

**August 20, 2019**  
**Regular Meeting**  
**Item # 7c**

**County Counsel/  
Community Development**

**Additional Documents:  
PowerPoint Presentation**

# The Sustainable Groundwater Management Act, Owens Valley Groundwater Authority, and DWR Reprioritization

Mono County Board of Supervisors Meeting  
August 20, 2010

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# Purpose

- ▶ Sustainable Groundwater Management Act (SGMA)
- ▶ The Owens Valley Groundwater Authority (OVGA)
- ▶ Recent Department of Water Resources Decisions that May Affect the OVGA
- ▶ Background and Context for Future Decision Points

# Introduction and Background

- ▶ Prior to 2014, no comprehensive regulation of groundwater in California
- ▶ Adverse Effects - lower groundwater elevations, land subsidence, loss of groundwater storage (compaction), etc.
  - ▶ Significantly exacerbated during 2012-2016 Drought
- ▶ SGMA enacted in 2014; effective beginning of 2015
- ▶ California last western state to regulate groundwater extraction and use



# Sustainable Groundwater Management Act

# SGMA: Purpose and Goals

- ▶ Sustainable management of groundwater basins
- ▶ Local management of groundwater
- ▶ Minimum standards for groundwater management
- ▶ Increase groundwater storage, remove barriers to recharge, and avoid or minimize land subsidence
- ▶ Improve data collection and understanding of groundwater/basins
- ▶ Technical and financial assistance to sustainably manage groundwater
- ▶ Effective and efficient groundwater adjudication process
- ▶ Not affect existing surface water or groundwater rights

# SGMA: Main Regulatory Requirements

- ▶ Formation of Groundwater Sustainability Agencies (GSAs)
- ▶ Preparation of Groundwater Sustainability Plans (GSPs)
- ▶ Sustainable management of high- and medium-priority groundwater basins within 20 years of GSP adoption
- ▶ State Intervention (State Water Board-prepared GSP)

# SGMA: Applicability

- ▶ Depends on “priority” of groundwater basin
- ▶ High- and Medium-Priority Basins
  - ▶ SGMA regulatory requirements apply
  - ▶ GSP adoption by January 31, 2022
- ▶ Low- and Extremely Low-Priority Basins
  - ▶ SGMA regulatory requirements do not apply
  - ▶ SGMA “encourages” basin management pursuant to a GSP
  - ▶ State intervention does not apply
- ▶ DWR Prioritization; Bulletin 118
- ▶ NOTE: Does not apply to lands managed pursuant to the Inyo County-LADWP Long Term Water Agreement (adjudication exemption)



# SGMA: Groundwater Sustainability Agencies

- ▶ SGMA goal is to provide for local management of groundwater basins
- ▶ New type of governmental body/entity/agency - GSA
- ▶ Consists of local governments and local agencies with land use and groundwater management authority
- ▶ GSA (or combo of GSAs) must have regulatory authority over entire basin to implement GSP

# SGMA: GSA Authority

- ▶ Each local agency's land use and groundwater management authorities

## PLUS

- ▶ Additional authorities provided GSA by SGMA
  - ▶ Adopt rules, regulations, ordinances, and resolutions
  - ▶ Conduct investigations
  - ▶ Require measurement devices (meters) and reporting of extraction/use
  - ▶ Acquire and dispose of land and water rights (recharge)
  - ▶ Adopt and impose regulatory fees
  - ▶ Perform any other act “necessary and proper” to achieve SGMA goals

# SGMA: Groundwater Sustainability Plans

- ▶ Must cover entire basin
  - ▶ A single plan covering entire basin developed/implemented by one GSA
  - ▶ A single plan covering entire basin developed/implemented by multiple GSAs
  - ▶ Multiple plans developed/implemented by multiple GSAs and coordinated by a single agreement covering entire basin
- ▶ Measurable objectives and milestones to achieve sustainable management within 20 years of GSP adoption
- ▶ Components for monitoring and management of groundwater levels, groundwater quality, groundwater, land subsidence, changes in surface water flow and quality that affect groundwater, overdraft mitigation, recharge areas, etc.
- ▶ Also wellhead protection areas, well construction policies, abandonment and destruction programs, replenishment policies, conjunctive use and underground storage, water management efficiencies and conservation, development of state and federal agency relationships

# SGMA: State Intervention

- ▶ State Water Board preparation, adoption, implementation, and enforcement of “interim GSP” for “probationary basins”
- ▶ Probationary Basins - failure to form GSA by deadline; failure to prepare GSP by deadline; adoption of inadequate GSP; failure to implement and/or properly enforce GSP
  - ▶ 180-day period to cure/correct deficiencies before state intervention
- ▶ Interim GSPs
  - ▶ Will include necessary corrective actions, require schedule/deadlines, monitoring
  - ▶ May include groundwater extraction restrictions, physical solution, principles/guidelines for administration of interconnected surface water, preparation by users of technical/monitoring program and reports
- ▶ So, “local control” but with “state backstop”



Owens Valley  
Groundwater Authority

# OVGA: Formation and Membership

- ▶ Formed in August 2017
- ▶ Joint powers authority of local governments and agencies in the Owens Valley to comply with SGMA
  - ▶ New entity, separate and distinct from its individual members
  - ▶ Responsible for acting/serving as the single GSA for the Owens Valley Groundwater Basin and preparing/implementing GSP
  - ▶ Notified DWR of OVGA deciding to be GSA for Owens Valley Groundwater Basin in May 2018
- ▶ Currently, 10 total members, including Inyo County, Mono County, City of Bishop, Mono County Tri-Valley Groundwater Management District, Wheeler Crest CSD, Big Pine CSD, Indian Creek-Westridge CSD, Eastern Sierra CSD, Sierra Highlands CSD, and Keller CSD

# OVGA: Joint Powers Authority Agreement

- ▶ Purpose - formation of a GSA and achieving groundwater sustainability of the Owens Valley Groundwater Basin
- ▶ Membership
  - ▶ Members - currently, 10 local governments and public agencies
  - ▶ Associates and Interested Parties - other interested NGOs not eligible under SGMA to be GSA members, i.e., mutual water companies, environmental organizations, tribes
- ▶ Funding vs Non-Funding members
  - ▶ Vote share depends on whether members are extra-funding, funding, or non-funding members
- ▶ Member resignation - technically, members cannot leave until GSP prepared; but Starlite and Keeler
- ▶ Termination - “for cause”
- ▶ Dissolution - unanimous vote of members

# OVGA: Status of Activities

## ▶ Administrative Activities

- ▶ Formation of JPA
- ▶ Notification of DWR to serve as GSA for Owens Valley Groundwater Basin
- ▶ Adoption of bylaws, conflict of interest policy, reserve policy, etc.
- ▶ Contracting for insurance and audit/fiscal review
- ▶ Staff services contracts (Inyo, Mono, Bishop)

## ▶ Budget

- ▶ Currently, funded by first-year contributions of members; members currently obligated to provide two more contributions
- ▶ County committed to making contributions of Wheeler Crest and Tri-Valley

## ▶ GSP Preparation

- ▶ Selection of Daniel B. Stephens & Associates (consultant) to prepare GSP
- ▶ Currently, DBSA currently (i) preparing GSP public engagement plan required by SGMA; and (ii) collecting available groundwater data from OVGA members for GSP
- ▶ DBSA recognizes impact of Basin being a low-priority basin; “slow walking” its consultant activities/work




# OVGA: DWR Grant

- ▶ In April 2018, DWR awarded the OVGA a \$713,500 grant to prepare a GSP for the Owens Valley Groundwater Basin.
  - ▶ Awarded when the Basin was rated a medium-priority basin
- ▶ In June/July 2019, DWR provided the OVGA a 50% advance on the grant award
- ▶ To date, the OVGA has not spent any of the grant advance and paid all expenses (including GSP consultant invoices) from OVGA member contributions
  - ▶ Avoid spending grant proceeds in case the low-priority rating for the Basin is finalized and the OVGA decides not to proceed with preparing GSP
- ▶ Use of grant proceeds does not depend on priority of Basin; thus, the OVGA may use the grant proceeds to prepare a GSP for the Basin even if it is re-rated a low priority

# OVGA: Regulation of LADWP

- ▶ SGMA exempts groundwater basins that have been adjudicated by courts
  - ▶ Ostensibly because the adjudications are designed to ensure basins are managed according to their sustainable yield
- ▶ SGMA exempts as “adjudicated” those lands managed pursuant to the LTWA
- ▶ ISSUE: Whether Owens Dry Lake (and LADWP pumping for dusting mitigation) is or is not subject to the LTWA
  - ▶ Inyo County currently planning to litigate the issue
  - ▶ If Owens Dry Lake is subject to LTWA, then SGMA and OVGA GSP do not apply
  - ▶ If Owens Dry Lake is not subject to LTWA, then SGMA and OVGA GSP do apply
- ▶ Desire to use SGMA/OVGA to regulate LADWP - Inyo County, some OVGA members, interested stakeholders and public (OVC)
- ▶ Regulation of LADWP should be a consideration/decision point
  - ▶ Neither the OVGA nor individual members (except Inyo because it has a water dept) are staffed or otherwise equipped to regulate LADWP
  - ▶ How OVGA dollars (including member contributions) will be spent if OVGA is tasked with regulating LADWP?
  - ▶ What does the County and its constituents (Wheeler Crest and Tri-Valley) get from OVGA regulating LADWP?



# DWR Reprioritization and Implications

# DWR Reprioritization

- ▶ In May 2018, the California Department of Water Resources (DWR) re-evaluated the then-priority rating of each groundwater basin in the state
- ▶ In this 2018 draft, DWR re-rated the Owens Valley Groundwater Basin from a medium- to a high-priority basin
  - ▶ Based primarily on LADWP extraction/pumping and export of groundwater
  - ▶ But LADWP lands managed pursuant to LTWA exempt from SGMA
  - ▶ No change in SGMA applicability; OVGA still required to prepare/implement plan by January 31, 2022 as a high-priority basin
- ▶ In its April 2019 draft, DWR's reprioritization again re-rated the Owens Valley Groundwater Basin but as a low-priority basin
  - ▶ Removed consideration of LADWP extraction/pumping/export of groundwater
  - ▶ DWR has not made the low-priority rating final; hopefully in August/September 2019
  - ▶ Essentially means Basin is sustainable
  - ▶ SGMA GSA and GSP requirements do not apply

# Implications of DWR Reprioritization

- ▶ SGMA GSA and GSP requirements do not apply
  - ▶ Not required form GSA for Basin
  - ▶ Not required to prepare/implement GSP for Basin
  - ▶ No regulations/restrictions on groundwater extraction and use
  - ▶ No fees on groundwater extraction and use, for OVGA administration, etc.
- ▶ No State Intervention
  - ▶ Significantly, SGMA provides that State Water Board intervention (i.e., probationary designation, preparation/enforcement interim plan) does not apply to low- and very low-priority basins
- ▶ Nothing prevents DWR from reprioritizing Owens Valley Groundwater Basin as a medium- or high-priority in the future
  - ▶ DWR required to reassess basin priorities every time it updates or allows modifications to basin boundaries for purposes of Bulletin 118

# Implications of DWR Reprioritization: OVGA

▶ Continue to prepare GSP?

PROS	CONS
Access to existing DWR grant funds to prepare GSP	May be less competitive for DWR grant funds in future (esp if basin remains low priority)
GSP would be in place if re-rated to medium- or high-priority basin in the future	GSP would likely require metering, monitoring, and reporting (even if low-priority basin)
May be able to prepare GSP that does not implement regulations/restrictions immediately	Mono County, Wheeler Crest, and Tri-Valley may not agree with OVGA approved GSP
	Continued commitment to make member contributions for next two years

# Implications of DWR Reprioritization: OVGA

▶ Continue OVGA as GSA?

PROS	CONS
OVGA formed and serving as GSA	May need to create new GSA in future if re-rated to medium- or high-priority basin
Ongoing staff time/cost to staff OVGA	Admin costs to form new GSA

# Implications of DWR Reprioritization: OVGA

- ▶ Whether OVGA continues as GSA? Whether OVGA continues with GSP preparation? Depends on OVGA members
  - ▶ Some members have indicated an intent to continue OVGA as GSA and GSP preparation
  - ▶ Some members see an opportunity to regulate LADWP activities at Owens Dry Lake
  - ▶ Other member are evaluating implications
- ▶ OVGA JPA as barrier to member withdraw and dissolution
  - ▶ Provision requiring members to remain part of the OVGA until GSP prepared/implemented
  - ▶ But termination of Starlite CSD and Keeler CSD for cause
  - ▶ Dissolution requires unanimous vote



# Implications of DWR Reprioritization: Mono County

- ▶ The County is responsible for areas of the Owens Valley Groundwater Basin in Mono County that are not within Wheeler Crest or Tri-Valley district areas
  - ▶ A limited area in southern Mono County; mostly (if not entirely) uninhabited
  - ▶ Little (if any) groundwater extraction or use in Mono County areas
- ▶ Likely will not be subject to extraction and use restrictions; likely will not be subject to regulatory fees
- ▶ May be required to install monitoring wells and report groundwater levels
- ▶ Thus, primary issues for County is whether to continue OVGA? And continue to prepare a GSP?
  - ▶ If County does not continue as OVGA member, then any GSP prepared by remaining OVGA cannot be GSP given requirement that GSPs cover entire basin

# Implications of DWR Reprioritization: Wheeler Crest CSD

- ▶ Characteristics of Wheeler Crest Water Use
  - ▶ Authority limited to district boundary
  - ▶ Pumps groundwater primarily for its residents/customers domestic use
  - ▶ Wells are already metered and monitoring already occurs
  - ▶ Not a significant user of groundwater within the Basin (relatively few connections)
  
- ▶ Wheeler Crest Concerns
  - ▶ Ongoing administrative/compliance costs
  - ▶ Restrictions/regulation of groundwater extraction by OVGA
  - ▶ Imposition of regulatory fees by OVGA
  - ▶ “Bang for the Buck” - what does Wheeler Crest get for remaining an OVGA member? Committing to prepare GSP?

# Implications of DWR Reprioritization: Tri-Valley Groundwater District

## ▶ Characteristics of Tri-Valley Water Use

- ▶ Exclusive authority over groundwater within district boundary
- ▶ Residents and agricultural users pump groundwater for domestic and agricultural use
- ▶ Generally, wells not metered; very little monitoring
- ▶ Likely a significant user of groundwater (agricultural users seen as largest users)

## ▶ Tri-Valley Concerns

- ▶ Restrictions on groundwater pumping and use
  - ▶ Restrictions will likely affect amount of water available for agricultural operations
  - ▶ Likely no effect on domestic use given SGMA “de minimis” exemption
- ▶ Fees for groundwater pumping and use
  - ▶ Most significant fees likely to be on agricultural users
  - ▶ Fees on agricultural groundwater pumping/use could be the source of all OVGA funds (again, “de minimis” exemption)
- ▶ Ability to control fate
- ▶ Dave is here today, I believe...



# Questions?

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