

**SPECIAL MEETING OF THE
FLORIN RESOURCE CONSERVATION DISTRICT
BOARD OF DIRECTORS**

Wednesday, June 8, 2016

**NOTE: The Board will enter Closed Session at 5:00PM; and
Open Session will begin at 6:00pm**

**9257 Elk Grove Blvd.
Elk Grove, CA 95624**

Public Comment – Please complete a Request to Speak Form if you wish to address the Board. Members of the audience may comment on matters that are not included on the agenda. Each person will be allowed three (3) minutes, or less if a large number of requests are received on a particular subject. No action may be taken on a matter raised under "Public Comment" until the matter has been specifically included on an agenda as an action item. Items listed on the agenda will be opened for public comment as they are considered by the Board of Directors.

1. Closed Session

- a. Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation – Gov't Code Section 54956.9(d)(2) (1 case).
- b. Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation – Gov't Code Section 54956.9(d)(4) (1 Case).

2. Florin Resource Conservation District – Groundwater Sustainability Agency Filing
(Mark J. Madison, General Manager)

Associate Director Comment

Public Comment

Recommended Action: Provide direction to staff on whether, or not, the FRCD should begin the process to file to become a groundwater sustainability agency for the FRCD service area.

Adjourn: to be determined.

June 8, 2016

TO: Chairman and Directors of the Florin Resource Conservation District

FROM: Mark J. Madison, General Manager

SUBJECT: **FLORIN RESOURCE CONSERVATION DISTRICT – GROUNDWATER SUSTAINABILITY AGENCY FILING**

RECOMMENDATION

It is recommended that the Board of Directors of the Florin Resource Conservation District (FRCD) provide direction to staff on whether, or not, the FRCD should begin the process to file to become a groundwater sustainability agency for the FRCD service area.

Summary

This item is provided to the Florin Resource Conservation District Board of Directors for the purpose of determining if the Florin Resource Conservation District (FRCD) should begin the process to file to become a groundwater sustainability agency for the FRCD service area.

With this action, staff is seeking direction from the Board on this matter. If directed to file, staff would initiate the filing process which would require noticing and a public hearing at a later date. The Board is not requested to approve any filing at this time.

DISCUSSION

Background

The Sustainable Groundwater Management Act (SGMA) authorizes any local public agency that has water supply, water management, or land use responsibilities in a groundwater basin to become a groundwater sustainability agency (GSA). The Department of Water Resources (DWR) has determined that Resource Conservation Districts meet this criteria and can become GSAs. The responsibility of the GSA is to sustainably manage the groundwater basin through the development and implementation of a groundwater sustainability plan (GSP). The Sacramento Central Groundwater Authority (SCGA) presently oversees groundwater management of the basin FRCD overlies. The Florin Resource Conservation District has served on SCGA as one of sixteen board members since SCGA's inception. SCGA plans to file to become the GSA for the groundwater basin it overlies, which includes the FRCD service area.

The question of whether the FRCD should file to be the GSA for its jurisdictional area, or remain as a part of the SCGA/GSA, is complicated and significant.

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The following information is relevant to the matter of FRCD filing to become a GSA:

- FRCD has been a board member of the SCGA since SCGA's inception.
- SCGA is a joint powers authority (JPA) formed by a joint powers agreement (Agreement) signed in 2006.
- There are sixteen (16) board members of the JPA, and FRCD is one of the sixteen board members. Each board member has one vote.
- Five (5) of the sixteen (16) board members are signatories of the Agreement. All signatories possess police powers. Police powers are the common powers of the Agreement.
- SCGA's purpose is to manage and maintain the long-term sustainable yield of groundwater in the Central Basin.
- The Sustainable Groundwater Management Act (SGMA) authorizes any local public agency that has water supply, water management, or land use responsibilities in a groundwater basin to become a groundwater sustainability agency (GSA).
- Resource Conservation Districts meet this criteria and are eligible to become GSAs as determined by DWR.
- The responsibility of the GSA is to sustainably manage the groundwater basin through the development and implementation of a groundwater sustainability plan (GSP). SGMA empowers GSAs to regulate groundwater, if necessary, for sustainable management.
- SCGA plans to file to become the GSA for the groundwater basin it overlies, defined as the South American Subbasin (Basin No. 5-21.65) by DWR Bulletin 118.
- Omochumne Hartnell Water District (OHWD) on 5/4/16 filed with DWR to become a GSA for the portion of basin 5-21.65 it overlies.
- Sloughhouse Resource Conservation District (SRCD) on 5/4/16 filed with DWR to become a GSA for the portion of basin 5-21.65 it overlies.
- DWR will not allow an agency to become a GSA for a service area when there is service area overlap from other GSA filings. The OHWD and SRCD GSA filings represent overlaps with SCGA's filing. DWR will require agencies with overlapping GSAs to negotiate solutions so that no overlaps exist.

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Present Situation

The following events explain the chronology of the SCGA and FRCD relative to filing to become GSAs:

- On 5/13/15, SCGA passed a motion that directed SCGA staff to proceed with a process that would lead to the designation of the SCGA as the GSA for sub-basin 5-21.65.
- On 7/8/15, SCGA formed a SGMA Subcommittee to assist in the process of establishing SCGA as the GSA for sub-basin 5-21.65. FRCD representatives Tom Nelson, Mark Madison, and Bruce Kamilos actively participate in the subcommittee.
- On 10/16/15, the SGMA Subcommittee discussed the governance structure that should be used to form a GSA. The subcommittee agreed that a JPA is the best governance structure to use for a GSA. However, instead of amending the existing JPA currently in place for SCGA, the subcommittee agreed to review in detail changes that would make the JPA more applicable to a GSA as dictated by SGMA.
- On 12/16/15, the SGMA Subcommittee discussed the pros and cons of revising the JPA for SCGA. FRCD suggested that the JPA be revised to include agencies other than cities and the county as signatories to the JPA. Presently, the signatories of the JPA are the City of Sacramento, City of Rancho Cordova, City of Folsom, City of Elk Grove and County of Sacramento, all which share in common police powers. FRCD proposed revising the JPA on the basis of common powers defined in SGMA.
- On 12/22/15, the SGMA Subcommittee discussed revisions to the funding structure for agencies serving on the SCGA board. In general, it was proposed that the funding amounts would go up to support more activities required by SGMA.
- On 2/10/16, the SCGA board directed SCGA staff to conduct public outreach, noticing, and hearings required to file a Notice of GSA Formation for the SCGA service area within the South American Subbasin, if Sloughhouse RCD includes any portion of the South American Subbasin as part of their GSA filing.
- On 3/9/16, the SCGA board deferred discussion of FRCD's proposed new JPA to the SGMA Subcommittee.
- On 3/10/16, FRCD representative Bruce Kamilos presented the proposed new JPA to the SGMA Subcommittee. Several members asked what ultimately FRCD sought to achieve with the new JPA.
- On 4/7/16, the SGMA Subcommittee approved a motion recommending to the SCGA Board to adopt a resolution commencing the SGMA GSA formation for basin 5-21.65. FRCD opposed the motion.
- On 4/20/16, the SCGA board passed a resolution for SCGA staff to set a public hearing and provide the required notice and publications for SCGA to form a GSA in the South American Subbasin (subbasin 5-21.65). The resolution passed on an

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8-3 vote. The three (3) board members that opposed the resolution were FRCD, OHWD, and Agricultural Interests. At the same meeting, the SCGA board passed a resolution for SCGA staff to move forward with an alternative plan submittal in place of a Groundwater Sustainability Plan (GSP). The resolution passed on a 7-3-1 vote. The three (3) board members that opposed the resolution were FRCD, OHWD, and Agricultural Interests. (At the time, it was thought that developing an Alternative Plan might require less work to become a GSA than a GSP. The latest information from DWR seems to indicate that this isn't the case. The primary difference is an Alternative Plan is due by January 1, 2017 whereas a GSP is not due until January 2022.)

- At the 5/11/16 SCGA board meeting, SCGA staff had scheduled on the agenda an item to hold a public hearing on SCGA becoming a GSA for Subbasin 5-21.65, however, the item was carried over due to improper advanced noticing per the Brown Act.

It is staff's opinion that the sixteen-member governing body of SCGA has the potential to be the appropriate structure to manage groundwater as required by SGMA. However, it is also staff's opinion that the SCGA, as currently structured, is not equitable to all board members and there is an inherent conflict of interest for the Sacramento County Water Agency.

For this reason, the FRCD has expressed concerns about the existing SCGA governance structure and has proposed numerous changes for SCGA to properly become the GSA for basin 5-21.65. These changes are as follows:

- The FRCD proposed a new joint powers agreement for SCGA that is equitable to all board members. The problems with the current Agreement include:
 - The Agreement allows any one of the signatories at any time and for any reason to terminate the Agreement. This gives the five signatories ultimate power over whether or not SCGA shall continue to exist.
 - To approve fiscal items including the annual budget, the Agreement requires affirmative votes of eleven of the sixteen board members, but in addition, requires affirmative votes by all the signatories, ultimately giving each signatory veto power over the majority of others.
 - For changes in annual contributions necessary to support the work of the JPA, the current Agreement requires affirmative votes of eleven of the sixteen board members, but in addition, requires affirmative votes by all the signatories, giving each signatory veto power over the majority.
 - The existing Agreement requires that SCGA board members from FRCD, Rancho Murieta Community Services District and OHWD be an elected member of the governing boards of those agencies. The public agencies

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- who are signatories of the Agreement are able to designate an employee of their agency to serve on the SCGA board.
- The existing Agreement requires non-signatory public agencies and PUC-regulated agencies to be appointed by governing bodies other than their own. FRCD believes all public agencies on the SCGA board should be able to appoint directly to the SCGA board.
 - The existing Agreement prescribes that Sacramento County Water Agency (SCWA) Zone 13 funds pay for the annual contributions of agricultural and agriculture-residential interests on the SCGA board. However, residents not represented by agricultural and agriculture-residential interests also pay into SCWA Zone 13 funds causing a “double-dipping” for those residents.
 - FRCD proposed that all public agencies serving on the SCGA board should be signatories of the Agreement and that the appropriate common powers for the Agreement are the powers granted under SGMA, not police powers.
 - FRCD proposed that the SCGA consider a long-term structure where the SCGA staff and legal counsel are independent from any party participating as a governing board member on the SCGA. Currently, the Sacramento County Water Agency (SCWA), per the governance structure of the existing JPA, provides administration and legal counsel to SCGA. The executive director, staff and legal counsel are employees of SCWA, although they take direction from the SCGA board while performing SCGA-related functions. FRCD believes that SCWA, as the largest groundwater pumper in basin 5-21.65, has a conflict of interest in this role for SCGA.
 - In contrast, the Sacramento Groundwater Authority (SGA) which has successfully filed to become the exclusive GSA for a portion of basin 5-21.64 north of the American River, is administrated by staff from the Regional Water Authority (RWA). RWA is a neutral governing body whose mission is to serve and represent all members of RWA.

Reasons for the FRCD to File to Become a GSA

- Provides FRCD independence from the current governance structure of SCGA.
- Because FRCD’s filing to become a GSA for its service area would overlap the basin service area SCGA, DWR would require FRCD and SCGA to negotiate a solution. This would give FRCD a stronger position to negotiate with SCGA on changes to the governance structure it feels are required.
- FRCD, as a resource conservation district dating back to 1953, has a history of representing farming and environmental interests. With the purchase of Elk Grove Water Works in 1999, FRCD became an urban water supplier. This blend of farming, environmental, and urban representation would be a good fit as a GSA for the FRCD service area.

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- FRCD may be able to provide the services required by SGMA at a lower cost to rate payers than SCGA can.

Reasons for the FRCD to Not to File to Become a GSA

- FRCD prefers to work collaboratively and productively with the other regional water interests in basin 5-21.65. By filing to be a GSA, FRCD isolates itself from the regional collaborative efforts. This could be viewed negatively by a public that increasingly expects its government representatives to work collaboratively with each other to solve problems.
- The costs of becoming a GSA will be significant and could put the FRCD at risk. Although SGMA provides for the assessment of taxes to support the functions of GSAs, FRCD would incur initial costs before assessments could be levied. Initial costs would be on the order of \$90,000 (\$50,000 for a protest vote, and \$40,000 for a rate study).
- Becoming a GSA will require a significant amount of staff time and resources. The time and resources to become a GSA and do the work of a GSA will take away from the other duties for which staff is currently responsible. Ultimately, the GSA would have to have its own staff dedicated to the functions of the GSA.
- It will be more difficult to control costs and impossible to spread risk by becoming an independent GSA. The financial structure of SCGA allows costs and associated risks to be spread among 16 stakeholders.

Schedule

The schedule for becoming a GSA requires the following minimum activities to occur. (Attachment 1 lists specific dates to achieve the requirements.)

- Publicly notice in accordance with Government Code §6066 a public hearing on the matter of FRCD deciding to become a GSA for the FRCD service area.
- Hold the public hearing to announce FRCD's intention of becoming a GSA and to hear the public's input on the matter.
 - DWR strongly recommends GSAs engage a broad range of stakeholders prior to making a decision to become a GSA to help build trust and promote public acceptance and support.
 - Staff recommends that FRCD reach out to stakeholders prior to holding a public hearing to determine the level of support for FRCD becoming a GSA.
- Submit to DWR a Notice of GSA Formation to become a GSA within 30 days after holding the public hearing and deciding to become a GSA.
- A 90-day waiting period begins after submitting the GSA Formation Notice to be a GSA. If no other agencies file to become a GSA for the same basin service area, FRCD would become the exclusive GSA for the FRCD service area. If there are

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other agencies that have filed to be a GSA for the same basin service area, then DWR will require the agencies to negotiate so that there is no overlap in service areas.

Costs

Attachment 2 lists the costs associated with becoming a GSA.

STRATEGIC PLAN CONFORMITY

The FRCD Mission Statement states, in part, that the FRCD manages resource conservation programs in the FRCD service area. If the FRCD were to become the GSA for its jurisdictional area, this activity would directly conform to the FRCD's stated mission. The 2012-2017 FRCD/EGWD Strategic Plan also identifies the preservation of groundwater resources as a Priority Issue for the FRCD.

FINANCIAL SUMMARY

There is no financial impact associated with this item at this time.

Respectfully Submitted,



MARK J. MADISON
GENERAL MANAGER

Attachment

MJM/bk

Attachment 1

Proposed Timeline Schedule FRCD GSA Formation Year 2016

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|-----------|--|
| June 8 | FRCD Board provides direction to staff to begin the process of becoming a GSA. |
| June 15 | FRCD staff completes public outreach of stakeholders. |
| July 27 | FRCD holds a public hearing and considers a resolution to become a GSA. |
| August 12 | FRCD submits a Notice of GSA Formation to DWR to become a GSA for the FRCD service area overlying basin 5-21.65. |

**Attachment 2
Cost Estimate - FRCD GSA**

Annual Estimated Costs	Cost Type	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	6 Year Total	Average
	Whole / Shared	FRCD GSA	FRCD GSA	FRCD GSA	FRCD GSA	FRCD GSA	FRCD GSA	FRCD GSA	Annual (2016/17- 2020/21)
1.General Business									
Administrative, Staff Meetings	Whole	\$ 250,000	\$ 250,000	\$ 250,000	\$ 250,000	\$ 250,000	\$ 250,000	\$ 1,500,000	\$ 250,000
Accounting	Whole	(included in Administrative, Staff Meetings line item)						\$ -	\$ -
Legal Counsel	Whole	\$ 76,800	\$ 76,800	\$ 38,400	\$ 38,400	\$ 38,400	\$ 38,400	\$ 307,200	\$ 53,760
Administrative Overhead (office, phones, insurance)	Whole	\$ 75,000	\$ 75,000	\$ 75,000	\$ 75,000	\$ 75,000	\$ 75,000	\$ 450,000	\$ 75,000
Consultant/Contract Management	Whole	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 300,000	\$ 50,000
	Subtotal	\$ 451,800	\$ 451,800	\$ 413,400	\$ 413,400	\$ 413,400	\$ 413,400	\$ 2,557,200	\$ 428,760
2.Recurring Tasks									
Biennial State of the Basin	Shared	\$ 11,021	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 11,021	\$ 2,204
Groundwater Model Update	Shared	\$ 11,649	\$ -	\$ 11,649	\$ -	\$ -	\$ -	\$ 23,298	\$ 4,660
CASGEM Monitoring	Shared	\$ 7,338	\$ 7,338	\$ 7,338	\$ 7,338	\$ 7,338	\$ 3,669	\$ 40,357	\$ 7,338
	Subtotal	\$ 30,008	\$ 7,338	\$ 18,987	\$ 7,338	\$ 7,338	\$ 3,669	\$ 74,676	\$ 14,201
3.Planned Efforts									
Prop 218 Protest Vote	Whole	\$ 50,000						\$ 50,000	\$ 10,000
Rate Study	Whole	\$ 40,000						\$ 40,000	\$ 8,000
GSA Formation (i.e., participation in stakeholder activities, on-going meetings)	Whole	(included in Administrative, Staff Meetings line item)						\$ -	\$ -
Intra- and Inter-Basin GSA Coordination Agreements	Whole	(included in Administrative, Staff Meetings line item)						\$ -	\$ -
Federal and State Grant Proposals	Whole	(included in Administrative, Staff Meetings line item)						\$ -	\$ -
GSP Stakeholder Processes	Whole		\$ 10,000	\$ 10,000	\$ -	\$ -	\$ -	\$ 20,000	\$ 4,000
GSP Development, Adoption, and DWR Submittal, 5 Year Updates	Shared	\$ 2,099	\$ 8,216	\$ 10,936	\$ 43,497	\$ 42,077	\$ 7,761	\$ 114,586	\$ 21,365
GSA Facilities Planning, Coordination, CEQA, CIP	Shared				\$ 4,021	\$ 42,922	\$ 20,087	\$ 67,030	\$ 9,389
GSP Monitoring, Data Management, Annual Reporting	Shared	\$ -	\$ 2,929	\$ 5,859	\$ 6,524	\$ 4,793	\$ 7,761	\$ 27,867	\$ 4,021
	Subtotal	\$ 92,099	\$ 21,145	\$ 26,795	\$ 54,043	\$ 89,792	\$ 35,609	\$ 319,483	\$ 56,775
	Totals	\$ 573,907	\$ 480,283	\$ 459,182	\$ 474,781	\$ 510,530	\$ 452,677	\$ 2,951,359	\$ 499,736
	FRCD Annual Costs if it Stays with SCGA	\$ 35,560	\$ 35,560	\$ 35,560	\$ 35,560	\$ 35,560	\$ 35,560	\$ 213,360	