



Water and Resource Conservation

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Butte County Groundwater Pumpers Advisory Committee Meeting Agenda

Meeting Date: September 17, 2018

Time: 8:30AM

Place: Chico State University Farm, 311 Nicholas C. Shouten Lane, Room A009 & 0010, Chico, CA

Agenda Items

1. Welcome – Chair Rice
2. Roll Call – Chair Rice
3. *Review and approval of the July 16, 2018 GPAC minutes
4. Overview and discussion of the agenda (Paul Gosselin, DWRC)
5. Update on statewide SGMA issues (Debbie Spangler, DWR)
6. Update on the basin setting project of the Groundwater Sustainability Plans (Christina Buck, DWRC)
7. *Update on the status of basin boundary modifications (Christina Buck, DWRC)
8. Update on the status of governance (Paul Gosselin, DWRC)
9. *Presentation and Discussion on the Review of the Basin Management Objective Program (Chapter 33A) (Paul Gosselin, DWRC)
10. *Update of other SGMA issues – Staff & GPAC

11. Discussion of the future role of GPAC (Chair Rice)
12. GPAC members wishing to address items not listed on the agenda. (The GPAC is prohibited by state law from taking action on any item presented if it is not listed on the agenda)
13. Public members wishing to address the Commission on items not listed on the agenda. (The GPAC is prohibited by State law from taking action on any item presented if it is not listed on the agenda. Comments will be limited to five minutes per person)
14. Next meeting – October 15, 2018, 8:30AM, CSU Chico Farm.
15. Adjournment

*Materials attached



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**Butte County
Groundwater Pumpers Advisory Committee
Meeting Minutes
July 16, 2018**

Time: 8:30AM

Place: Chico State University Farm, 311 Nicholas C. Shouten Lane, Room A009 & 0010, Chico, CA

Agenda Items

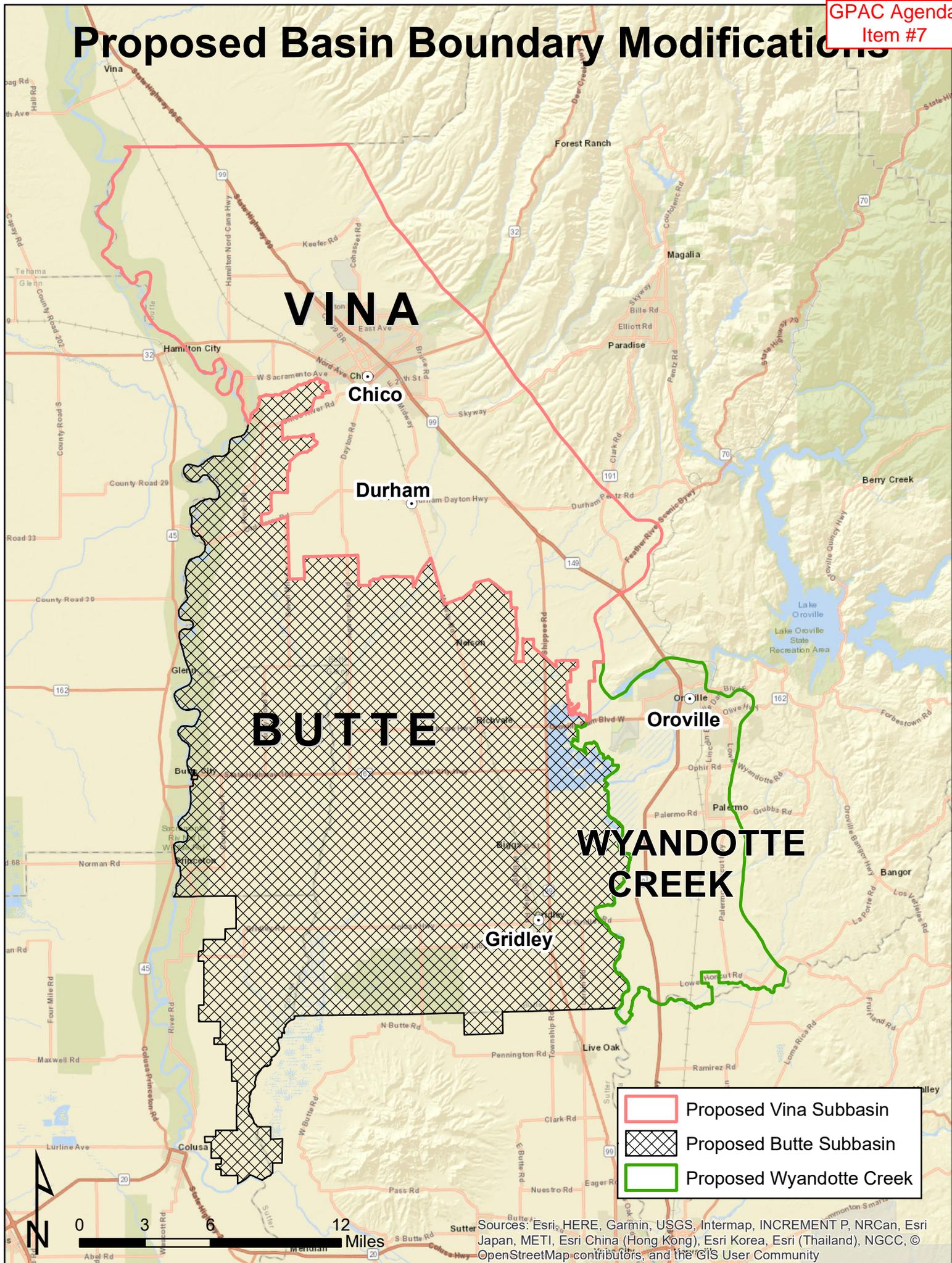
1. Welcome – Chair Rice
2. Roll Call
Members Present: Rice, Heringer, Mendes, Schooling, Daley, Lavy (@9:30)
Members Absent: Cole, Sohnrey
3. Review and approval of the June 18, 2018 and June 25, 2018 GPAC minutes
MOTION by Heringer, seconded by Schooling. Passed 5-0
4. Overview and discussion of the agenda
Paul Gosselin provided an overview of the agenda.
5. Update on statewide SGMA issues
Debbie Spangler and Pat Vellines, DWR NRO, gave a summary of statewide SGMA implementation.
6. Update on the basin setting project of the Groundwater Sustainability Plans
Christina Buck announced that the Department is working with other GSAs to complete the process to contract with a consultant to assist with the basin setting project. Deborah Lucero addressed the GPAC.
7. Presentation and possible recommendation to the Board of Supervisors regarding the basin boundary modification proposal, as amended, prepared by the Districts (WCWD, BWD, BWGWD and RID)

Christina Buck presented the proposed basin boundary modifications for the Vina, East Butte and West Butte subbasins. The proposed modification includes placing M&T Ranch in the new Butte Basin. Grace Marvin, Danny Robinson, Bruce Smith, Deborah Lucero and Paul Behr addressed the GPAC.

MOTION by Daly, seconded by Mendes to recommend that the Board of Supervisors support the basin boundary modification. Passed 5-0.

8. Update on the status of regional basin boundary modifications
Christina Buck provided a summary of other basin boundary modifications.
9. Update on the status of governance
Paul Gosselin informed the GPAC that the Vina JPA is being drafted. There will be a public meeting on August 15th in Durham on the Vina basin boundary modification and governance structure. On July 24th a public meeting will be held on the Wyandotte Creek governance proposal. Paul Behr addressed the GPAC.
10. Update of other SGMA issues
None.
11. GPAC members wishing to address items not listed on the agenda. (The GPAC is prohibited by state law from taking action on any item presented if it is not listed on the agenda).
None.
12. Public members wishing to address the Commission on items not listed on the agenda. (The GPAC is prohibited by State law from taking action on any item presented if it is not listed on the agenda. Comments will be limited to five minutes per person)
None.
13. Next meeting
August 20, 2018, 8:30AM, CSU Chico Farm.
14. Adjournment

Proposed Basin Boundary Modifications



- Proposed Vina Subbasin
- Proposed Butte Subbasin
- Proposed Wyandotte Creek

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, © OpenStreetMap contributors, and the GIS User Community



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STAFF REPORT

DATE: August 27, 2018

TO: Butte County Water Commission

FROM: Kelly Peterson, Water Resources Scientist
Department of Water and Resource Conservation

RE: Recommendations of the Water Commission Ad-hoc Subcommittee regarding the Basin Management Objective (BMO) Program

The Butte County BMO program has entered its fourteenth year. The BMO program has become an important cornerstone of our water resource management efforts to date. It was a required element of a Groundwater Management Strategy (AB3030 / SB1938) and integrated regional water management plans until recently with the passage of the Sustainable Groundwater Management Act (SGMA) of 2014 and the associated Groundwater Sustainability Plans (GSPs) which are now intended to fulfill those roles. In order to assure that the intent of the BMO program continues to be met in the interim while GSPs are being developed, without creating duplicative work now that the Department is implementing SGMA county-wide, a review of the program is necessary. On June 6, 2018, the Water Commission appointed Water Commissioners D.C. Jones, Tod Kimmelshue, David Skinner and Ernie Washington to an ad-hoc Subcommittee charged with reviewing and evaluating the BMO program. The Subcommittee has met twice since formation, once on June 29, 2018 and again on August 17, 2018.

The review of the BMO program has identified many successes of the program over the years as well as areas that warrant improvement during this transition to sustainable groundwater management under SGMA. The establishment of BMO criteria and comprehensive monitoring and reporting, and outreach to stakeholders are among the strengths of the BMO program. However, the subcommittee felt that a clear need to transition this program into a more efficient, relevant and streamlined program while in place and to propose an expiration date of Jan. 30, 2022 for Chapter 33A in light of new SGMA requirements. On this date, the BMO program with the currently proposed revisions would expire and the fundamental components of the monitoring described in Chapter 33A would transition into a monitoring program more relevant to SGMA as described in the GSPs, required under SGMA for all subbasins in Butte County. Development of three GSPs relevant to the subbasin in Butte County are currently underway and have a deadline for submittal to DWR by Jan. 30, 2022. The revised BMO program will be used foundationally in the development of a new monitoring program more adept at meeting the legal requirements of SGMA and will phase out when the GSPs are submitted to the Department of Water Resources (DWR) by January 30, 2022.

As the BMO program moves forward temporarily before becoming enveloped into the new monitoring program as will be described in the GSPs, it should be based on what has worked so far -- scientifically credible BMOs, a strong monitoring program, clear reporting of data, sound evaluation of data and education and outreach to stakeholders. However, the subcommittee felt that the BMO program has been hampered by unrealistic expectations of stakeholder responsibilities and excessive irrelevant reporting requirements. To achieve these goals, a number of changes to the ordinance will be necessary as recommended by the committee. Addressing these recommendations will assure that the BMO program serves a strong relevant purpose while transitioning into the next phase of sustainable groundwater management within Butte County.

The Origins of the BMO Program

In January 2002, the Water Commission made a recommendation to the Board of Supervisors to investigate the concept of utilizing BMOs as a potential program for managing the groundwater basin. The BMO concept was based on a DWR, Northern District proposal and built from a similar program enacted in Glenn County. The Board accepted the recommendation and directed the Department to proceed with the development of BMOs for the basin area of the county. The Department drafted and publically circulated a draft ordinance for consideration by the stakeholders and eventually by the Board. After significant public comment and revisions, the Board approved the ordinance on February 10, 2004 and the BMO ordinance was codified as Chapter 33A of the Butte County Code. The BMO program became a component of the Butte County Groundwater Management Plan (2005).

The original intent of BMOs was not to mitigate or provide third party impact protection as required through a Chapter 33 application. The ordinance included specific findings of the Board to articulate its intent:

- Protection of the groundwater resource for beneficial use within the County is of major concern to the residents of the County for the protection of their health, welfare and safety.
- The beneficial use and maintenance of groundwater and protection of recharge zones is of critical importance to the economy and environment of the County.
- BMOs are intended to ensure the continued sustainability of groundwater quantity and quality within the County.
- It intends to protect groundwater quality and prevent land subsidence.
- It does not hereby intend to regulate, outside of Chapter 33, the use of groundwater; unless established BMOs are exceeded.
- BMOs are essential for information gathering and management purposes that the County maintains a monitoring program addressing groundwater elevations, groundwater quality standards and subsidence criteria.
- Through the enactment of BMOs, the County does not intend to limit other means of managing groundwater within the County as authorized elsewhere in statute or ordinance.
- The County intends to work cooperatively with local entities and the general public to further develop and implement joint groundwater management plans.

Upon enactment of the ordinance, the department began taking steps to implement the program such as producing guidelines for developing BMOs for each of the subinventory units (SIU). The SIUs are based on the Inventory and Subinventory units defined in the Butte County Water Resources Inventory and Analysis report (2005). The first BMOs were adopted in June of 2006. Since then, the Department in cooperation with the Water

Advisory Committee, Technical Advisory Committee and stakeholders have collectively refined and modified some aspects of the BMO program.

In 2008, the Department launched the BMO Information Center (BMOIC) which is a publically accessible database of key BMO wells and other data within the Counties of Butte, Colusa, Glenn and Tehama Counties. The BMOIC allows stakeholders to access groundwater data and prepare reports.

In 2009, the TAC prepared a report and recommendations to streamline the BMO program. The TAC recommended updating and streamlining data collection, utilizing a standardized methodology for setting BMOs, improved communication between the WAC and the TAC and utilizing BMO data as part of the Drought Task Force evaluation. Limited resources from the County are available for managing the BMO program; therefore, program efficiency is essential.

In 2011, the Water Commission made recommendations to the Board of Supervisors to further streamline and clarify roles within the BMO program by consolidating SIUs, removing formal approval of BMOs by the WAC, incorporating the BMO and Alert Stage criteria into the Ordinance, removing the WAC/stakeholders from overseeing the monitoring program, clarifying the non-voting roles of SIU representatives and that at-large WAC members, amending the frequency of WAC meetings and modifying the process to reflect that staff prepares the BMOs in consultation with the SIU representative as well as other items.

A Review of the BMO Program

Water Advisory Committee (WAC) and Public Participation - Public participation is at the heart of the BMO program and a source of its greatest strength and weakness. The goal of the Ordinance in regards to stakeholders, especially those appointed to the WAC, is for full public participation as a liaison with the Department and the respective stakeholders within their respective SIUs with minimal support from the department. This model for public participation can only function if public volunteers fully participate. However, the level of participation by stakeholders and the structure of the WAC have not met this goal.

The WAC includes SIU representatives as well as representatives from watershed groups and other at-large members for a total of 28 representatives. The WAC was intended to be the primary public venue for BMO issues, however, the WAC has not adequately functioned as the outreach mechanism it was envisioned to be. Since 2006, most WAC meetings failed to have a quorum. And those that did, had a quorum by the slimmest of margins. Finding candidates to fill WAC positions has been difficult or impossible and some positions have been vacant for close to two years. A majority of the members typically miss most meetings. In fairness, there are a small number of WAC members that have consistently participated in the creation of BMOs, outreach to stakeholders and have attended most WAC meetings. The WAC has played an important role as a forum for stakeholders to receive data and share anecdotal information however the information is not reported regularly and can at times be non-relevant to the evaluation of monitoring results.

A significant amount of resources and effort have taken place to make the ordinance function as intended. However, the program has reverted to a more traditional structure of having the staff administer the program with minimal input from stakeholders. The repeated attempts to make this process function have been unproductive for both the Department and stakeholders.

The envisioned new role of the WAC/SIU representatives includes their transition into one of the Stakeholder Advisory Committees or Technical Working Groups that are being developed as part of the governance structures in the subbasins in which they reside. These committees / groups will function to develop the monitoring components as described in the GSP which will be aimed at establishing the monitoring objectives, sustainable criteria, thresholds and project and actions which will provide the tools to sustainably manage groundwater throughout the subbasin in Butte County.

Sub-inventory Units - The BMO program established Inventory and Sub-inventory units based on the units defined in the Water Inventory and Analysis report (2005). The SIUs would no longer be valid structures given the dissolution of the WAC and also in light of the new structures provided for under SGMA regarding subbasins and Management Areas. For example, GSPs are now required for each subbasin under SGMA by January 30, 2022. Management Areas are planning areas within subbasins that have common land use practices for which a GSP may identify different minimum thresholds, measurable objectives, monitoring, and projects and actions based on unique local conditions or other circumstances. GSPs may be organized such that each Management Area functions as a chapter of the GSP. Removal of terminology regarding SIU's throughout the ordinance will not only reduce the reporting requirements for each SIU while this Ordinance is in place, but it will also strengthen the program to support ongoing efforts to meet the legal requirements of SGMA.

BMOs – BMOs are intended to reflect measurements that demonstrate acceptable local groundwater conditions. When measured groundwater conditions do not meet established BMOs, the program adopted a set of BMO Alert Stages that reflect unacceptable groundwater conditions. The adoption of the standardization methodology by Butte County has resulted in two acceptable methods. The concept of setting BMOs and Alert Stages has proven to be a valuable construct. For clarity and transparency, the BMO criteria should be part of the ordinance while it is in place during transition to more robust and SGMA-relevant sustainable criteria which will be described in the GSPs currently being developed. GSPs will include components describing measurable objectives, sustainable criteria, minimum thresholds, monitoring and projects and actions for each of the undesirable results identified in SGMA. Once GSPs are implemented they will describe criteria similar to BMOs and Alert Stages, however they will be more robust, comprehensive and enforceable.

Monitoring - The BMO program utilizes a comprehensive monitoring network that includes domestic, irrigation and municipal supply wells that began under Chapter 33. The network also includes dedicated monitoring wells, of which many have continuous recorders. The department, in consultation with the TAC and stakeholders have continued to evaluate the existing BMO monitoring network to consider adding new wells as resources allow. Under these recommendations, the monitoring of groundwater conditions will continue status quo until the ordinance expires at which point monitoring will continue under the provisions of Chapter 33 and through applicable GSPs.

BMO Report - The BMO annual report has increased in volume and complexity while becoming less useful to stakeholders over the years. Typically the development of the Annual Groundwater Status Report which includes 16 individual BMO reports ranging from two to 23 pages in length, is completed by the Department with input from some SIU representatives, if available. This report is presented to the Board each February pursuant to Chapter 33. Unfortunately, a considerable amount of time and effort is expended by staff to develop this report including the individual SIU reports. This document can be streamlined while the Ordinance is in place by focusing on the specific BMOs and BMO monitoring data per subbasin as related to DWR's Bulletin 118 and SGMA instead of the individual SIUs. After the expiration of the ordinance, the GSP will fulfill the goals and objectives of an annual

report on groundwater conditions as required by Chapter 33. Such an approach will allow for a more efficient and relevant display of data.

Technical Advisory Committee (TAC) - The TAC, established by Chapter 33, plays an important role in the BMO program. The role of the TAC should be to evaluate BMO monitoring data and information provided by the Department and provide recommendations to the Department and Water Commission as appropriate.

Outreach - One of more important successes of the BMO program is the factual, scientific information provided to stakeholders. The BMO program established a foundation for dialogue between the Department, SIU representatives and stakeholders. A number of SIU representatives have not actively participated in the BMO program. This includes not providing feedback to the Department on the preparation of their BMO, not conducting any outreach to local stakeholders or providing input to the Department regarding the groundwater conditions in their respective SIUs. Beginning in 2009, the TAC has requested a single page survey to be completed bi-annually by SIU representatives on conditions in their SIUs. This reporting mechanism has been underutilized in most years since 2009 (i.e. 1 of 23 returned in 2018) which means that the TAC does not receive a comprehensive picture on conditions that they would desire to evaluate BMO data.

Outreach will continue to be provided while the Ordinance is effective through a variety of methods already occurring including numerous public meetings where data is presented and discussed. These venues include but are not limited to TAC meetings, Water Commission meetings and Board of Supervisors meetings. Monitoring data, associated evaluations and reports are also provided on the Department's website and addressed in monthly newsletter articles when available. Once the governance structures are in place for the subbasins within Butte County, many other opportunities for public participation, outreach and input as required by SGMA will also be available at venues including but not limited to GSA Board meetings, Stakeholder Advisory Committee Meetings, and Technical Working Group Meetings.

Response to BMOs - The response to BMO noncompliance currently includes increased outreach to stakeholders and potential investigations that could include additional data collection and monitoring. As was learned during the drought, providing stakeholders with factual information and analysis on groundwater conditions is a powerful tool in groundwater management.

Summary of Recommendations from the Subcommittee:

- Incorporate an expiration date for the ordinance of January 30, 2022 to align with the final deadline for submittal of GSPs to DWR under SGMA for subbasins in Butte County.
- Continue monitoring status quo until expiration of the Ordinance (Chapter 33-A) on January 30, 2022.
- Clarify the definition of "Aquifer"
- Clarify the definition of "Commission"
- Dissolve the WAC by removal of references to its structure, membership, operations, internal roles, and external interactions with TAC and the Department and rescinds WAC bylaws.
- Clarify that the TAC no longer consults with the WAC on local conditions affecting monitoring results

- Removes references to WAC members serving as subinventory unit representatives as the structure for public participation in the program
- Removes references to subinventory units as land under which monitoring results are grouped for reporting purposes and which serve as a method to determine WAC membership
- Clarifies units for water quality measurements

Summary

The BMO program has been a critical component of the County's water management effort. Over the past fourteen years the BMO program has made enormous progress in developing, analyzing, and disseminating factual information on local groundwater conditions. These actions have been essential to making sound, informed, and locally driven water resource management decisions. Without such data, analysis and outreach and water management decisions would not have contributed to the current level of understanding of groundwater conditions that we currently have which has provided for a mostly-seamless transition to the next phase of sustainable groundwater management under SGMA. The future success of the BMO program can be enhanced through the above recommendations that will help to improve public participation, program clarity, and efficiency until the ordinance expires and transitions into the foundation for the next phase of sustainable groundwater management under SGMA.

Recommendation

The Water Commission Subcommittee recommends that the Water Commission:

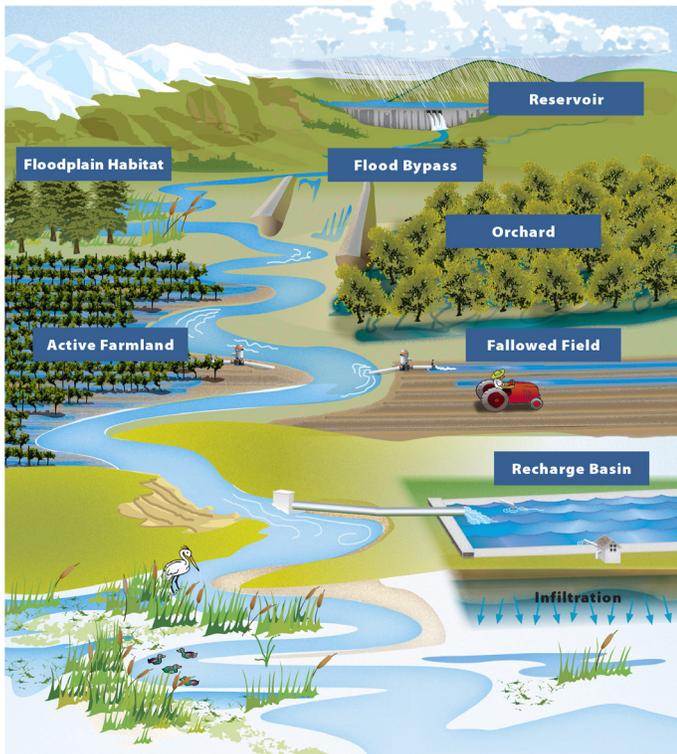
1. Support the recommendations of the Subcommittee.
2. Recommend to the Board of Supervisors that they adopt amendments to Chapter 33A and Water Advisory Committee By-laws consistent with the recommendations and upon completion and consideration of a 30 day public comment period on the draft amendments.

FLOOD-MAR: Advancing Integration for Water Management Sustainability

What is Flood-MAR?

“Flood-MAR” is an integrated and voluntary resource management strategy that uses flood water resulting from, or in anticipation of, rainfall or snowmelt for managed aquifer recharge (MAR) on agricultural lands and working landscapes, including but not limited to refuges, floodplains, and flood bypasses. Flood-MAR can be implemented at multiple scales, from individual landowners diverting flood water with existing infrastructure, to using extensive detention/recharge areas and modernizing flood management infrastructure/operations. As part of the System Reoperation Study, the California Department of Water Resources (DWR) developed a white paper to describe and promote Flood-MAR implementation (<https://www.water.ca.gov/Programs/All-Programs/System-Reoperation-Program>).

Example areas of managed aquifer recharge (MAR)



Why is Flood-MAR Necessary?

The effects of climate change necessitate wholesale changes in how water is managed in California. In response, rehabilitating and modernizing water and flood infrastructure in California is imperative. California is now amid one of the driest winter seasons on record, which is on the heels of the 2nd wettest year on record. And before that, the driest four consecutive years of statewide precipitation in the historical record were 2012 through 2015. These recurring periods of extreme dry and wet weather events, which are being intensified by climate change, are significantly stressing the state’s water resources.

With less water storage from snowpack, California needs to leverage both the current water system and new opportunities to provide sustainable alternatives that can simultaneously accommodate longer and deeper droughts, and more severe and frequent episodic and seasonal flooding.

Flood-MAR will become an important part of California’s portfolio of water resource management strategies, now and in the future, to significantly improve water resources sustainability and climate resiliency.

For more information on related DWR programs, please refer to:

- **System Reoperation Program:**
<https://www.water.ca.gov/Programs/All-Programs/System-Reoperation-Program>
- **Groundwater Management Program:**
<https://www.water.ca.gov/Programs/Groundwater-Management/SGMA-Groundwater-Management>
- **Flood Planning and Studies:**
<https://www.water.ca.gov/Programs/Flood-Management/Flood-Planning-and-Studies>

FloodMAR will bring many key benefits to Californians



What are the Benefits of Flood-MAR?

Flood-MAR projects can provide broad benefits for Californians and the ecosystems of the state, and there is a clear State interest to participate in and encourage Flood-MAR projects. Potential public benefits include:

- Flood Risk Reduction.
- Drought Preparedness.
- Aquifer Replenishment.
- Ecosystem Enhancement.
- Subsidence Mitigation.
- Water Quality Improvement.
- Working Landscape Preservation and Stewardship.
- Climate Change Adaptation.
- Recreation and Aesthetics.

Private, or non-public, benefits include improved water supply reliability for urban and agricultural water uses through direct supply or improved system flexibility.

What is Needed to Expand Flood-MAR Implementation?

Complex technical, legal, and institutional barriers and challenges affect the planning and implementation of Flood-MAR projects. Barriers and challenges can be organized by the following themes:

- Cooperation and Governance.
- Policy.
- Legal, including water rights and regulatory.
- Implementation, including land use, recharge, recovery, conveyance, reservoir operations, economics, environmental considerations, and data and capacity building.

Overcoming these barriers and challenges requires open dialogue, strong leadership, robust partnerships, and innovative research and pilot projects. Partnerships, among DWR; other State, federal, tribal, regional, and local entities; and university and private researchers, are actively exploring ways to overcome these barriers and challenges, and to determine how flood and groundwater management can be co-managed to their mutual benefit.

Contingent on available funding, DWR will initiate a Flood-MAR program and, in partnership, implement a Research and Data Development Framework (R&D Framework, discussion draft to be released in March 2018) to develop information and expertise needed to expand Flood-MAR implementation. DWR is developing a communication strategy to exchange Flood-MAR ideas, practices, and lessons learned. Additionally, DWR will encourage practitioners to design Flood-MAR projects by providing planning, technical, and facilitation assistance, while supporting robust implementation of pilot projects in the near-term.

There is strong, and growing, interest across the state in understanding the benefits, limitations, concerns, costs, and funding opportunities for Flood-MAR projects. DWR plans to work with other State, federal, tribal, and local entities; academia; and landowners to build on the knowledge and lessons from past and on-going studies and programs; pursue expanded implementation of Flood-MAR; and make Flood-MAR an integral part of California's water portfolio.

**Butte
Environmental
Council**



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Activities and Events

Environmental Advocacy
Environmental Education
Groundwater Protection
Endangered Species Faire
Bidwell Park Cleanups
Chico Area Creek Cleanups
Community Gardens
Chico Bicycle Music Festival

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Angel Gomez
Watershed Program
Kathleen Colvin
Energy Conservation Program

Butte County Department of Water and Resource Conservation
Attn: GPAC
308 Nelson Ave.
Oroville, CA 95965

July 19, 2018

Honorable Supervisors,

I am writing to express my interest in serving as the Environmental at-large representative on Butte County's recently formed Groundwater Pumpers Advisory Committee.

I grew up in Butte County, part of a community understands the value and importance of water. Water supports this region. We depend on water for our communities, our thriving agricultural economy, and the abundant natural resources that surround us. I earned my Bachelor's Degree in General Biology from CSU Chico where I gained a deep understanding of the dependence on water that exists in every ecosystem. Our local wildlife, wild habitat, and even our surface water supplies are reliant on a healthy groundwater aquifer.

In California, decades of over pumping and recent droughts have demonstrated the very real consequences we face when groundwater supplies are depleted. Dry wells leave entire communities dependent on water brought in from other areas. Trees die as groundwater levels fall beyond the reach of even the deepest roots, and farmers and ranchers struggle to adjust when water deliveries are cut in dry years. Communities across the state have an opportunity to plan for a sustainable future for water in California. I want to help the many voices of groundwater users in our region be heard, and contribute to a plan that fits with our communities' values and priorities through a collaborative and public process.

As the Executive Director for the Butte Environmental Council (BEC) I feel that I am uniquely qualified to represent the Environmental Community and to advise the Board as we implement the Sustainable Groundwater Management Act (SGMA). A non-profit organization committed to environmental protection for more than 40 years, BEC has gained a reputation as a leader in Butte County. BEC is a voice for the community, shaped by the concerns and passions of more than 600 voting members. In annual surveys our members identify water as a top priority. BEC has been involved in the SGMA process from the beginning, and we will continue to participate as Butte County plans for the future of water in our region. In June of 2018 Butte County signed a resolution identifying BEC as a partner in the SGMA implementation and planning process, as well as a representative for the environment. I hope you will consider me as the Environmental at-large representative for Butte County's Groundwater Pumpers Advisory Committee.

Sincerely,

Natalie Carter
Executive Director, Butte Environmental Council
313 Walnut Street, Suite 140, Chico, CA 95928
natalie.carter@becnet.org - (530) 891-6424



BOARD OF SUPERVISORS
COUNTY OF BUTTE, STATE OF CALIFORNIA

Resolution No. 18-114

**RESOLUTION AFFIRMING BUTTE COUNTY'S COMMITMENT
TO IMPLEMENT KEY PROVISIONS OF THE SUSTAINABLE GROUNDWATER MANAGEMENT ACT**

WHEREAS, the Sustainable Groundwater Management Act of 2014 went into effect on January 1, 2015; and

WHEREAS, the Sustainable Groundwater Management Act of 2014 enables the State Water Resources Control Board to intervene in groundwater basins unless a local public agency or combination of local public agencies form a Groundwater Sustainability Agency or Agencies (GSA) by June 30, 2017 (Water Code §10735); and

WHEREAS, retaining local jurisdiction over water management and land use is essential to sustainably manage groundwater and to the vitality of Butte County's economy, communities, and environment; and

WHEREAS, any local public agency that has water supply, water management, or land use responsibilities within a subbasin may elect to be a Groundwater Sustainability Agency (Water Code §10721 and §10723(a)); and

WHEREAS, counties are presumed to be the Groundwater Sustainability Agency for areas within a basin that is not within the management area of another Groundwater Sustainability Agency (Water Code §10724); and

WHEREAS, Butte County is a Groundwater Sustainability Agency for portions of the Vina, West Butte, East Butte, and Wyandotte Creek subbasins in Butte County; and

WHEREAS, Butte County and the other Groundwater Sustainability Agencies have committed to develop one groundwater sustainability plan in each subbasin and are working toward mutually agreeable governance structures; and

WHEREAS, SGMA places certain responsibilities upon Groundwater Sustainability Agencies to engage the public, utilize the same data and methodologies, and identify projects that will sustain groundwater resources; and

WHEREAS, Butte County has committed throughout the SGMA process to compliance, public participation, data sharing, and identification of viable and sustainable water management solutions; and

WHEREAS, reaffirming Butte County's commitment to key provisions of SGMA will provide a foundation for the development of governance structures and groundwater sustainability plan development.

NOW, THEREFORE, BE IT RESOLVED that the Butte County Board of Supervisors hereby commits to:

1. Use an inclusive and transparent public process that provides the opportunity for stakeholders to review. This process will provide the public with the opportunity to provide substantive input on draft elements of governance structures formed for the Sustainable Groundwater Management Act and on the groundwater sustainability plans developed pursuant to that act. The process will be formal, with a proper notification process for all interested parties and will include adequate public notice and meetings held in the very late afternoon or evenings so that members of the public can attend. Where input is not incorporated into revisions of proposed elements, the revised documents will include the reasoning and support for the direction chosen;

2. Use the same data, methodologies and assumptions for the four subbasins as currently defined for the following elements: (a) Groundwater elevation data; (b) Groundwater extraction data; (c) Surface water supply; (d) Total water use; (e) Change in groundwater storage; (f) Water budget; (g) Sustainable yield; and (h) interbasin flow. These elements are required to be consistent when multiple groundwater sustainability plans are developed within a subbasin; and
3. Identify, analyze and include feasible recharge and water supply projects in the groundwater sustainability plans, without regard to the proposed subbasin boundaries, particularly the opportunities for utilizing supply from available surface water in the County.

PASSED AND ADOPTED by the Butte County Board of Supervisors this 14th day of August, 2018, by the following vote:

AYES: Supervisors Connelly, Wahl, Kirk, Teeter, and Chair Lambert

NOES: None

ABSENT: None

NOT VOTING: None



Steve Lambert, Chair
Butte County Board of Supervisors

ATTEST:

Shari McCracken, Chief Administrative Officer
and Clerk of the Board of Supervisors

By: 

Deputy

Legal Planet

Insight & Analysis: Environmental Law and Policy

California | Events | General | Litigation | Regulation | Regulatory Policy | Water

RICHARD FRANK August 29, 2018

California Court Finds Public Trust Doctrine Applies to State Groundwater Resources

Court Rejects Claim That SGMA "Displaces" Public Trust's Application to California Groundwater



Scott River, <http://www.westernrivers.org/projectatlas/scott-river/>

The California Court of Appeal for the Third Appellate District has issued an important decision declaring that California's powerful public trust doctrine applies to at least some of the state's overtaxed groundwater resources. The court's opinion also rejects the argument that California's Sustainable Groundwater Management Act (SGMA) displaces the public trust doctrine's applicability to groundwater resources.

The Court of Appeal's opinion in *Environmental Law Foundation v. State Water Resources Control Board* decides two key issues of first impression for California water law: first, whether the public trust doctrine applies to California's groundwater resources; and, second, if it does, if application of that doctrine has been displaced and superseded by the California Legislature's 2014 enactment of SGMA. A unanimous appellate panel answered the first question in the affirmative, the second in the negative.

The facts of the *Environmental Law Foundation* are straightforward and undisputed: the Scott River is a tributary of the Klamath River and itself a navigable waterway located in the northwestern corner of California. The Scott River has historically been used by the public for recreational navigation and serves as essential habitat for migrating salmon listed under the Endangered Species Act.

Critically, there are groundwater aquifers adjacent to the Scott River in Siskiyou County that are hydrologically connected to the surface flows of the Scott River. Local farmers and ranchers in recent years have drilled numerous groundwater wells and pumped ever-increasing amounts of groundwater from those aquifers. As a direct result, the surface flows of the Scott River have been reduced, at times dramatically. Indeed, in the summer and early fall months, the Scott River has in some years been completely dewatered due to the nearby groundwater pumping. The adverse

effects on both the Scott River's salmon fishery and recreational use of the river have been devastating.

Environmental groups and the Pacific Coast Federation of Fishermen's Associations, relying on California's venerable public trust doctrine, initially responded to this environmental crisis by petitioning Siskiyou County and the State Water Resources Control Board to take administrative action to limit groundwater pumping in the Scott River watershed. Both the Board and the County declined to do so.

Plaintiffs responded by filing suit, arguing that groundwater resources that are interconnected with the surface water flows of the Scott River are subject to and protected by the state's public trust doctrine. Siskiyou County disputed that claim, arguing that the public trust doctrine is wholly inapplicable to groundwater and that the country has no duty to limit groundwater pumping, even in the face of the resulting environmental damage to the Scott River ecosystem. (The Board, by contrast, eventually reconsidered its position, ultimately adopting plaintiffs' view that groundwater resources interconnected with surface water flows are indeed subject to the public trust doctrine.)

The trial court concluded that the public trust doctrine does apply to the groundwater resources of the Scott River region. While the litigation was pending there, however, the California Legislature enacted SGMA, which for the first time creates a statewide system of groundwater management in California, administered at the regional level. Siskiyou County seized upon that legislation to argue that even if the public trust doctrine would otherwise apply to the County's groundwater resources, the doctrine was automatically displaced and made inapplicable to groundwater as a result of SGMA's allegedly "comprehensive" statutory scheme. The trial court rejected this backstop argument as well, and the County appealed.

The Court of Appeal's decision today resoundingly affirms the trial court on both issues. On the threshold public trust claim, the justices rely heavily on the California Supreme Court's landmark public trust decision, *National Audubon Society v. Superior Court*. In *National Audubon*, the Supreme Court held that the public trust doctrine, a foundational principle of California natural resources law, fully applies to the state's complex water rights system. Specifically, *National Audubon* found that the City of Los Angeles' diversion of water from the non-navigable, freshwater streams flowing into Mono Lake, which were reducing the lake level and causing environmental damage to the lake ecosystem, could be limited by state water regulators under the public trust doctrine.

The court in the *Environmental Law Foundation* concluded that the rationale and holding of *National Audubon* are fully applicable to the facts of the Scott River case. Rejecting the County's argument that extractions of groundwater should be treated differently from the diversions of surface water that were found in *National Audubon* to be causing environmental damage to Mono Lake, the Court of Appeal declares:

“The County’s squabble over the distinction between diversion and extraction is... irrelevant. The analysis begins and ends with whether the challenged activity harms a navigable waterway and thereby violates the public trust.”

Accordingly, the *Environmental Law Foundation* court concludes that the public trust doctrine fully applies to extractions of groundwater that adversely affect navigable waterways such as the Scott River.

Turning to the County’s SGMA-based defense, the Court of Appeal had little difficulty concluding that by enacting that statute the Legislature did not intend to occupy the entire field of groundwater management and thereby abolish the public trust doctrine’s application to the groundwater resources at issue. (The County had argued that SGMA’s enactment not only relieves the County of any public trust-related duties, but also precludes the State Water Resources Control Board from acting to protect public trust resources from environmental damage resulting from excessive groundwater extractions.) The Court of Appeal concludes:

“[W]e can evince no legislative intent to eviscerate the public trust in navigable waters in the text or scope of SGMA... We conclude that the enactment of SGMA does not, as the County maintains, occupy the field, replace or fulfill public trust duties, or scuttle decades of decisions upholding, defending, and expanding the public trust doctrine.”

Environmental Law Foundation v. State Water Resources Control Board represents an important judicial ruling concerning the public trust doctrine’s application to California’s water resources—perhaps *the* most important since the California Supreme Court decided the iconic *National Audubon* decision 35 years ago. Additionally, *Environmental Law Foundation* is the first California appellate decision expressly applying the public trust doctrine to (at least some of) the state’s groundwater resources. It’s also the first appellate decision interpreting SGMA, although that decision limits the application of the statute and harmonizes it with longstanding California public trust doctrine.

Perhaps most importantly, the *Environmental Law Foundation* opinion represents yet another ringing judicial affirmation of the public trust doctrine’s continuing, vital and foundational role in California natural resources law and policy. The California judiciary has in recent years consistently given a robust interpretation to and application of the public trust doctrine. *Environmental Law Foundation* is but the latest manifestation of that most welcome and trend.

(Full disclosure notice: the author of this post serves as counsel of record for the prevailing plaintiffs in the Environmental Law Foundation v. State Water Resources Control Board case.)