



**DATE:** July 10, 2017

**TO:** Council Sustainability Committee

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

**SUBJECT:** Update on Sustainable Groundwater Management Activities

## **RECOMMENDATION**

That the Committee reviews this report and comments on the proposed approach for developing a Groundwater Sustainability Plan for the East Bay Plain Subbasin.

## **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). On February 7, 2017, the City Council adopted a resolution to become the GSA for the portion of the East Bay Plain Subbasin that underlies the City and on June 6, the State formally designated Hayward as the exclusive GSA for that portion of the groundwater basin. This report briefly updates the Committee on recent and near-term groundwater sustainability activities, including the requirement to develop a GSP for the entire East Bay Plain Subbasin.

## **BACKGROUND**

Groundwater provides a significant portion of California's water supply. 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. These concerns were a driving force behind the development of the SGMA legislation. In general, 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. Local agencies with water supply and/or land use authority must assume the role of groundwater regulators through the formation of local GSAs and implementation of GSPs in order to avoid State intervention. SGMA envisions a collaborative process in which local agencies, cities, counties, and other stakeholders work cooperatively to obtain sustainability in their respective groundwater basins.

The City overlies portions of two groundwater basins designated as medium-priority by the California Department of Water Resources (DWR)—the Niles Cone Subbasin and the East Bay Plain Subbasin. 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, relying entirely on groundwater for water supplies for over a century until an agreement was signed with the San Francisco Public Utilities Commission (SFPUC) in 1962 to supply all City water needs. However, it became evident that 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 rehabilitation and construction of a group of water wells for use in emergencies. Following the Loma Prieta earthquake, the City accelerated construction of five wells and completed and placed them on standby by the mid 1990s. The City's emergency wells are currently permitted for emergency use and are critical to our ability to reliably deliver water in the event of an earthquake or other disruptions to our imported surface water supply.

SGMA requires that GSAs be formed by June 30, 2017 to manage groundwater basins designated by DWR as high- or medium-priority. Alameda County Water District (ACWD) is the exclusive GSA for the Niles Cone Subbasin. For the East Bay Plain Subbasin, the City Council adopted a resolution on February 7, 2017, authorizing staff to file the necessary documents for the City to become the GSA for the portion of the East Bay Plain Subbasin that underlies the City. On March 6, staff filed an application to serve as the GSA with DWR and on June 6, following a ninety-day public review period, DWR formally designated Hayward as the exclusive GSA for the portion of the East Bay Plain Subbasin underlying the City. East Bay Municipal Utility District (EBMUD) is the exclusive GSA for the remaining portion of the East Bay Plain Subbasin that underlies EBMUD's service area outside of Hayward. Figure 1 illustrates the GSA boundaries for the East Bay Plain Subbasin.

A key responsibility of being a GSA is preparing and implementing a GSP. GSPs are intended to sustainably manage and utilize groundwater without causing "undesirable results" such as the unsustainable lowering of groundwater levels over time. A GSP 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 Subbasin, 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.

## **DISCUSSION**

### **Groundwater Sustainability Plan**

Based on direction from the Committee and City Council, staff is working with EBMUD staff to develop an agreement for the two agencies to jointly prepare and implement a single GSP to cover the entire East Bay Plain Subbasin. Working cooperatively with EBMUD would significantly reduce duplication of technical work and thus the cost of preparing the GSP for both agencies. The first step will be to enter into a Memorandum of Agreement (MOU) with EBMUD

to develop a detailed cooperating agreement, under which the parties will prepare and implement the GSP. The MOU will commit the parties to working cooperatively to ensure SGMA compliance for the entire groundwater basin and establish principles for performing stakeholder outreach, applying for grant funding, and negotiating an equitable cost-sharing arrangement. Staff plans to ask the City Council to consider authorizing execution of the MOU with EBMUD at its July 18, 2017 Council meeting.

#### Grant Funding for GSP Preparation

Under Proposition 1, approved by the voters in November 2014, DWR established the Sustainable Groundwater Planning Grant Program to provide funds for GSP development and implementation. DWR has recently released the Draft Proposal Solicitation Package (PSP) for GSPs. In this PSP, \$61.3 million is available for the Category 2, Tier 2 group under which EBMUD and Hayward are eligible to apply for funding for the East Bay Plain Subbasin. Only one GSA per basin can apply and only one grant will be awarded for each basin. The maximum grant amount is \$1 million and the required local cost-share is 50% of the total cost.

EBMUD has in-house resources available and has agreed to serve as the lead agency for submitting the application and, if successful, would administer the grant. Staff will assist EBMUD with preparing the grant application and securing letters of support. EBMUD plans to submit the application in the first filing period that begins in August 2017.

#### Unmanaged Subbasin Area

SGMA requires the formation of GSAs to cover the East Bay Plain Subbasin in its entirety by June 30, 2017 to avoid State intervention. Between the City and EBMUD, all of the East Bay Plain Subbasin is covered by a GSA except for a small twenty-one-acre area located generally on the east side of Mission Blvd under the Chapel of the Chimes cemetery property. This property is within the Union City corporate limits and outside both the Hayward city limits and ACWD's service area. Staff became aware of the potential for an unmanaged area after DWR's approval in 2016 of ACWD's request to modify the location of the boundary between the Niles Cone and East Bay Plain Subbasins to align with ACWD's statutory boundary for groundwater management. As a result, the area that was previously located in the Niles Cone Subbasin, now falls within the East Bay Plain Subbasin.

As part of the proposed MOU, EBMUD and Hayward will commit to covering the unmanaged area in the GSP for the East Bay Plain Subbasin. This commitment to prepare a GSP for the entire basin will ensure that the State will not designate the basin as probationary, which would affect eligibility for grant funding. However, this action alone does not completely eliminate State intervention because the area is not within the management area of a GSA. Unless the area is included within the boundaries of a GSA, the landowner would still be required to pay fees and report extractions to the State. The City is currently in discussions with the landowner, local agencies, and the State to determine a mutually acceptable approach for ensuring SGMA compliance for this unmanaged area of the basin.

## Proposed Staff Actions

Staff is proposing two actions for moving forward with preparation of a GSP:

1. Entering into an MOU with EBMUD. The MOU will commit the City and EBMUD to working cooperatively to develop a single GSP to cover the entire East Bay Plain Subbasin, including the unmanaged area. The MOU will also establish the framework for negotiating the terms and conditions of a more detailed cooperation agreement. The timing of the MOU is critical because DWR's grant funding eligibility criteria requires documentation that GSAs are coordinating on the management and implementation of SGMA compliance for the basin.
2. Providing a resolution of support for EBMUD's grant application. Staff recommends that the Committee recommend that the City Council provide a resolution of support for EBMUD's grant application to DWR for funding of the GSP. In addition, staff will work with other basin stakeholders, including the County of Alameda, to secure letters of support that will position the East Bay Plain Subbasin more favorably for grant funding.

## **ECONOMIC IMPACT**

The economic impact of developing and implementing sustainable management of the City's portion of the East Bay Plain Subbasin has not yet been fully evaluated, and will depend in large part on the activities required to manage the basin. SGMA provides mechanisms for GSAs to recover costs associated with groundwater management through water rates, pumping extraction fees, and/or grants. SGMA implementation costs are difficult to estimate at this time but are not expected to significantly affect customer water rates.

## **FISCAL IMPACT**

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

## **SUSTAINABILITY FEATURES**

The City's emergency wells are an important part of Hayward's water supplies and critical to our ability to reliably deliver water in the event of an earthquake or other disruptions to our imported surface water supply. Hayward's role as a GSA and responsibility for developing a GSP 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 supplies increases Hayward's overall water supply reliability, maximizes local supplies, and diversifies

the City's water resources which will help the City respond to future water supply uncertainties such as the impacts of climate change.

## **PUBLIC CONTACT**

SGMA requires extensive outreach and opportunities for stakeholder participation. The City's desire is to work in an open and collaborative way with the public and local agency stakeholders to implement SGMA requirements. Staff recently updated stakeholders on groundwater management activities and will continue to do so as the GSP is developed. Key stakeholders include neighboring local agencies and large groundwater users within the City, such as the County of Alameda, ACWD, Hayward Area Park and Recreation District, and Chabot College.

## **NEXT STEPS**

If the Committee concurs, staff will take the necessary actions to bring a resolution to the City Council authorizing execution of an MOU with EBMUD to partner on SGMA activities and supporting EBMUD's grant application for funding assistance to prepare the GSP. Staff will continue to update the Committee on the progress of these efforts.

*Prepared by:* Jan Lee, Water Resources Manager

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

*Approved by:*



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Kelly McAdoo, City Manager

**Figure 1. GSA Coverage for East Bay Plain Subbasin**

