



Contra
Costa

To: Board of Supervisors
From: David Twa, County Administrator **County**
Date: August 2, 2016

Subject: RESPONSE TO CIVIL GRAND JURY REPORT NO. 1602, ENTITLED "PROTECTING OUR GROUNDWATER RESOURCES"

RECOMMENDATION(S):

ADOPT report as the Board of Supervisors' response to Civil Grand Jury Report No. 1602, entitled "Protecting Our Groundwater Resources".

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

The 2015/16 Civil Grand Jury filed the above-referenced report attached, on May 10, 2016, which was reviewed by the Board of Supervisors and subsequently referred to the County Administrator and Assessor, who prepared the attached response that clearly specifies:

- A. Whether the finding or recommendation is accepted or will be implemented;
- B. If a recommendation is accepted, a statement as to who will be responsible for implementation and a definite target date;
- C. A delineation of the constraints if a recommendation is accepted but cannot be implemented within a six-month period; and
- D. The reason for not accepting or adopting a finding or recommendation.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **08/02/2016** APPROVED AS RECOMMENDED OTHER

Clerks Notes: Contact: Julie DiMaggio Enea (925) 335-1077

VOTE OF SUPERVISORS

cc:

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Mary N. Piepho, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: August 2, 2016

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: Stephanie Mello, Deputy

BACKGROUND: (CONT'D)

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FINDINGS

F1. With the exception of Community and non-Community wells, the County is not required to provide oversight of individually owned wells; aside from permitting well construction and inspecting wells upon completion.

***Response:** The respondent disagrees partially with the finding. The Contra Costa County Health Services Department-Environmental Health Division (EHD) has the authority to oversee the construction and destruction of water wells in the county. EHD also plays an on-going monitoring role for water wells that are part of a small water system in the county. Small water systems (community and non-community water systems) include a water system that serves two to 199 service connections. EHD does not play an on-going role for water wells that are part of medium or large water systems in the county. Those with more than 199 service connections are regulated by the State.*

Additionally, as a result of enactment of the Sustainable Groundwater Management Act (SGMA) within the applicable groundwater basins, a Groundwater Sustainability Agency (GSA), via adoption of a Groundwater Sustainability Plan (GSP), could have oversight on individual wells that use more than 2-acre feet annually in groundwater basins designated as medium or high priority by the State. GSPs are required to be adopted prior to January 31, 2022.

F2. Improperly maintained wells or wells that are located too close to surface contaminants or failing septic systems risk contamination, which also may lead to the contamination of neighboring wells.

***Response:** The respondent agrees with the finding.*

F3. Improperly abandoned wells or undocumented wells can threaten groundwater quality because improper construction or maintenance may result in breaches in these wells that permit ground contaminants to reach potable water in lower water bearing strata.

***Response:** The respondent agrees with the finding. Note, however, that most areas of the county do not contain surface contamination. The finding would be*

appropriate in the industrial or former industrial areas of the county. Note also that as a part of any industrial contamination investigation, a well survey is conducted and any wells that are identified are properly abandoned.

F4. The lack of a comprehensive and readily accessible County database of wells hinders the ability to track wells to assure they are either properly maintained or correctly abandoned.

Response: *The respondent agrees with the finding. Laws currently exist that define abandoned wells and require their destruction. When such wells are identified, the EHD pursues corrective action/compliance. County Ordinance Code also requires that inactive wells that are to be used again be protected and marked.*

Beyond the requirements described in state law and County ordinance, the County has no role in actively monitoring the status of water wells. Based on the response to F3, the need to pursue such a monitoring program is not needed.

F5. EHD and the County Assessor can access DWR well log data, water district backflow preventer installation records, and related historical data that tie well locations to specific property parcels.

Response: *The respondent agrees with the finding. The County Assessor and EHD can access Department of Water Resources (DWR) well log data and related historical data that are made available to the County either by manually sorting through paper records or by accessing electronic data as allowed by the DWR and, likewise, water district backflow preventer installation records and related historical data as allowed by the water district.*

F6. Residents of the County who live in disadvantaged communities are more likely to have their sole potable water source come from domestic wells, which have fewer checks on water quality than municipal water sources derived from surface water. County Flood Control and EHD have the data to assess those most at risk. With this information they would be able to develop projects eligible for Proposition 1 matching grants, i.e., projects that could enhance water quality and reduce risk of well contamination during flood conditions.

Response: *The respondent disagrees with the finding. Most of the small water systems in the county depend on groundwater, and several of those would be included in the State description of a disadvantaged community (DAC). However, most of the small water system customers would not qualify, as they do not meet the definition of a DAC. Further, as identified in Appendix 1 of the report, most of the DACs, are in areas served by municipal water.*

Contra Costa Flood Control does not have data to identify who is most at risk. Flood Control's clean water programs gather data on stream water quality, but not ground water quality. Also, wells should not be impacted during flood conditions, as they must conform to very strict standards to prevent surface water intrusion.

F7. A “Groundwater Advisory Council” may coordinate stakeholders to help achieve the water-related goals and policies articulated in the County General Plan, as well as raise public awareness about groundwater issues in the County.

Response: The respondent disagrees partially with the finding. Creation of an effective advisory council would be challenging given the inherent differences in water quantity and quality throughout the various parts of the county, and, thus, no unifying goals. The creation of groundwater agencies for those basins designated by DWR as high or medium priority is underway and is the best approach at this time.

Additionally, the SGMA already requires that any interested party may participate in the development of the GSP. In fact, the GSA shall encourage the active involvement of diverse social, cultural, and economic elements of the population within the groundwater basin prior to and during the development and implementation of the groundwater sustainability plan, see Section 10727.8 (a) of the SGMA.

F8. There is insufficient data to confirm either a maximum sustainable withdrawal rate or storage capacity for any of the groundwater basins within the County.

Response: The respondent agrees with the finding. The SGMA requires the development of a water budget that will require the GSA/GSP to identify existing groundwater use, and provides tools to sustainably manage groundwater resources.

F9. The County can choose to support the formation of GSAs for “low” and “very low” risk basins, even though not required by the SGMA.

Response: The respondent agrees with the finding. The SGMA requires that by January 31, 2022, all basins designated as high or medium priority by the DWR shall be managed under a groundwater sustainability plan (managed by a GSA), see Section 10720.7(b) of the SGMA. With respect to low and very low priority basins, the legislature merely authorizes and encourages them to be managed under a groundwater sustainability plan.

Contra Costa County has three medium priority basins for which there is a need to form a GSA and subsequent GSP. However, it was misreported in Grand Jury Report #1602 that the remaining basins in the County are designated “low” priority

by DWR. The remaining basins within the County are designated as “very low” priority.

F10. GSAs can be helpful in elucidating how much available groundwater exists within a defined basin; how much water can be sustainably withdrawn on an annual basis or during an emergency and in helping stakeholders reach agreement about who is entitled to withdraw from a groundwater basin.

Response: The respondent disagrees partially with the finding. The GSA, through the development and adoption of the GSP and subject to the requirements of DWR, should identify 1) the existing amount of groundwater being used within a particular basin, 2) what actions are required to avoid undesirable results, and 3) other actions to sustainably manage groundwater resources.

How much available groundwater exists may remain unknown until such time as there are basin specific data/records that may show extremes in capacity of the basin over time.

F11. Three GSA agencies are in the early stages of formation: one for the East Bay Plain, one that incorporates the “thumb” of the Livermore Valley Basin, and one for the Tracy Sub-Basin.

Response: The respondent agrees with the finding. Additionally, to clarify, there has not been a GSA established in the county. Various local agencies (e.g. cities, counties and water districts) that overlie the East Bay Plain basin, the Livermore Valley basin, and the Tracy basin are meeting to determine whether there is support to develop and participate in the creation of a GSA.

F12. Approximately \$100 million has been allocated by Proposition 1 (2014) to support GSAs in developing sustainability plans.

Response: The respondent agrees with the finding.

F13. Based on historical records and more recent hydrological studies, the City could access more groundwater for landscape watering and emergency purposes.

Response: No response is required of the County.

F14. To help establish the Pittsburg Plain basin’s sustainable yield and storage capacity, the City of Pittsburg could initiate formation of a GSA for this basin.

Response: No response is required of the County.

RECOMMENDATIONS

R1. As funds are identified or become available, the Board of Supervisors should consider directing EHD to update their website alerting domestic well owners about the risks of not periodically checking the water quality of their potable water wells, and preparing an informational brochure containing the same cautionary information.

Response: The recommendation has not yet been implemented, but will be implemented in the future. EHD will make water quality information directed at private well owners available on its website. The primary focus of the website will be to direct the interested web visitor to the State Water Resources Control Board website, which has links to Fact Sheets on groundwater and private domestic well-testing. Staff can make these handouts available in hard copy upon request.

R2. As funds are identified or become available, the Board of Supervisors should consider directing appropriate County departments to review the well records and databases of DWR, water districts, and the County to document well locations, develop a countywide database, and map the locations as an overlay on the County GIS.

Response: The recommendation has not yet been implemented, but will be implemented in the future. For several years now, EHD has collected geographical positioning system (GPS) information for new construction of water wells. EHD is pursuing having a student intern assist with obtaining GPS information for historical water wells.

R3. As funds are identified or become available, the County Assessor should consider verifying that the assessed value of each parcel reflects the presence or absence of wells by reviewing assembled well data and, where discrepancies between records are identified, confirming whether a well exists and its status, active or abandoned.

Response: The recommendation will not be implemented because it is not warranted or reasonable. The Assessor does not need to verify or review the assessed value of each parcel or to determine well status.

Pursuant to Proposition 13, every water well in the State as well as Contra Costa County was valued and included on the assessment roll with a 1975 base. Modifications to the base value triggered by actions such as new construction, removals, and changes in ownership include the value of wells in their current condition. Drilling, abandoning or removing a water well requires an EHD permit. EHD notifies the Assessor, which triggers a new assessment and new base year value reflecting the changed status of the water well.

Collecting, assembling, reviewing, and confirming data from many agencies would be labor intensive. Matching paper to paper and then making a field visit for verification would add to the extreme cost of this idea, making it cost prohibitive.

R4. As funds are identified or become available, the Board of Supervisors should consider directing EHD and the County Flood Control District to jointly review proposed flood control projects to determine how to design or modify the projects to protect local wells, and the groundwater below, in DACs.

Response: The recommendation will not be implemented because it is not warranted. Currently, EHD comments on any proposed project in the county and would thus do so also for any flood control project during its development. EHD reviews the project from many different environmental perspectives and water protection can be included in that without any additional direction from the Board. Further, the current standards for wells protect the ground water for all communities and do not need to be modified.

R5. The Board of Supervisors should consider establishing a Groundwater Advisory Council to further promote public awareness about groundwater conservation and protection.

Response: The recommendation will not be implemented because it is not warranted. No special council is needed at this time because 1) the groundwater basins in the county are not designated as critically over-drafted and 2) there will be a public process through the adoption of the GSP for medium priority basins located within the County. Since groundwater resources, usage and constraints vary dramatically across the county, basin-specific approaches to public engagement appear more appropriate at this time.

R6. The Board of Supervisors should consider directing the County Water Agency to become involved in the formation of GSAs in the County and to periodically report to the Board on the status of each GSA.

Response: The recommendation requires further analysis. Currently the Water Agency is participating, on behalf of the County, in meetings that may establish the County as a member in the Tracy subbasin. The Water Agency provided a report to the Board of Supervisors in April 2016, at which time the Board of Supervisors declared its intent to become a member of a GSA for the portion of the Tracy subbasin within Contra Costa County and to sustainably manage groundwater

resources within the County in compliance with the SGMA, as recommended by the Transportation, Water and Infrastructure Committee. Formation of the GSA is required prior to June 2017.

There are many unanswered questions the County and local districts must examine over the next year, in coordination with DWR and other local agencies beyond the county line, to determine how best to manage the basins that require a GSA/GSP. It should be noted that the County continues to seek adequate funding and staff to participate in the management of the three medium priority basins. It is conceivable that a new funding source for the County's possible participation in future GSA/GSPs may be identified. At present, the County's involvement in implementing SGMA is being provided by the Water Agency through a single staff person who already manages a full-time program.

R7. The Board of Supervisors should encourage each water district whose sphere of Influence overlays "low" and "very low" priority groundwater basin in the County to form a GSA to analyze its groundwater basin and determine its potential for expansion and exploitation.

***Response:** The recommendation will not be implemented because it is not warranted or reasonable. While the intent of the Grand Jury may provide an opportunity to explore the use of underutilized groundwater storage (if it exists) within the "very low" priority groundwater basins in the county, it is not advisable for the Board of Supervisors to support development of GSA/GSP at this time as there are too many unknowns. Managing county groundwater resources is a new shared responsibility for the County. Three GSA/GSPs are required to be established within the county based on their designated priority. The County is participating in the establishment of GSA/GSPs for the three basins to better understand the unknowns, and recognize and learn from potential mistakes prior to encouraging water districts to go through what appears to be a lengthy and costly process.*

Additionally, in June 2016, the DWR released new regulations that specify the required components for all groundwater sustainability plans. For the County and the local districts, a considerable amount of data will need to be developed for the required GSPs within the medium priority basins. A GSP must include a Hydrologic Conceptual Model, groundwater conditions, water budget, management areas, minimum thresholds, measurable objectives and monitoring network in order for a GSP to be accepted by the State. This is not a complete list of the requirements.

At this time, the overall costs and staff required to participate in the establishment of the Tracy subbasin GSA/GSP are not known because the governance structure of the GSA is incomplete and will not be required until June 2017.

R8. As funds are identified or become available, the City should consider consulting hydrological specialists to provide advice about the best locations for accessing groundwater for landscape irrigation and emergency purposes.

Response: No response is required of the County.

R9. As funds are identified or become available, the City of Pittsburg should consider forming a GSA for the “low priority” Pittsburg Plain groundwater basin in order to establish its practical sustainable yield and maximum storage capacity.

Response: No response is required of the County.

ATTACHMENTS

Civil Grand Jury Report No. 1602 "Protecting Our Groundwater Resources"