



**DATE:** January 9, 2017

**TO:** Council Sustainability Committee

**FROM:** Director of Utilities & Environmental Services

**SUBJECT**

Sustainable Groundwater Management Act (SGMA): Options for the Formation of a Groundwater Sustainability Agency under SGMA

**RECOMMENDATION**

That the Committee reviews this report and recommends to the City Council that the City of Hayward become the Groundwater Sustainability Agency for the portion of the East Bay Plain Basin that underlies the City.

**SUMMARY**

The Sustainable Groundwater Management Act (SGMA) was signed into law in 2014 and took effect in 2015. This historic legislation requires, for the first time, comprehensive and sustainable management of California’s groundwater resources. SGMA provides a framework for sustainable management of groundwater at the local level through formation of Groundwater Sustainability Agencies (GSAs) and implementation of Groundwater Sustainability Plans (GSPs). The Committee received information at the November 14, 2016 meeting about SGMA and its applicability to the City. Since then, staff has continued to explore the feasibility of the City becoming a GSA and held discussions with interested stakeholders. This report updates the Committee on groundwater activities and staff’s recommendations relative to SGMA.

**BACKGROUND**

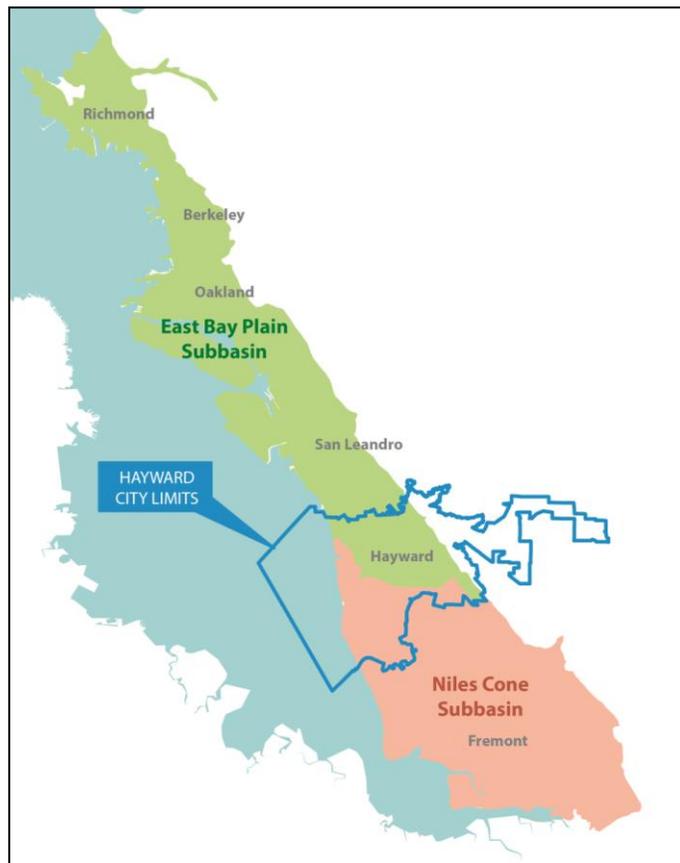
Groundwater provides a significant portion of California’s water supply. In average years, underground basins, known as aquifers, supply about one-third of the water used by the State’s cities and farms. In drought years, groundwater provides more than one-half of the water used by Californians. The recent drought has highlighted the importance of groundwater and the need to protect this resource against unsustainable groundwater pumping and irreversible environmental impacts such as land subsidence.

The passage of SGMA in 2014 fundamentally changed management of groundwater in California. After many efforts to encourage local agencies to manage groundwater on a voluntary basis, SGMA marks the first time the State has mandated regulations for managing groundwater. SGMA provides a framework for sustainable management of groundwater supplies by local authorities, with a limited role for State intervention, only if necessary, to protect the resource. SGMA

requires that all medium- and high-priority ranked groundwater basins in California, which account for over 95% of groundwater use in the State, be sustainably managed by 2022. Local agencies must assume the role of groundwater regulators through the formation of local GSAs and implementation of GSPs. SGMA envisions a collaborative process in which local agencies, cities, counties, and other stakeholders work cooperatively to obtain sustainability in their respective groundwater basins.

At a local level, SGMA will have a significant impact on Hayward's current and future ability to use groundwater. The City overlies portions of two medium-priority groundwater basins—the Niles Cone Basin and the East Bay Plain Basin (see Figure 1). Although Hayward has not relied on groundwater for day-to-day water supplies since the early 1960s, the City has a long groundwater use history. For over a century, Hayward relied entirely on groundwater for water supplies. In the 1950s, the City began supplementing its groundwater use with surface water from the San Francisco Public Utilities Commission (SFPUC), before switching exclusively to surface water after an agreement was signed with SFPUC in 1962 to supply all City water needs. However, it became evident that the SFPUC's regional water system was prone to damage from earthquakes and potentially long-term water delivery disruption. To mitigate the risks, the City embarked in the early 1980s on an evaluation of its groundwater and construction of a group of water wells for use in emergencies resulting in disruption of SFPUC water supplies. Following the Loma Prieta earthquake, the City accelerated construction of five wells and completed and placed them on standby by the mid 1990s. The wells are currently permitted for emergency use.

The City's emergency wells are an important part of our water supply and critical to our ability to reliably deliver water in the event of an earthquake or other disruptions to our imported surface water supply. The total rated capacity of the wells is approximately 13.6 million gallons per day (MGD) which is the sum of individual well production on a short-term basis. The firm capacity or expected production that the wells could sustain over a longer duration when operated together is likely less than 10 MGD, which is approximately 60-70% of the City's current average daily consumption. Two of the City's emergency wells are located in the Niles Cone Groundwater Basin and the remaining three are located in the East Bay Plain Groundwater Basin. Figure 2 illustrates the location of Hayward's wells relative to basin boundaries.



**Figure 1. Local Groundwater Basins**

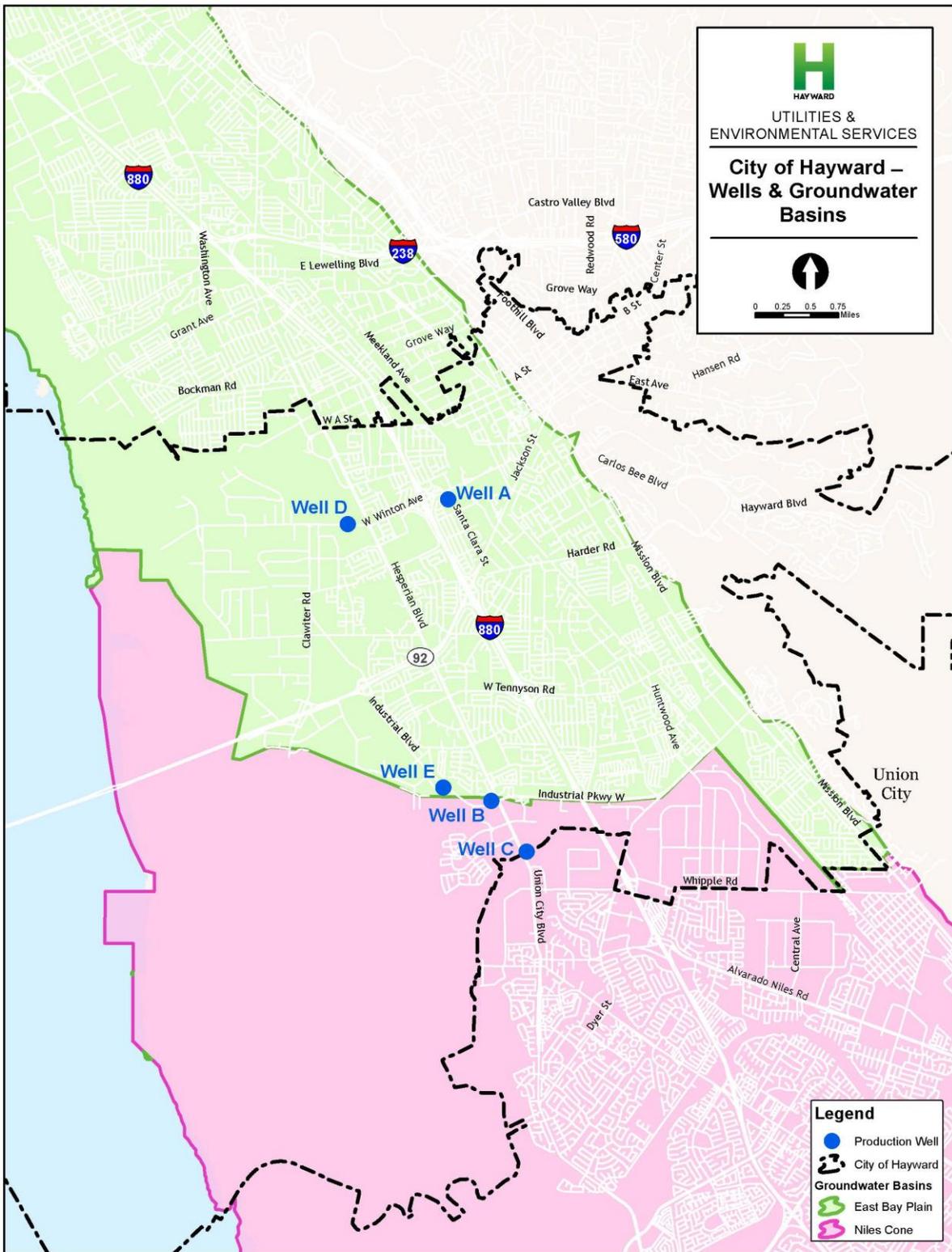


Figure 2. City of Hayward Well and Groundwater Basin Location Map

## GSA Formation Options

SGMA requires the formation of GSAs to ensure sustainable management of all medium- and high-priority ranked groundwater basins. Any local agency, or combination of agencies, with water supply or land use authorities within a groundwater basin, may form a GSA and carry out groundwater management responsibilities. If no local agency accepts GSA status, the responsibility falls to the State. The State would then manage the basin under a provisional status, passing on costs to local agencies and perhaps take away eligibility for State funding until a local agency accepts responsibility and becomes a GSA.

SGMA grants certain authorities to GSAs, including the ability to take actions to investigate and monitor basin conditions, assess fees, and require measurement and reporting of groundwater extraction. A GSA also has the authority to develop and enforce regulations pertaining to groundwater use. GSAs can acquire and import other water supplies, including surface water, for the purposes of sustainable groundwater management.

SGMA designates certain agencies as exclusive local agencies to manage groundwater within their statutory boundaries in recognition that these agencies already have existing authorities to manage groundwater. Exclusive agencies are still required to comply with SGMA's extensive requirements for stakeholder outreach and coordination with cities and other land use agencies. The Alameda County Water District (ACWD) is designated as the exclusive local agency to manage groundwater in the Niles Cone Basin, which means that no other local agency can file to be a GSA for this basin.

On November 10, 2016, the ACWD governing board adopted a resolution to form a GSA for the Niles Cone Basin. While ACWD currently manages groundwater under existing regulatory authorities, becoming a GSA could provide ACWD with additional authorities granted by SGMA to GSAs that could further ACWD's ability to sustainably manage the Niles Cone Basin. As a GSA, ACWD is required to maintain a list of persons interested in receiving notices regarding SGMA-related efforts. The City has formally requested to be added to ACWD's list of interested parties that ACWD will use to ensure regular communication with stakeholders. Since a substantial portion of South Hayward overlies the Niles Cone Groundwater Basin, staff has expressed to ACWD the City's interest in understanding and being engaged in ACWD's groundwater management efforts that have the potential to affect the City of Hayward.

SGMA requires that GSAs be formed to manage the East Bay Plain Basin. In August 2016, the East Bay Municipal Utility District (EBMUD) filed to be a GSA for the portion of the East Bay Plain Basin that underlies the EBMUD service area. Following public noticing and a 90-day review period, the Department of Water Resources (DWR) formally designated EBMUD as a GSA for the East Bay Plain Basin. As both a water purveyor and land use agency, the City of Hayward is eligible to become a GSA for the remaining portion of the East Bay Plain Basin that underlies the City. The Committee was briefed on SGMA and the City's GSA options at its November 14 meeting, and expressed preliminary support for the City filing an application to become the GSA for the portion of the East Bay Plain Basin that underlies Hayward.

## GSP Preparation and Implementation

A key responsibility of being a GSA is the preparation and implementation of a GSP. The document will generally consist of a description of the basin and aquifer, baseline conditions and basin objectives, management actions to achieve the objectives, and a monitoring plan. It will be subject to public review and governing body approval. GSPs for medium-priority basins, such as the East Bay Plain Basin must be completed and adopted by January 31, 2022. Progress reports are to be submitted to DWR annually, beginning in April 2022, and GSPs are required to be updated every five years.

GSPs are intended to sustainably manage and utilize groundwater without causing “undesirable results,” which include:

- Lowering of groundwater levels
- Reduction in groundwater storage
- Seawater intrusion
- Degraded water quality
- Land subsidence
- Depletion of interconnected surface water

At the November 14 meeting, the Committee was briefed on options to prepare a GSP for the East Bay Plain Basin. Staff discussed that EBMUD and Hayward could coordinate on the preparation of separate GSPs or work cooperatively to prepare a single Hayward-EBMUD GSP for the East Bay Plain Basin. The Committee expressed interest in having Hayward work cooperatively with EBMUD on a single GSP to potentially reduce duplication of technical work and thus the cost of preparing the GSP.

SGMA also provides for a GSA or exclusive local agency to submit an Alternative to a GSP to comply with the requirements of SGMA. The Alternative must be submitted to DWR by January 1, 2017. Alternatives will be reviewed by DWR and must meet the criteria of being functionally equivalent to a GSP to be approved. On December 8, 2016 ACWD’s Board authorized staff to submit an Alternative to a GSP to meet the requirements of SGMA. ACWD’s submittal must explain how the elements of the Alternative are functionally equivalent to a GSP, including addressing how the interests of basin stakeholders have been considered. As a significant stakeholder in the Niles Cone Groundwater Basin, the City will be reviewing ACWD’s Alternative submission to ensure that Hayward’s interests are considered and protected.

## **DISCUSSION**

Since the November 14 meeting, staff has continued to review the SGMA legislation, the process for becoming a GSA, and the responsibilities and commitments associated with preparing a GSP.

## GSA Formation Process and Timeline

Staff is affirming its recommendation that the City file an application with DWR to become the GSA for the portion of the East Bay Plain Basin that underlies Hayward. As a GSA, Hayward will

be better positioned to protect its ability to sustainably, reliably and flexibly manage groundwater resources. Being a GSA would further demonstrate Hayward’s commitment to groundwater management and increase the City’s voice in regional groundwater management. It will also preserve Hayward’s ability to develop groundwater projects in the future.

As discussed in November, formation of a GSA follows a prescribed process that includes stakeholder outreach and involvement, a public hearing, and governing board approval. SGMA requires formation of GSAs by June 30, 2017. The timeline must allow for DWR to notice an agency’s GSA application for a 90-day period before the agency can formally be designated a GSA. The following table summarizes actions needed to comply with SGMA requirements and deadlines for forming a GSA.

Action	Date
CSC Recommendation to Council	January 9, 2017
Public hearing and Council consideration	February 2017
Submittal of GSA application to DWR	February 2017
90-day notification period	March - May, 2017
GSA approval by DWR	June 2017

On December 12, 2016 City staff convened a stakeholder meeting that included representatives from EBMUD, ACWD, the County of Alameda, and DWR. Staff provided an overview of the City’s groundwater interests and proposed approach for complying with SGMA, including potentially becoming a GSA for a portion of the East Bay Plain Basin. All parties expressed interest in working cooperatively to implement SGMA locally and there were no concerns expressed by any of the participants with Hayward potentially becoming a GSA.

Staff has also initiated outreach to other local interested parties, such as the Hayward Area Park and Recreation District (HARD) and Chabot College, both of which use some groundwater for irrigation, as well as regional entities like the Bay Area Water Supply and Conservation Agency and San Francisco Public Utilities Commission. Staff invited interested parties to participate in Hayward’s stakeholder process.

GSP Preparation

Since November, City staff has met with representatives from EBMUD to determine the feasibility and desirability of jointly preparing a single GSP for the East Bay Plain Basin. Working cooperatively with EBMUD could significantly reduce duplication of technical work and thus the cost of preparing the GSP. Further, it would position the City more favorably to receive grant funding for preparing the GSP. Alternatively, as discussed with the CSC on November 14, the City and EBMUD could each prepare individual GSPs for the basin so long as the sustainability goals and technical information used to develop the GSPs are coordinated and consistent. A separate GSP would provide the City with greater control and oversight over preparing and implementing the GSP.

Based on discussions with EBMUD and DWR, staff is recommending the approach of working cooperatively with EBMUD to prepare a joint Hayward-EBMUD GSP. The joint GSP would

include management zones along jurisdictional lines that would allow for both Hayward and EBMUD to develop independent, but coordinated, institutional and management actions needed to ensure sustainability within their respective management zones.

If the Committee recommends to Council on January 9 that the City prepare a joint Hayward-EBMUD GSP for the East Bay Plain Basin, staff would then proceed to work with EBMUD staff to develop an agreement and scope of work for preparation of the joint GSP. The goal of both parties would be to have sufficient information available to apply for grant funding from DWR in mid-2017 to help fund preparation of the GSP.

### **ECONOMIC IMPACT**

The economic impact of the City becoming a GSA for a portion of the East Bay Plain Basin has not yet been fully evaluated, and will depend in large part on the activities required to manage the basin. There is potential need for some of the costs to be recovered in water rates in future years, but these costs are not expected to significantly impact customer rates.

### **FISCAL IMPACT**

The Water Improvement Fund includes funds for groundwater-related activities such as preparation of a GSP and its implementation actions. Staff believes that the resources are sufficient to complete the technical studies and investigations necessary to prepare the GSP. Costs to implement the GSP will depend on the actions identified in the GSP that are necessary to ensure long-term basin sustainability. Some of the costs could potentially be offset by grants and cost-sharing with EBMUD if a joint GSP is pursued. There would be no impact on the General Fund.

### **SUSTAINABILITY FEATURES**

*Water Resources.* Hayward's active participation in becoming a GSA and developing a GSP would provide Hayward with the authority to ensure that groundwater beneath the City is protected and sustainably managed for the future. A long-term commitment to groundwater increases Hayward's overall water supply reliability and provides opportunities to diversify and maximize local supplies to respond to future water supply uncertainties such as the impacts of climate change.

### **PUBLIC CONTACT**

SGMA requires extensive outreach and involvement of stakeholders. All matters related to forming a GSA and adopting a GSP are subject to public review. Formation of a GSA must be approved by the City Council after a public hearing. GSAs must also maintain a list of interested stakeholders to be used throughout the process to ensure regular communication. The GSP will be made available to the public for comment and adopted by the GSA at the conclusion of a public hearing.

The City's desire is to work in an open and collaborative way with the public and local agency stakeholders to implement SGMA requirements. As described in the Discussion section, staff convened a meeting of stakeholders on December 12, 2016 to provide an overview of the City's interest and approach to complying with SGMA. In addition, staff also performed outreach to groundwater users within the City and neighboring agencies to discuss Hayward's SGMA approach and invite parties to participate in the stakeholder process.

**NEXT STEPS**

It is anticipated that City Council consideration of becoming a GSA for a portion of the East Bay Plain Basin will be scheduled for February 2017. Staff will then complete the application and submit it to DWR in a timely manner so that the City is designated as a GSA by June 30, 1017. Staff will also remain engaged in the implementation of SGMA by neighboring water agencies and at the State level and periodically report back to the Committee.

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*Recommended by:* Alex Ameri, Director of Utilities & Environmental Services

*Approved by:*



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Kelly McAdoo, City Manager