

**COUNTY OF SAN DIEGO
BOARD OF SUPERVISORS - Wed
WEDNESDAY, OCTOBER 16, 2019**

MINUTE ORDER NO. 10

**SUBJECT: NOTICED PUBLIC HEARING:
AUTHORIZATION FOR THE COUNTY OF SAN DIEGO TO WITHDRAW AS A
GROUNDWATER SUSTAINABILITY AGENCY FOR THE BORREGO
VALLEY GROUNDWATER BASIN (DISTRICT: 5)**

OVERVIEW

On October 19, 2016 (1), the Board of Supervisors (Board) entered into a Memorandum of Understanding (MOU) with the Borrego Water District (BWD) to establish a Groundwater Sustainability Agency (GSA) over the Borrego Valley Groundwater Basin (Basin) (Attachment A) as required by the State of California's Sustainable Groundwater Management Act (SGMA). The purpose of a GSA under SGMA is to develop a Groundwater Sustainability Plan (Sustainability Plan) to achieve long-term groundwater sustainability in a basin.

The MOU defined roles and responsibilities for the County of San Diego (County) and BWD during development of the Sustainability Plan for the Basin. Although BWD is the agency with water supply and water management responsibilities in the Basin, the County provided the initial funding and hired the consultant to develop the Sustainability Plan in collaboration with BWD. The County undertook this effort to support the community and ensure the timely completion of the Sustainability Plan. After a 60-day public comment period, the draft Sustainability Plan was finalized on August 30, 2019; thus, satisfying the objectives of the MOU. SGMA further requires the GSA to adopt and implement the Sustainability Plan by January 31, 2020 unless an alternative is submitted to the California Department of Water Resources (DWR).

As an alternative to the adoption and implementation of a Sustainability Plan by a GSA, SGMA allows water rights holders in the Basin to decide their water rights by agreeing to terms in a Water Rights Holders Stipulated Agreement (Stipulated Agreement). Representatives from agriculture, golf courses, and municipal groundwater pumpers in the Basin have been negotiating terms for a Stipulated Agreement. Although a Stipulated Agreement can occur with or without GSA involvement, BWD has been participating in the Stipulated Agreement process, as both a GSA and a groundwater pumper. A Stipulated Agreement could provide benefits that a GSA-implemented Sustainability Plan does not, including surety of water rights and reduced costs while avoiding an adversarial groundwater adjudication. Like a GSA-implemented Sustainability Plan, a Stipulated Agreement would include water allocations for each groundwater user and requirements to reduce the amount of water pumped from the Basin. The difference is that reduction requirements are agreed to by groundwater users in a Stipulated Agreement rather than imposed by a GSA in a Sustainability Plan.

The Stipulated Agreement would provide a comprehensive determination of groundwater rights and requires approval from the Superior Court of California. The Court would then appoint a Watermaster to manage groundwater resources in the Basin. The Watermaster would be tasked with ensuring water is allocated according to established water rights. Any Stipulated Agreement must be consistent with state legislation and would include the Sustainability Plan as the technical basis to guide groundwater management decisions. Groundwater management would be undertaken by the Watermaster with oversight from the court. Since the Sustainability Plan has been finalized and made available for use in

the Stipulated Agreement, and because the County does not have water supply or water management responsibilities in the Basin, the County may withdraw its GSA status in advance of the January 31, 2020 SGMA-mandated deadline. If the County withdraws from being a GSA, its role in the Basin would transition to overseeing the integration of groundwater sustainability measures with the County's existing land use and well permitting responsibilities, as a non-GSA agency.

This item is a request for the Board to consider terminating the MOU with the Borrego Water District and withdrawing the County from being a GSA for the Basin without adopting the Sustainability Plan.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

1. Find that the proposed action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(3) and 15378(b)(5) of the State CEQA Guidelines.
2. Receive this report and authorize the Director of Planning & Development Services (PDS) to withdraw from being a Groundwater Sustainability Agency without adopting the Groundwater Sustainability Plan for the Borrego Valley Groundwater Basin by notifying the California Department of Water Resources in accordance with Section 10723.8(e) of the Sustainable Groundwater Management Act.
3. Authorize the Director of PDS, to submit written notice to the Borrego Water District terminating the provisions of the *Memorandum of Understanding: Development of a Groundwater Sustainability Plan for the Borrego Valley Groundwater Basin* (MOU) in accordance with Section XIII(1) of the MOU.

FISCAL IMPACT

Funds for implementing the Groundwater Sustainability Plan (Sustainability Plan) within the Borrego Valley Groundwater Basin (Basin) are included in the Fiscal Year 2019-20 Operational Plan in Planning & Development Services. Approximately \$2.1 million of remaining funds budgeted for Sustainability Plan implementation activities will fund land use planning efforts in the Basin, including updating the Borrego Springs Community Plan. There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Desmond, second by Supervisor Cox, the Board of Supervisors closed the Hearing and took action as recommended adopting the following:

1. Found that the proposed action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(3) and 15378(b)(5) of the State CEQA Guidelines.
2. Received this report and authorized the Director of Planning & Development Services (PDS) to withdraw from being a Groundwater Sustainability Agency without adopting the Groundwater Sustainability Plan for the Borrego Valley Groundwater Basin by notifying the California Department of Water Resources in accordance with Section 10723.8(e) of the Sustainable Groundwater Management Act.

3. Authorized the Director of PDS, to submit written notice to the Borrego Water District terminating the provisions of the Memorandum of Understanding: Development of a Groundwater Sustainability Plan for the Borrego Valley Groundwater Basin (MOU) in accordance with Section XIII(1) of the MOU.
4. Approved that the notification for the County of San Diego to withdraw as a Groundwater Sustainability Agency for the Borrego Valley Groundwater Basin shall occur immediately, but shall not take effect until after a stipulated agreement is submitted to a court, in accordance with California Code of Civil Procedure 830, or on December 31, 2019, whichever occurs first. The County of San Diego will transfer a \$500,000 grant from the Department of Water Resources to the Borrego Water District as necessary for continued support after the stipulated agreement is submitted to court.

AYES: Cox, Jacob, Gaspar, Fletcher, Desmond

State of California)
County of San Diego) §

I hereby certify that the foregoing is a full, true and correct copy of the Original entered in the Minutes of the Board of Supervisors.

ANDREW POTTER
Clerk of the Board of Supervisors



Signed
by Marvice Mazyck, Chief Deputy