

TO: WATER SUPPLY ADVISORY COMMITTEE (WSAC)
FROM: HEIDI LUCKENBACH
SUBJECT: UPDATE ON SOQUEL CREEK WATER DISTRICT ACTIVITIES
DATE: SEPTEMBER 24, 2014

A meeting of the Mid County Groundwater Stakeholder Advisory Committee was held on September 9, 2014. <http://www.soquelcreekwater.org/our-water-groundwater/stakeholder-advisory-committee> A presentation was provided by Russ McGlothlin from Brownstein Hyatt Farber Schreck on the {then} pending California Groundwater Legislation. A handout from the meeting is attached and the presentation can be found here:

http://www.soquelcreekwater.org/sites/default/files/documents/GWSAC/GWSA%20-%20Overview_Russ_Presentation.pdf

On September 16, 2014 Governor Brown signed into law the three pieces of groundwater legislation.

Governor's Message:

To the Members of the California Legislature:

I am signing AB 1739, SB 1168 and SB 1319, which taken collectively establish a new structure for managing the State's groundwater. These bills accomplish a number of goals described in the California Water Action Plan, a five-year plan to sustainably manage our water resources. When combined with the other elements outlined in the plan -- conservation, water recycling, expanded storage, safe drinking water, wetlands and watershed restoration -- and the passage of Proposition 1, we can take giant strides to secure California's water future. A central feature of these bills is the recognition that groundwater management in California is best accomplished locally. Local agencies will now have the power to assess the conditions of their local groundwater basins and take the necessary steps to bring those basins in a state of chronic long-term overdraft into balance. The State's primary role is to provide guidance and technical support on how to plan for a more sustainable future and to step in on an interim basis when, but only when, local agencies fail to exercise their responsibilities as set forth in this legislation. My administration will work closely with all affected groups to ensure that the statute is fairly implemented. Further, I will submit for legislative consideration during the next session a proposal to streamline judicial adjudications of groundwater rights.

GOVERNOR EDMUND G. BROWN JR.

Information on the three bills is provided below.

AB 1739 establishes when the state government can intervene if the local groups don't sufficiently do their job. (L.A. Times, 9/16/14) http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_1701-1750/ab_1739_bill_20140916_chaptered.pdf

SB 1168 instructs local agencies to create management plans. (L.A. Times, 9/16/14) http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_1151-1200/sb_1168_bill_20140916_chaptered.pdf

SB 1319 seeks to allay some concerns of farmers by postponing the state's action in certain places where surface water has been affected by groundwater pumping. (L.A. Times, 9/16/14) http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_1301-1350/sb_1319_bill_20140916_chaptered.pdf

Staff from the City of Santa Cruz, Soquel Creek Water District, County of Santa Cruz, Pajaro Valley Water Management District and Central Water District met recently to begin discussions on how to move forward under this new legislative framework.

Also, attached is an agenda from the District's September 16, 2014 meeting. The minutes from the August 26, 2014 meeting reflect that, on the topic of Back up Water Supply Options, the Board made the following motion that passed unanimously: "To direct staff to bring back a plan for further detailed studies for 1) San Lorenzo Surface Water Transfers – Existing Infrastructure, 2) Mid County Groundwater Replenishment, and 3) Santa Cruz Regional Groundwater Replenishment and to direct staff to bring back more information regarding the Lochquifer plan."

http://www.soquelcreekwater.org/sites/default/files/documents/board-meeting/meeting-minutes/08-26-14%20%20Special%20Meeting%20Minutes_.pdf

September 2, 2014

Legislature Passes Historic Legislation Fundamentally Changing California Groundwater Law

California's depleted groundwater basins will not go unmanaged any longer. That's the directive of the Sustainable Groundwater Management Act ("Act"), passed late Friday, August 29 by the California Legislature, which Governor Brown is expected to sign. For at-risk basins, the Act requires the designation of a "groundwater sustainability agency" and adoption of a "groundwater sustainability plan" within roughly five to seven years. The plan must set the basin on a course toward "sustainable management" to eliminate adverse groundwater conditions specified as "undesirable results" by roughly 2040. If a local agency is not designated as a groundwater sustainability agency, or if a compliant groundwater sustainability plan is not prepared within designated time frames, the State Water Resources Control Board ("SWRCB") may intervene and adopt and enforce its own plan for the basin.

Applicable Basins

The Act applies to basins or subbasins that are to be designated by the California Department of Water Resources ("DWR") as "medium-" or "high-priority" basins. DWR will use its Bulletin 118 to delineate basins. Under the Act, DWR must rank each of the basins or subbasins identified in Bulletin 118 as either a very low-, low-, medium-, or high-priority basin based on the threat to the basin's integrity. The Act does not apply to adjudicated groundwater basins that are managed by the courts, or to basins deemed by DWR to be low or very low priority. Present AB 3030 groundwater management plans (Water Code Sections 10750 et seq.) in medium- and high-priority basins must be replaced or augmented to comply with the requirements for a groundwater sustainability plan under the Act.

We anticipate approximately 125 basins located throughout the state will be designated as medium or high priority for which a plan must be developed. The majority of these basins are in the San Joaquin Valley. Others are coastal basins and other high-demand basins that are at risk of long-term depletion or other harm (e.g., seawater intrusion).

Plan Requirements

The Act requires that plans include prescribed components to achieve sustainable groundwater management to avoid undesirable results, such as chronic depletion of groundwater, water quality degradation, or subsidence. Each plan must include requisite monitoring and management for the basin over a 50-year planning horizon, and plans must articulate measurable objectives to be achieved every five years. DWR will review the plans and will have the power to request changes to a submitted plan.

The Act also authorizes designated groundwater sustainability agencies to limit or curtail groundwater production, monitor water withdrawals, track the location of wells, and assess regulatory fees to fund groundwater management and replenishment activities, among other powers. Agencies are not, however, authorized to issue or deny well-drilling permits, unless authorized to do so by the encompassing county.

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Plan Development Deadlines

Local agencies have until January 1, 2017, to elect to become or form a groundwater sustainability agency. In medium- or high-priority basins, identified by DWR as being subject to "critical conditions of overdraft," groundwater sustainability agencies must adopt a compliant plan by January 1, 2020. A compliant plan for all other medium- and high-priority basins must be adopted by January 1, 2022.

The plan must establish measurable objectives, as well as incremental milestones every five years in order to achieve the sustainability goals identified in the plan within 20 years. DWR may grant extensions to groundwater sustainability agencies for up to 10 years upon a request and showing of good cause. Groundwater sustainability agencies are required to submit their plans to DWR for initial approval and thereafter to report their progress to DWR every five years.

State Intervention

The Act authorizes the SWRCB to intervene in medium- and high-priority basins when local agencies are not meeting established goals, including: failure to elect a groundwater sustainability agency by January 1, 2017; failure to develop a compliant plan within the designated time requirements; or when (i) DWR, in consultation with the SWRCB, determines that a plan is inadequate or is not being implemented in a manner that is likely to achieve the plan's sustainability goal, and (ii) the SWRCB determines that the basin is either in a state of long-term overdraft or groundwater extractions are causing significant depletions of interconnected surface water.

Practical Application and Challenges

In practice, compliance with the Act will be challenging for many basins. For example, in some basins, there may be conflict over which of several existing local agencies should be the designated groundwater sustainability agency. If so, the Act permits the creation of a new groundwater sustainability agency and "sharing" of basin governance pursuant to a joint powers agreement, memorandum of agreement, or other legal agreement. The Act also allows a basin to be managed by several separate, but coordinated, groundwater sustainability plans developed by different groundwater sustainability agencies. However, in each circumstance, agreement between local agencies and stakeholders will be necessary to navigate such potential conflicts.

Another significant potential challenge will be allocating the burden of cutbacks in groundwater extractions, as well as responsibility for payment of pump assessments to fund necessary basin replenishment and other management objectives. Under the common law, senior priority water rights holders are generally not required to reduce extractions or incur significant expense for the benefit of lower-priority water rights holders. The Act expressly does not determine or quantify water rights. Therefore, significant conflicts may arise in the development of a plan where water rights priorities are contested or the equities of a proposed management plan are disputed. The likelihood for these problems warrants significant stakeholder and public outreach at the outset of any groundwater sustainability plan process. If a negotiated agreement cannot be reached to resolve such conflicts, the basin may be subject to SWRCB intervention or a general groundwater adjudication.

September 2, 2014

Groundwater adjudications may be the inevitable result for basins in which conflicts on these issues persist. Once complete, the judgment entered in a groundwater adjudication generally provides valuable legal certainty and an efficient means of basin management. Unfortunately, as a result of a lack of judicial procedures specifically tailored to the complexities of groundwater adjudications, which involve complex technical and legal issues, groundwater adjudications often take far too long (sometimes decades) and cost too much. A conceptual procedure to streamline groundwater adjudications was considered for inclusion in the Act, but was excluded because of inadequate time to address the complexities of such a process. Efforts are underway to develop legislation to establish a streamlined adjudication procedure for consideration next year. Such a result could be highly beneficial to cost-effectively resolve groundwater disputes and implement comprehensive management in a timely manner.

Without question, the Act will fundamentally change the landscape of groundwater use and management in California's most important and significant un-adjudicated groundwater basins. [Brownstein Hyatt Farber Schreck](#), LLP has worked on all aspects of groundwater management in California for more than 40 years, played a central role in the negotiations and drafting of the legislation, and is fully versed in the components and implications of the Act. We are prepared to assist groundwater stakeholders in navigating and complying with the Act, as well as its inevitable resulting complications. For the most current information on this topic, and other water law and policy issues, please visit <http://water.bhfs.com/> or call us.

This document is intended to provide you with general information regarding California groundwater management legislation. The contents of this document are not intended to provide specific legal advice. If you have any questions about the contents of this document or if you need legal advice as to an issue, please contact an attorney listed in the link provided below or your regular Brownstein Hyatt Farber Schreck, LLP attorney. This communication may be considered advertising in some jurisdictions.

Brownstein Hyatt Farber Schreck, LLP's [California Water Group](#)



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BOARD OF DIRECTORS
REGULAR MEETING 7:00 P.M. – 9:30 P.M.
TUESDAY, SEPTEMBER 16, 2014
LOCATION: Community Foundation
7807 Soquel Drive, Aptos, California

AGENDA

1. **ROLL CALL**
2. **PUBLIC HEARING** -- None
3. **CONSENT AGENDA**
 - 3.1 Approve Previous Minutes
 - 3.1.1 August 12, 2014 Regular Meeting
 - 3.1.2 August 26, 2014 Special Meeting
 - 3.2 Conditional Will Serve Letters – None
 - 3.3 Report of Expenditures over \$25,000
 - 3.4 June/July, July/August Credit Card Analysis and August Warrants
 - 3.5 Income and Investment Report for July 2014 and August 2014
 - 3.6 District Quarterly What's on Tap Newsletter for October – December 2014
 - 3.7 McGregor Drive Pump Station, Bid Award
 - 3.8 Aptos Pump Station, CWO 09-103, Adopt Plans & Specifications and Call for Bids
 - 3.9 Production Graphs
 - 3.10 Approve Engineering Bid and Construction Support Service for McGregor Pump Station Project, CWO 08-004
 - 3.11 Quarterly Monitoring Reports
4. **ORAL COMMUNICATIONS** (*items not on the Agenda*)

5. **INFORMATION ITEMS**

5.1 Work Plan Status Report

6. **ADMINISTRATIVE BUSINESS**

6.1 Resolution Amending the District's Conflict of Interest Code Embodied in Resolution No. 08-35

6.2 Direction to Staff Proposition 218 Process for Conservation Plus

7. **STATUS REPORTS**

7.1 Conservation Customer Service Field - Oral

7.2 Engineering

7.3 Operations & Maintenance

7.4 Finance - None

7.5 Human Resources - Oral

7.6 District Counsel - Oral

7.7 General Manager - Oral

8. **WRITTEN COMMUNICATIONS AND CORRESPONDENCE**

8.1 Email from Elena Laborde regarding water restrictions

9. **CLOSED SESSION** – None

10. **ADJOURNMENT**

All information furnished to the Board of Directors with this agenda is provided under ***Who We Are - Board Meetings*** on the District's website www.soquelcreekwater.org. Any additional information provided to the Board prior to the meeting will be made available to the public at the District office. Please observe the following procedures for addressing the Board on agenda items. All those wishing to speak on an item should raise a hand and be recognized by the Board President during the portion of the proceedings set aside for public comment. Each speaker will be limited to a single presentation of up to three minutes per agenda item (time limits may be increased or decreased at the Board President's discretion). After all speakers have addressed the Board, the Board will deliberate and take action. Additional public comment will not be allowed during the Board's deliberation unless the President specifically calls on someone in the audience. Organized groups wishing to make a presentation are asked to contact the Board Clerk prior to the Board Meeting. Disability Access – the meeting room is wheelchair accessible. Please contact Karen Reese, Board Clerk, at (831) 475-8500 ext. 126 if you need assistance in order to participate in a public meeting or if you need the agenda and public documents modified as required by Section 202 of the Americans with Disabilities Act.