

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Works	(2) MEETING DATE 11/1/2016	(3) CONTACT/PHONE Carolyn K. Berg, Senior Water Resources Engineer (805) 781-5536	
(4) SUBJECT Receive an update and provide direction on the implementation of the Sustainable Groundwater Management Act (SGMA) Strategy. All Districts.			
(5) RECOMMENDED ACTION It is recommended that the Board: <ol style="list-style-type: none"> 1. Receive an update on the implementation of the Sustainable Groundwater Management Act (SGMA) Strategy adopted by the County and District; 2. Approve an Addendum to the adopted SGMA Strategy indicating County participation preferences in Groundwater Sustainability Agency (GSA) agreements; and 3. Direct staff to implement the SGMA Strategy and Addendum, and collaboratively develop agreements to form GSAs. 			
(6) FUNDING SOURCE(S) Flood Control General Fund (1300000000)	(7) CURRENT YEAR FINANCIAL IMPACT N/A	(8) ANNUAL FINANCIAL IMPACT N/A	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT { } Consent { } Presentation { } Hearing (Time Est. ___) {X} Board Business (Time Est. 120 min.)			
(11) EXECUTED DOCUMENTS { } Resolutions { } Contracts { } Ordinances {X} N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A { } 4/5 Vote Required {X} N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY { } N/A Date: 5/24/2016; #21	
(17) ADMINISTRATIVE OFFICE REVIEW David E. Grim			
(18) SUPERVISOR DISTRICT(S) All Districts			

Reference: 16NOV01-BB-2

County of San Luis Obispo



TO: Board of Supervisors

FROM: Public Works

Carolyn K. Berg, Senior Water Resources Engineer
Courtney Howard, Water Resources Division Manager

VIA: Wade Horton, Director of Public Works

DATE: 11/1/2016

SUBJECT: Receive an update and provide direction on the implementation of the Sustainable Groundwater Management Act (SGMA) Strategy. All Districts.

RECOMMENDATION

It is recommended that the Board:

1. Receive an update on the implementation of the Sustainable Groundwater Management Act (SGMA) Strategy adopted by the County and District;
2. Approve an Addendum to the adopted SGMA Strategy indicating County participation preferences in Groundwater Sustainability Agency (GSA) agreements; and
3. Direct staff to implement the SGMA Strategy and Addendum, and collaboratively develop agreements to form GSAs.

DISCUSSION

The Sustainable Groundwater Management Act (SGMA) took effect on January 1, 2015 and substantially changed California groundwater management by enacting requirements for the creation of new institutions and the adoption of certain planning documents, while granting such institutions with the authorities and resources to implement such requirements.

SGMA provides new statutory authority related to groundwater use and the creation of new groundwater management agencies. More specifically, SGMA includes new financial and enforcement tools to carry out effective local sustainable groundwater management through the formation of one or more Groundwater Sustainability Agencies (GSAs) and the development and implementation of one or more Groundwater Sustainability Plans (GSPs). GSAs and their respective GSPs are required to ensure basins are managed sustainably within 20 years of GSP adoption and mitigate or avoid undesirable results.¹ However, SGMA leaves many of the details related to the establishment of GSAs and the development of GSPs up to locals (if compliant with regulations).

¹ Water Code § 10721(x) defines "undesirable result" as one or more of the following effects caused by groundwater conditions occurring throughout the basin: (1) chronic lowering of groundwater levels, (2) significant and unreasonable reduction of groundwater storage, (3) significant and unreasonable seawater intrusion, (4) significant and unreasonable degraded water quality, (5) significant and unreasonable land subsidence, and (6) depletions of interconnected surface water that has significant and unreasonable adverse impacts on beneficial uses of the surface water.

The intent of this staff report is to review some of these key implementation details and potential local approaches, and to seek direction that allows staff to more effectively represent County interests and collaboratively develop GSA agreements for consideration by the Board.

Areas Subject to SGMA

The California Department of Water Resources (DWR) is responsible for prioritizing basins and assessing existing conditions (e.g. chronic lowering of groundwater levels, seawater intrusion) that might warrant faster action to mitigate impacts of unsustainable basin uses. DWR designated 127 groundwater basins statewide as high and medium priority, 21 of which were also deemed by DWR to be in a condition of critical overdraft.² Five high and medium basins are located in whole or in part in San Luis Obispo County: San Luis Obispo (Edna) Valley (medium), Santa Maria Valley (high), Cuyama Valley (medium and condition of critical overdraft), Los Osos Valley (high and condition of critical overdraft), and Paso Robles (high and condition of critical overdraft). High and medium priority basins are subject to SGMA (i.e. to potential State intervention in the event of non-compliance).

In early 2016, DWR conducted an expedited basin boundary modification request period. This provided local agencies the opportunity to submit scientific and/or jurisdictional information to support updating basin boundaries. Several local requests were made, and are briefly described later in this staff report. DWR finalized the basin boundary modifications in October 2016. Consistent with Water Code Section 10722.4(c), DWR will reassess the statewide basin prioritization after finalizing the modified basin boundaries. This is important, as it could result in changes to local basin boundaries and priority designations that may impact local SGMA compliance requirements.

The following highlights key dates for SGMA implementation:

When	Who	What
Early 2017	DWR	Update Bulletin 118 boundaries/ re-prioritize basins
6/30/2017	Local agencies	Deadline to establish GSA(s)
7/1/2017	DWR & SWRCB	Designate unmanaged areas and probationary basins ³
1/31/2020 ⁴ or 1/31/2022	GSA(s)	Adopt GSPs and initiate GSP implementation
1/31/2040 or 1/31/2042	GSA(s)	Achieve groundwater sustainability goals

Local SGMA Strategy Overview

On January 13, 2015, the Board, as both the County and Flood Control District, adopted a SGMA Strategy⁵ aimed at helping local basins move towards SGMA compliance, and directed staff to implement the policy. The overarching strategy seeks to:

Establish community focused GSAs based on cooperative interagency and stakeholder relationships in order to comply with SGMA requirements.

The strategy focuses first and foremost on building GSAs with willing and eligible partner agencies.

² Bulletin 118 (2003) provides that “[a] basin is subject to critical conditions of overdraft when continuation of present water management practices would probably result in significant adverse overdraft-related environmental, social, or economic impacts.”

³ The State Water Resources Control Board is developing its regulatory fee schedule (slated for adoption in Spring 2017). More information is available at http://www.waterboards.ca.gov/water_issues/programs/gmp/fees.shtml

⁴ Pursuant to Water Code § 10720.7(a), high or medium priority basins subject to critical conditions of overdraft shall adopt a GSP by January 31, 2020.

⁵ Adopted SGMA Strategy (adopted on January 13, 2015; strategy was amended on May 24, 2016 to include Paso Basin more comprehensively) is available at <http://www.slocountywater.org/sgma>

GSA's should be organized with the understanding that all actions required under SGMA will be accomplished by the GSA and implementation of its GSP (although likely in coordination with the relevant well permitting and land use authorities, i.e. counties and cities).

The strategy acknowledges that each GSA may have a unique structure, defined by the needs and interests of each participating entity and the community served and/or represented by each entity. Therefore, the strategy acknowledges that there is no "one size fits all" for GSA's.

Collaborative Development of GSA Agreements

Eligible local agencies (e.g. counties, cities, community services districts) are allowed to form a GSA or GSA's under a joint powers agreement, a memorandum of agreement, or other legal agreement ("formation agreement" or "agreement type"). Mutual water companies and water corporations regulated by the Public Utilities Commission are also eligible to participate on GSA(s). During these GSA formation processes and once formed, entities are required to consider the interests of all beneficial uses and users of groundwater.⁶ Currently, staff-level working groups of these "eligible entities" are collaboratively developing recommendations on GSA agreement type and key elements of each basin's GSA agreement(s) in order to vet recommendations through the public, and ultimately present a draft agreement to the governing bodies of the parties recommended to execute the GSA formation agreement. Once formed, each GSA may function as an independent entity, and exercise authorities independent of any one entity, in accordance with SGMA.

Interests Potentially Represented by County on GSA's. Based on feedback received, eligible entities and basin stakeholders in all five priority basins are expecting that the County will either participate on or form the GSA. The key roles or authorities that warrant County participation on a GSA in the basins include one or more of the following: (1) representation of County Service Area(s), (2) land use authority, (3) well permitting authority, (4) representation of otherwise unrepresented beneficial uses and users of groundwater (e.g. rural domestic, agricultural, environmental, etc. as defined by SGMA), and/or (5) integration and alignment of the County's discrete management actions to the GSA's basin-wide, comprehensive management actions.

Staff is seeking direction on the County's preferences for agreement type and key elements of GSA agreements, in the form of an addendum to the strategy, to more effectively represent County interests during agreement development, and to provide partner entities and basin users with a better understanding of the County's intent. The following summarizes what staff has considered in developing the recommended addendum to the strategy.

County Preferences on Legal Agreement Type. Staff considered what legal agreement is appropriate in each basin. While various legal agreement types exist, discussions focus on Memorandum of Agreements (MOA) and Joint Powers Agreements (JPA). Under SGMA, an MOA is most likely to serve one of two functions: 1) Multiple local agencies could use an MOA as an initial agreement to memorialize their collective intent to develop/ implement a GSP and form a JPA at a later date; or 2) Multiple GSA's could use an MOA to coordinate GSA responsibilities and authorities. In contrast, a JPA is most likely to be used to actually create a GSA (i.e. a separate public agency) comprised of member entities to develop and implement a GSP. Both options offer certain benefits and challenges. The GSA agreement type selected will be driven by basin-specific needs and entity negotiations. Attachment 1 summarizes pros and cons of the various GSA formation options.

⁶ Water Code § 10723.2 "The [GSA] shall consider all the interests of all beneficial uses and users of groundwater, as well as those responsible for implementing [GSPs]." The section goes on to list a number of specific interests to consider such as, agricultural users, domestic well users, public water systems, local land use planning agencies, and more.

County Preferences on Key Elements of GSA Agreements. Staff also considered what governance and finance strategies are fair, equitable, and acceptable to potential partner entities and affected basin users. GSA formation discussions are focused on developing recommendations regarding key elements of agreements such as GSA board composition, voting procedures, financial strategies, decision making processes and roles of stakeholders, roles and responsibilities of member entities, and indemnification/ liability. Attachment 2 provides a list of notable considerations related to each of these key elements; however, several considerations are especially important when developing agreement recommendations that reflect the County's preferences for participation:

- How will eligible entities and/or basin users be fairly represented in decision making processes (e.g. rural and agricultural basin users, environmental uses, etc.)?
- What will the County do if new eligible entities are formed or come forward to represent basin users/ interests on a GSA?
- What key decisions will the GSA make (e.g. financial implications, adopting management strategies/ GSP, enacting fees, taxes or assessments) and how will decision making be shared among member entities and basin users?
- What is the most appropriate funding strategy to meet basin needs (e.g. cost sharing amongst members, new basin-wide funding mechanism)? What funding source will be used to cover the County's portion, if a cost sharing model is used?
- How will administrative, planning and implementation efforts be conducted, and by whom?
- How will the County (if it becomes a member entity) be held liable and/or be protected from debts, obligations, actions or omissions of GSA and/or member entities?

The attached Draft Addendum No.1 to SGMA Strategy: *County Participation Preferences for GSA Agreements* provides recommended policy statements for the Board's consideration. The policy statements focus on interests represented by the County, preferences for legal agreement type, financial strategies, and membership and participation on governing boards.

GSA Formation Efforts in Priority Basins

The summary of GSA formation considerations above is generally applicable to each basin. However, since there is no "one size fits all" for GSAs, the following provides an overview of the GSA formation efforts underway in each basin and complexities specific to each basin.

San Luis Obispo Valley Groundwater Basin (Basin No. 3-9): Designation by DWR: Medium Priority

Representatives of eligible entities, including the County, City of San Luis Obispo, Golden State Water Company, Edna Ranch Mutual Water Company - East, Varian Ranch Mutual Water Company and Edna Valley Growers Mutual Water Company, meet every two weeks to discuss GSA formation. The representatives are in the initial stages of developing recommendations for agreement type and key elements of GSA agreements. The representatives developed and initiated an outreach plan to engage basin users, hosted six stakeholder forums in August/September, and anticipate hosting additional stakeholder workshops in the Fall/Winter to receive input on governance strategies. Stakeholders identified concerns about adequate representation in the decision making process. As such, the representatives of the eligible entities are working on options for creating representative advisory committees that will be vetted with the public in this basin.

It is anticipated that this basin would form a single GSA under a JPA, with supporting advisory groups to ensure basin users are represented. Pending basin user support and your Board's approval, the County could be a member of the JPA and appoint a representative to the governing board to

represent both the County Service Area No. 18 (San Luis Obispo Country Club) and unincorporated landowners not otherwise represented by an eligible entity.

Cuyama Valley Groundwater Basin (Basin No. 3-13):

Designation by DWR: Medium Priority, Condition of Critical Overdraft

Representatives of eligible entities, including the Cuyama Community Services District, Counties of San Luis Obispo, Santa Barbara, Kern, and Ventura, and the proposed Cuyama Basin Water District (a California Water District), meet periodically to discuss GSA formation and plans for engaging basin users. The representatives are in the initial stages of developing recommendations for agreement type and key elements of GSA agreements. The representatives led several stakeholder workshops over the past year, and anticipate hosting additional stakeholder workshops to receive input on governance strategies.

Concurrently, Santa Barbara County Water Agency submitted a scientific basin boundary modification request based on the recently completed USGS hydrogeologic studies and basin model. DWR published draft recommendations to deny this boundary modification request. If DWR maintains this denial, the existing areas of study and model may need to be expanded to incorporate areas not yet studied.

At this point, it is anticipated that this basin would form a single GSA, with management areas identified within the GSP, under a JPA. Pending basin user support and your Board's approval, the County could be a member of the JPA and appoint a representative to the governing board to represent unincorporated landowners not otherwise represented by another eligible entity.

Santa Maria Valley Groundwater Basin (Basin No. 3-12):

Designation by DWR: High Priority

SGMA does not apply to the portion of the Santa Maria basin that is in litigation ("adjudicated area") provided that certain requirements are met. The adjudicated areas cover a majority of the basin and are managed by the Northern Cities Management Area, Nipomo Mesa Management Area, and the Santa Maria Valley Management Area. However, there are multiple "fringe areas" within San Luis Obispo County located outside of the adjudicated areas, which are required to comply with SGMA. These include Pismo Creek Valley (east of Highway 101), the upper Arroyo Grande Creek Valley (east of Highway 101), the Nipomo Valley (east of Highway 101), the Southern Bluffs (south of Highway 166 overlooking the Santa Maria River), and the Cuyama River Valley below Twitchell Dam. Each area presents its own unique set of stakeholders, land uses, challenges and opportunities, and each is geographically separate from the other fringe areas. In addition, "fringe areas" exist in the Santa Barbara County portion of the basin.

Given this complexity, the County partnered with the State Water Resources Control Board to establish State-funded facilitation services. The facilitator initiated efforts by interviewing 15 stakeholders and entities to gain a sense of perspectives and complexities. On September 14, 2016, the facilitator and County, in partnership with the Cities of Arroyo Grande and Pismo Beach, Coastal San Luis Resource Conservation District, and County of Santa Barbara, hosted a kickoff public forum to overview SGMA and local implementation. Next steps include discussions with eligible entities to develop recommendations for agreement type and key elements of GSA agreements, and future stakeholder engagement.

It is likely that a single GSA would be pursued, with management areas identified within the GSP, and advisory groups would be needed to ensure basin users in various fringe areas are represented.

However, it is too early to anticipate details of governance, or what legal agreement will be most appropriate. Pending basin user support and your Board's approval, the County could represent unincorporated landowners not otherwise represented by another eligible entity.

***Los Osos Valley Groundwater Basin (Basin No. 3-8):
Designation by DWR: High Priority, Condition of Critical Overdraft***

SGMA does not apply to the portion of the Los Osos basin that is at issue in the litigation ("adjudicated area") provided that certain requirements are met. On October 14, 2015, the Court signed an order approving the Stipulated Judgment and the Basin Management Plan for the Los Osos Groundwater Basin (Basin Plan). The County and three local water purveyors (Golden State Water Company, Los Osos Community Services District, and S&T Mutual Water Company) participate on a Basin Management Committee (BMC). The BMC is tasked with implementing the Stipulated Judgment and the Basin Plan.

The County, on behalf of the BMC, submitted a scientific basin boundary modification request based on existing hydrogeologic studies and alignment to the adjudicated area boundary. In October 2016, DWR published final basin boundary modifications, which did not modify the Los Osos Basin boundary as requested. As such, studies would need to be conducted in the multiple "fringe areas" located outside of the adjudicated area, and fringe areas would need to comply with SGMA. Staff plans to host a meeting with affected landowners in order to overview SGMA and discuss options.

Pending final boundary decisions, basin user support and your Board's approval, it is anticipated that a single GSA would be formed over the fringe areas. The County is currently the only entity eligible to represent interests in these fringe areas.

***Salinas Valley Groundwater Basin – Paso Robles Area ("Paso Basin," Basin No. 3-4.06):
Designation by DWR: High Priority, Condition of Critical Overdraft***

Based on the complexities and scale of the Paso Basin, governance discussions are occurring between eligible entities in three areas: (1) in the Salinas Valley north of the County line (encompasses Paso Basin (subbasin) and seven other subbasins), (2) in the Atascadero portion of the Paso Basin (southwest of Rinconada Fault), and (3) in the remaining portions of Paso Basin. The following briefly overviews governance formation processes in each area:

- ***Salinas Valley north of county line:*** DWR funded facilitation services to engage basin users and eligible entities via formation of a Salinas Valley Collaborative Work Group and Stakeholder Forums. Representatives of eligible entities, including the Counties of Monterey and San Luis Obispo, Monterey County Water Resources Agency, City of Salinas, mutual water companies, and others, as well as representatives of basin user groups and interest groups meet every two weeks and have held numerous public forums. The work group is currently vetting recommendations for agreement type and key elements of GSA agreements. At this time, it is unlikely that the County would participate directly on a GSA. However, future GSAs described below should consider coordination with this area.
- ***Atascadero Portion of Paso Basin:*** Representatives of eligible entities, including the County, Templeton Community Services District, Atascadero Mutual Water Company, and City of Paso Robles meet regularly to discuss GSA formation. The representatives are in the initial stages of developing recommendations for agreement type and key elements of GSA agreements. The representatives hosted a stakeholder meeting in August, and anticipate hosting additional stakeholder workshops to get input on governance strategies. At this point,

it is anticipated that this area would form a single GSA under an MOA. Pending basin user support and your Board's approval, the County could represent both the County Service Area No. 23 (Santa Margarita) and unincorporated landowners not otherwise represented by an eligible entity.

- ***Remaining portions of Paso Basin:*** The State Water Resources Control Board funded facilitation services to conduct a limited stakeholder assessment to better understand stakeholder concerns and interests. Representatives of eligible entities, including the County, City of Paso Robles, San Miguel Community Services District, Heritage Ranch Community Services District, the proposed Shandon San Juan Water District (an opt-in California Water District), the proposed Estrella El Pomar Creston Water District (an opt-in California Water District), and several other mutual water companies, began meeting in August to discuss GSA formation. The representatives are in the initial stages of developing draft recommendations for agreement type and key elements of GSA agreements, and developing a public outreach plan. Pending basin user support and your Board's approval, the County could represent both the County Service Area No. 16 (Shandon) and unincorporated landowners not otherwise represented by an eligible entity.

Three separate basin boundaries were submitted within the Paso Basin: (1) Monterey County Water Resources Agency's jurisdictional boundary modification request at the county line; (2) Heritage Ranch Community Services District's scientific boundary modification request to remove certain portions near the Nacimiento Dam; and (3) Templeton Community Services District's scientific boundary modification request to create a subbasin along the Rinconada Fault. In October 2016 DWR published final basin boundary modifications, which did not modify the boundary per the Monterey County or Heritage Ranch requests; however, DWR approved a modified version of Templeton Community Services District's request. The modified boundary creates a new subbasin of the Salinas Valley Groundwater Basin, referred as Bulletin 11.B Basin No. 3-004.11 Atascadero Area Subbasin. DWR's final boundary modifications, may require additional studies and modeling, and may impact GSA boundaries.

Regardless of basin boundary determinations, if GSAs intend to develop multiple GSPs over the Paso Basin, coordination agreements are required between the GSAs. Coordination agreements would need to be in place prior to initiating GSP development. The GSP Regulations⁷ require that the same data and methodologies be used, and that planning efforts be coordinated.

Future Updates on SGMA Strategy Implementation

Should the Board approve, or modify and approve, today's action, staff will move forward on collaboratively developing GSA agreements and conducting public outreach in accordance with the County's preferences. Staff anticipates returning to the Board in Winter/Spring 2017 with an update on SGMA Strategy implementation, and, pending progress made in individual basins, GSA Agreements for the Board's consideration.

OTHER AGENCY INVOLVEMENT/IMPACT

Implementation of SGMA will involve all local public agencies, various water companies, and landowners concerned with the management of groundwater in San Luis Obispo County. Although

⁷ Pursuant to the GSP Regulations Section 357.4 "Coordination Agreements", "Agencies intending to develop and implement multiple Plans pursuant to Water Code Section 10727(b)(3) shall enter into a coordination agreement to ensure that the Plans are developed and implemented utilizing the same data and methodologies, and that elements of the Plans necessary to achieve the sustainability goal for the basin are based upon consistent interpretations of the basin setting." The regulations go into greater depth on other requirements for coordination agreements and efforts.

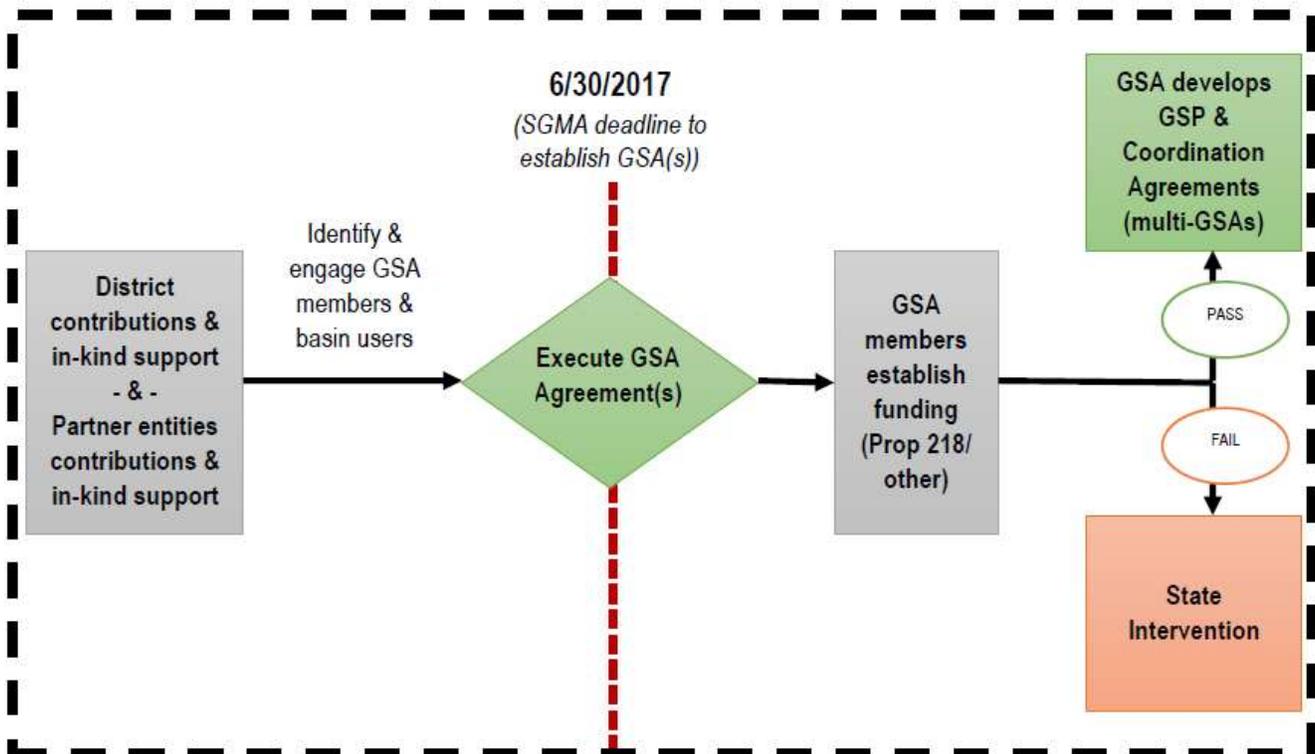
SGMA specifies that local public agencies, mutual water companies and water corporations regulated by the Public Utilities Commission are the eligible GSA participants, stakeholder outreach requirements, coordination requirements, and the practical realities of preparing a GSP, require the involvement of the entire community.

In addition to local efforts, DWR acts as the agency in charge of developing regulations, reviewing GSAs and GSPs, and providing technical assistance to local agencies. The State Water Resources Control Board acts as the agency in charge of enforcement, in situations of non-compliance specified in SGMA.

FINANCIAL CONSIDERATIONS

The support costs associated with GSA formation efforts in the five priority basins are included in the District’s Flood Control General FY 16/17 budget. Efforts may include the following, as detailed in the May 24, 2016 Staff Report: develop an outreach plan and engage basin users; develop governance structure, funding plan and GSA agreement(s); and conduct process for eligible entities to consider executing GSA agreement(s)/establish GSA(s).

On May 24, 2016, staff presented initial annual cost estimates for basin-wide compliance in the five high and medium priority basins. These initial estimates did not reflect potential cost sharing amongst future GSA(s) in a basin, and included certain assumptions that will be refined in coordination with partners in each basin. The following depicts the strategy’s near-term approach and anticipated sources of funding and resources:



Attachment 1, if adopted, provides more clarity to the financial strategies that staff would seek to negotiate in each basin.

RESULTS

The SGMA Strategy, and any potential amendments, will continue to provide a foundation for all actions and activities necessary to comply with SGMA, provide other agencies and the public with a clear statement regarding the Board's intentions for its level of involvement, coordination and financial support of SGMA implementation in high and medium priority basins, and provides direction to County staff, thereby contributing to a well governed community.

ATTACHMENTS

1. Vicinity Maps
2. Draft Addendum No. 1 to SGMA Strategy: County Participation Preferences for GSA Agreements
3. Attachment 1- Options for Groundwater Sustainability Agency (GSA) Governance Structures
4. Attachment 2 – Key Elements of GSA Agreement Negotiations and Considerations

File: CF 340.300.01 SGMA

Reference: 16NOV01-BB-2

L:\Water Resources\2016\November\BOS\SGMA Update\SGMA Update brdltr r4.docx CB.mj