a public hearing and submit a Notice of Intent to the California Department of Water Resources (DWR) within 30 days of electing to be a GSA. (§ 10723(d).) 90 days after posting notice with DWR, the GSA is presumed to be the GSA for the basin if no other notice for that basin was submitted. (§ 10723.8(b).)
- In areas of a basin not covered by a GSA, the county will be presumed the GSA for the area. (§ 10724.) Where a county notifies DWR it will not be the GSA for such an area or a county fails to notify DWR by June 30, 2017 that it will cover such an area, extractions of groundwater must be reported directly to the state in accordance with Section 5200 et seq. (§ 10724(b).)

2. GSA Authority

The Act provides expansive groundwater management powers and authorities to GSAs. (§ 10725(a).)

- A GSA may adopt rules, regulations and ordinances. (§ 10725.2(b).)
- A GSA may conduct investigations to:
 - Determine the need for groundwater management
 - Prepare and adopt a GSP
 - Propose and update fees
 - Monitor compliance and enforcement (§ 10725.4.)

¹ All statutory references are to the Water Code unless otherwise indicated.

- A GSA may require:
 - Registration of groundwater extraction facilities (§ 10725.6.)
 - Measurement of groundwater extractions according to a GSP using a GSA-approved measuring device (§ 10725.S(a).)
 - An owner or operator of extraction facilities to bear the cost for purchase and installation of an approved measuring device (§ 10725.S(b).)
 - Submission of an annual statement of total extractions (§ 10725.S(c).)

- A GSA may regulate groundwater extraction by:
 - Imposing spacing requirements on new groundwater well construction, and imposing operating regulations on existing wells to minimize well interference (§ 10726.4(a)(l).)
 - Limiting or suspending: (1) extractions from individual groundwater wells; (2) construction of new groundwater wells; (3) enlargement of existing groundwater wells; (4) reactivation of abandoned wells; or (5) otherwise establishing extraction allocations (§ 10726.4(a)(2).)
 - Authorizing the temporary or permanent transfer of allocations (§ 10726.4(a)(3).)

 - Establishing accounting rules to allow carry over of unused groundwater allocations (§ 10726.4(a)(4).)

- A GSA may impose "permit fees" and "fees on groundwater extraction or other regulated activity" to fund its groundwater sustainability program. (§ 10730.)

- A GSA may impose (fixed and/or volumetric) fees on groundwater extraction to fund groundwater management activities. (§ 10730.2(a), (d).)

- Fees must be adopted in accordance with Section 6 of Article XIID of the California Constitution (Proposition 218). (§ 10730.2(c).)

- Groundwater extractions in excess of the amount authorized by a GSA are subject to a civil penalty not to exceed five hundred dollars (\$500) per acre-foot in excess of the authorized amount.(§ 10732(a)(l).).

- Additionally, violation of any rule, regulation or ordinance generates liability for a civil penalty not to exceed one thousand dollars (\$1,000) plus one hundred dollars (\$100) for each additional day the violation continues beyond 30 days from the date of notice(§ 10732(a)(2).)

- Civil penalties may be imposed judicially or administratively. (§ 10732(b).)

3. Groundwater Sustainability Plans

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- A GSP must include a description of the physical setting and aquifer characteristics that includes:
 - Historical data
 - Groundwater levels, quality, subsidence and groundwater-surface water interaction
 - Historical and projected demands and supplies
 - Map showing basin boundaries and recharge areas (§ 10727.2(a).)
- A GSP must include measurable objectives to achieve the "sustainability goal" within 20 years of implementation of the plan. (§ 10727.2(b)(1).) The Act defines the term "sustainability goal" and related terms as follows:
 - Sustainability Goal: implementation of GSP(s) that achieve sustainable groundwater management by identifying and causing implementation of measures targeted to ensure the basin is operated within its sustainable yield. (§ 10721(t).)
 - Sustainable Groundwater Management: use of groundwater in a manner that can be maintained over the planning and implementation horizon (50 years) without causing undesirable results. (§ 10721(u).)
 - Sustainable Yield: maximum quantity of water, calculated over a base period representative of long-term conditions in the basin and including any temporary surplus, that can be withdrawn annually from a groundwater supply without causing an undesirable result. (§ 10721(v).)
- A GSP must include a summary of monitoring sites and monitoring protocols designed to detect changes in groundwater levels and quality, land subsidence, and flow of surface water that affects groundwater or is caused by groundwater extraction. (§ 10727.2(e)-(f).)
- As applicable, a GSP must include the following components:
 - Monitoring and management of groundwater levels and quality, land surface subsidence, and changes in surface flow and surface water quality that directly affect groundwater levels or quality or are caused by groundwater extraction in the basin (§ 10727.2(d)(1)-(2).)
 - Mitigation of overdraft (§ 10727.2(d)(3).)
 - Description of how recharge areas replenish the basin and surface supplies used to recharge the basin (§ 10727.2(d)(4)-(5).)
- A GSP, where appropriate, must include discussion and analysis regarding:
 - Control of saline water intrusion

- Wellhead protection areas
- Migration of contaminated groundwater
- Well abandonment and well destruction program(s)
- Replenishment of groundwater extractions
- Conjunctive use opportunities
- Well construction policies
- Groundwater contamination cleanup measures
- Efficient groundwater management practices
- Efforts to develop relationships with state and federal agencies
- Processes to review land-use plans and coordinate with land-use planning agencies (10727.4.)

4. Basin Coverage and Coordination

- Three options exist for development and implementation of a GSP:
 - One GSA and one GSP covering the entire basin (§ 10727(b)(1).)
 - Multiple GSAs and one GSP covering the entire basin (§ 10727(b)(2).)
 - Multiple GSAs, multiple GSPs covering the entire basin pursuant to a single coordination agreement that covers the entire basin (§ 10727(b)(3).)
- Where there are multiple GSAs implementing multiple GSPs, the GSAs shall coordinate to ensure use of the same data and methodologies for the following:
 - Groundwater elevations
 - Groundwater extractions
 - Surface water supplies
 - Total water use
 - Changes in groundwater storage
 - Water budget
 - Sustainable yield (§ 10727.6.)

CITY FISCAL IMPACT:

Unknown at this time. Clearly, there will be costs associated with the formation and operation of a GSA. These costs would likely be paid from water enterprise funds,

ATTACHMENTS:

- A. City GSA Proposal.
- B. County GSA Proposal
- C. Tehama County Water Basin Diagram

City of Red Bluff

Groundwater Sustainability Agency Position Paper

July 8, 2015

Tehama County has requested that the City of Red Bluff provide a written proposal regarding how the City would like to see the Tehama County GSA structured and what the City will bring to the table.

Background

The City of Red Bluff is the largest supplier of domestic groundwater in Tehama County. The City supplies water to 4,756 different metered water connections, serving a population of 15,000 residents. The City operates a network of 13 municipal water wells.

The City Water Department was established in 1921 and employs 7 full-time employees (not including management and administrative staff). The Water Department's operating budget for 2015/2016 is approximately \$2.1 million. The City extracts, pumps and delivers 1,178,953,000 gallons of groundwater per year.

The City routinely collects data regarding all aspects of the City's water supply and use thereof including water quality monitoring. The City brings the resources of the largest water supplier in the County to the table as an active, participating member of the GSA.

GSA Requirements

“Any local agency or combination of local agencies overlying a groundwater basin may elect to be a groundwater sustainability agency for that basin.” (Water Code § 10723(a).)² A GSA “*shall* consider the interests of all beneficial uses and users of groundwater, as well as those responsible for implementing groundwater sustainability plans. These interests include [] all of the following: [] (b) Municipal well operators. (c) Public water systems. (d) Local land use planning agencies. []” (§10723.2)

A notification of intent to form a GSA must include a list of interested parties including municipal well operators, public water systems and local land use planning agencies and “an explanation of how their interests will be considered in the development and operation of the groundwater sustainability agency and the development and implementation of the agency's sustainability plan.” (§10723.8(a)(4).)

A combination of local agencies may form a groundwater sustainability agency through use of a joint powers agreement or other legal agreement. (§10723.6(a))

² All statutory references are to the Water Code except where otherwise indicated.

City Participation In The GSA Is Required

The statutory mandate makes clear that the City's interests as the largest supplier of domestic groundwater in the County must be considered. In fact, the notice of intent to form a GSA must explain how the City's interests will be considered in the development and operation of the GSA. Furthermore, the City is authorized to pursue its own designation as a GSA.

The statute expressly recognizes that a combination of affected local agencies may come together to form a GSA using a joint powers agreement. The best way to ensure that the City's interests are considered (as required by statute) is for the City to be a voting and participating member of the GSA.

Proposed Governance

The City proposes that a joint powers agreement be used to form a GSA which includes affected cities as voting members. The composition of the Tehama County Transportation Commission has been suggested as a potential model:

- 3 Members from the Board of Supervisors
- 1 Member from the City of Red Bluff City Council
- 1 Member from the City of Corning City Council
- 1 Member from the City of Tehama City Council

Of course, this organization could be modified as appropriate. The critical thing is that the City of Red Bluff, as the largest supplier of domestic groundwater in the County, be included as a voting and participating member of the GSA.

Tehama County Groundwater Sustainability Agency (GSA)

GSA Governing Body - Tehama County Flood Control and Water Conservation District (FCWCD) Board of Directors

1. Final approval authority for GSP and any future amendments, and all GSA ordinances, rules, regulations, and fees.
2. Primary responsibility for funding, resources, and staffing. (Cities/Districts will not be requested to provide or commit funding in order to participate in the Groundwater Commission.)
 - FCWCD will provide staff assistance to Groundwater Commission and Board of Directors throughout the GSP development and implementation process.
 - Where necessary, the Board of Directors will provide additional resources from FCWCD's existing funding or grant opportunities pursued by FCWCD.
 - The Board of Directors will apply for and receive grants to fund GSA activities (with the Commission's recommendation), including responsibility for executing and implementing grant contracts and associated requirements.
 - Further revenue measures, if any, would be reviewed by the Commission prior to adoption by the Board of Directors (and will not be based on GSA participation).
3. Hear and decide appeals (if any) from decisions of the Groundwater Commission on permits, similar entitlements, and enforcement matters.
4. Confirm appointments of the five "Supervisorial District" members of the Groundwater Commission (upon recommendation of the Commission).

Groundwater Commission (Similar to Planning Commission)

1. Develop GSP and any future amendments, and all GSA ordinances, rules, and regulations, including holding public hearings and making final recommendations to Board of Directors.
2. Conduct investigations to determine the need for groundwater management, monitor compliance and enforcement, propose and update fees and making final recommendations to Board of Directors.
3. Review all proposed grant applications, and advise Board of Directors regarding grant funding opportunities.
4. Decision-making authority for permits or similar entitlements issued by the GSA, e.g., well spacing (with appeal).
5. Make quasi-judicial decisions in GSA enforcement matters (with appeal).
6. Membership:
 - a. 1- City of Corning (Appointed by City)
 - b. 1- City of Red Bluff (Appointed by City)
 - c. 1- City of Tehama (Appointed by City)
 - d. 1- El Camino Irrigation District (Appointed by District)
 - e. 1- Los Molinos Community Services District (Appointed by District)
 - f. 1- Rio Alto Water District (Appointed by District)
 - g. 5- 1 Representative from each County Supervisorial District
 - i. Recommendations to be made by the seated Groundwater Commission members and confirmed by the FCWCD Board of Directors.
 - ii. Appointees will be expected to meet certain qualifications:
 - 2 members should represent the interests of surface water agencies or districts;
 - 2 members should represent the interests of private pumpers;
 - 1 member will be an "at large" representative;
 - No agency or district shall be represented by more than 1 member on the Groundwater Commission.

AB3030 Technical Advisory Committee - Provides technical assistance as needed.

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