



DATE: February 7, 2017
TO: Mayor and City Council
FROM: Director of Utilities & Environmental Services
SUBJECT Sustainable Groundwater Management Act (SGMA): Formation of a Groundwater Sustainability Agency under SGMA

RECOMMENDATION

That the City Council adopts the attached resolution stating that the City of Hayward will become the Groundwater Sustainability Agency for the portion of the East Bay Plain Groundwater Basin that underlies the City.

SUMMARY

The Sustainable Groundwater Management Act (SGMA) was signed into law in 2014 and took effect in 2015. This historic legislation requires, for the first time, comprehensive and sustainable management of California’s groundwater resources. SGMA provides a framework for sustainable management of groundwater at the local level through formation of Groundwater Sustainability Agencies (GSAs) and implementation of Groundwater Sustainability Plans (GSPs). The City of Hayward overlies a portion of the East Bay Plain Groundwater Basin. Staff has explored the feasibility of the City becoming a GSA for this part of the East Bay Plain Basin and held discussions with interested stakeholders. On January 9, 2016, the Council Sustainability Committee unanimously supported staff’s recommendation to proceed with becoming a GSA for the portion of the East Bay Plain Basin that underlies Hayward.

BACKGROUND

Groundwater provides a significant portion of California’s water supply. In average years, underground basins, known as aquifers, supply about one-third of the water used by the State’s cities and farms. In drought years, groundwater provides more than one-half of the water used by Californians. The recent drought has highlighted the importance of groundwater and the need to protect this resource against unsustainable groundwater pumping and irreversible environmental impacts such as land subsidence. These concerns were a driving force behind the development of the SGMA legislation.

The passage of SGMA in 2014 fundamentally changed management of groundwater in California. After many efforts to encourage local agencies to manage groundwater on a voluntary basis, SGMA marks the first time the State has mandated regulations for managing groundwater. SGMA provides a framework for sustainable management of groundwater supplies by local authorities, with a limited role for State intervention, only if necessary, to protect the resource. SGMA

requires that all medium- and high-priority ranked groundwater basins in California, which account for over 95% of groundwater use in the State, be sustainably managed by 2022. Local agencies with water supply and/or land use authority must assume the role of groundwater regulators through the formation of local GSAs and implementation of GSPs in order to avoid State intervention. SGMA envisions a collaborative process in which local agencies, cities, counties, and other stakeholders work cooperatively to obtain sustainability in their respective groundwater basins.

At a local level, SGMA will have a significant impact on Hayward's current and future ability to use groundwater. The City overlies portions of two medium-priority groundwater basins—the Niles Cone Basin and the East Bay Plain Basin (see Figure 1). Although Hayward has not relied on groundwater for day-to-day water supplies since the early 1960s, the City has a long groundwater use history, relying entirely on groundwater for water supplies for over a century until an agreement was signed with the San Francisco Public Utilities Commission (SFPUC) in 1962 to supply all City water needs. However, it became evident that the SFPUC's regional water system was prone to damage from earthquakes and potentially long-term water delivery disruption. To mitigate the risks, the City embarked in the early 1980s on an evaluation of its groundwater and rehabilitation and construction of a group of water wells for use in emergencies. Following the Loma Prieta earthquake, the City accelerated construction of five wells and completed and placed them on standby by the mid 1990s.

The City's emergency wells are currently permitted for emergency use and are critical to our ability to reliably deliver water in the event of an earthquake or other disruptions to our imported surface water supply. The total rated capacity of the wells is approximately 13.6 million gallons per day (MGD), which is the sum of individual well production on a short-term basis. The firm capacity or expected production that the wells could sustain over a longer duration when operated together is likely less than 8 to 10 MGD, which is approximately 60-70% of the City's current average daily consumption. Two of the City's emergency wells are located in the Niles Cone Groundwater Basin and the remaining three are located in the East Bay Plain Groundwater Basin. Figure 2 illustrates the location of Hayward's wells relative to basin boundaries.

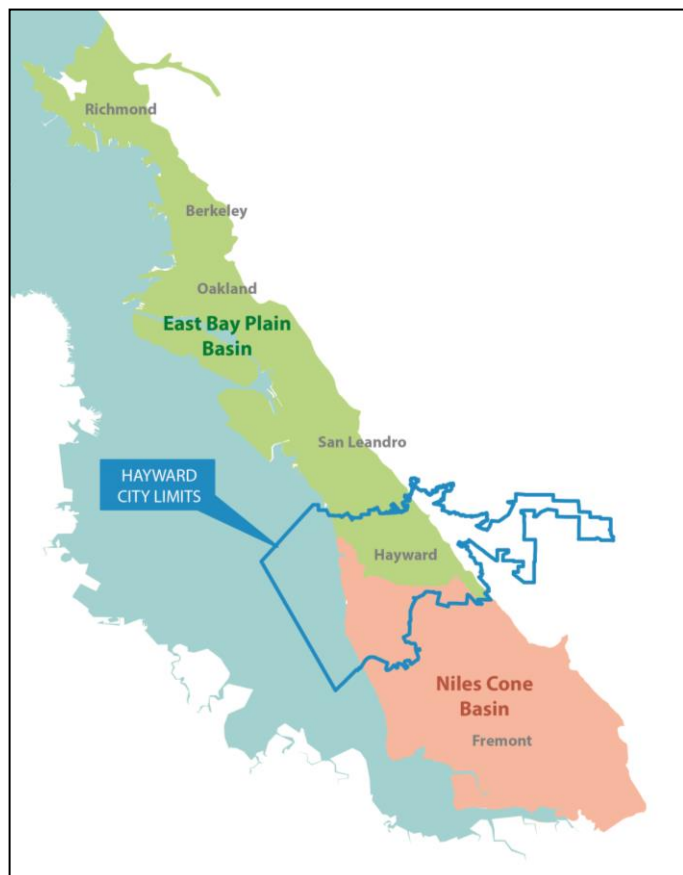


Figure 1. Local Groundwater Basins

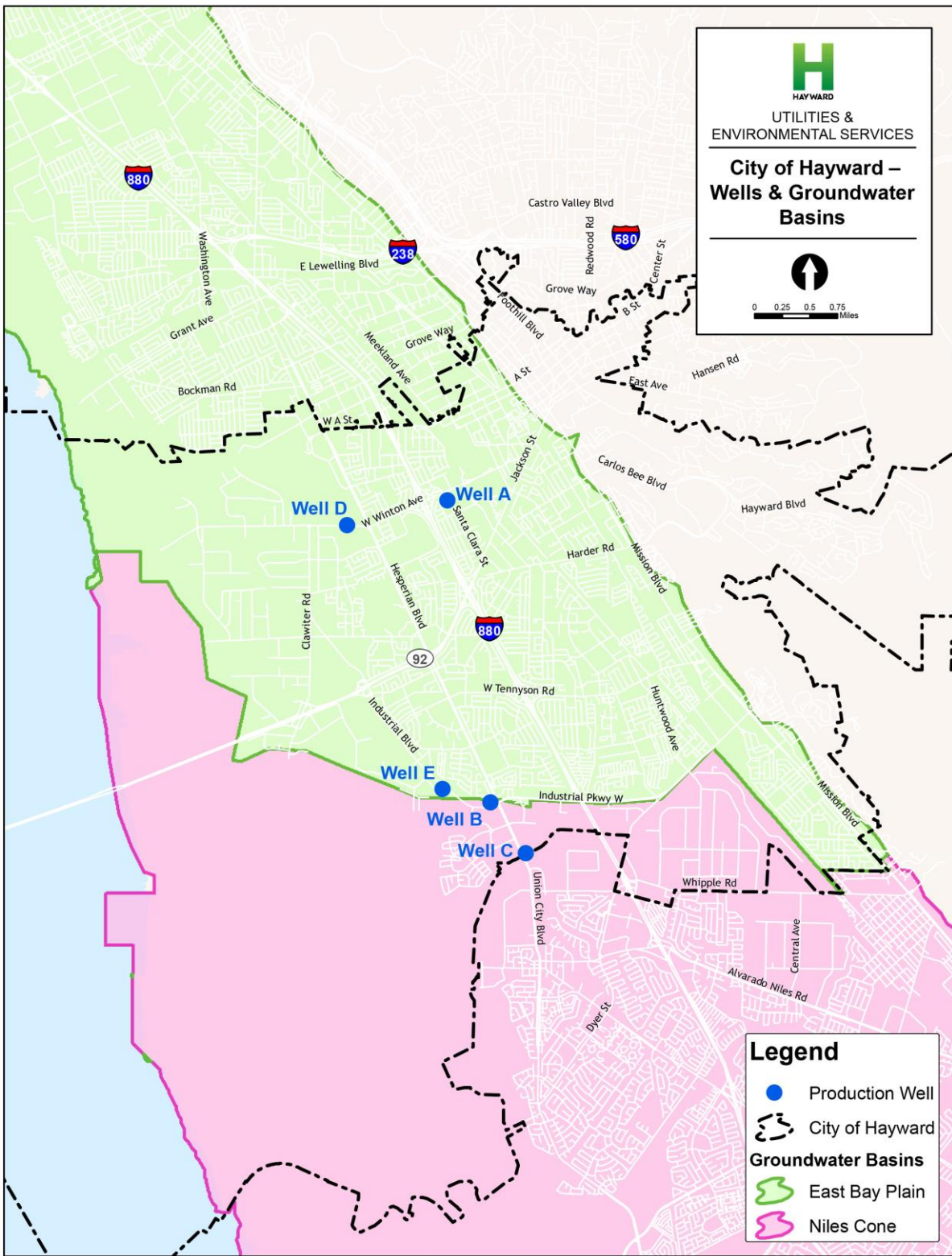


Figure 2. City of Hayward Well and Groundwater Basin Location Map

DISCUSSION

GSA Formation

SGMA requires the formation of GSAs to ensure sustainable management of all medium- and high-priority ranked groundwater basins. Any local agency, or combination of agencies, with water supply and/or land use authorities within a groundwater basin, may form a GSA and carry out groundwater management responsibilities. If no local agency accepts GSA status, the responsibility falls to the State. The State would then manage the basin on an interim basis, passing on costs to local agencies and perhaps taking away eligibility for State funding until a local agency accepts responsibility and becomes a GSA.

SGMA grants certain authorities to GSAs, including the ability to take actions to investigate and monitor basin conditions, assess fees, and require measurement and reporting of groundwater extraction. A GSA also has the authority to develop and enforce regulations pertaining to groundwater use. GSAs can acquire and import other water supplies, including surface water, for the purposes of sustainable groundwater management.

SGMA designates fifteen entities as exclusive local agencies with the authority to comply with the new groundwater law within their statutory boundaries. Where an agency has been named as the exclusive local agency for SGMA compliance, no other entity may serve as a GSA within that agency's boundaries unless the exclusive agency opts out of being the exclusive groundwater management agency. Exclusive local agencies are still required to comply with SGMA's extensive requirements for stakeholder outreach with cities and other land use agencies.

Alameda County Water District (ACWD) is identified in SGMA as the exclusive local agency to manage groundwater in the Niles Cone Basin, which is located within ACWD's statutory boundaries. In November 2016, ACWD opted to become the sole GSA for the Niles Cone Basin. Although certain portions of the Niles Cone Basin extend into the City of Hayward, because ACWD currently has exclusive agency status within its statutory boundaries, the City cannot serve as the GSA in those areas. However, the City may participate in the management of the Niles Cone Basin in other ways and intends to do so. For example, the City has been formally added to ACWD's list of interested parties that ACWD is required to use to ensure regular communication with stakeholders and has expressed to ACWD the City's interest in understanding and being engaged in ACWD's groundwater management efforts that have the potential to affect the City of Hayward.

The new groundwater law requires that one or more GSAs be formed to manage the East Bay Plain Basin. In August 2016, the East Bay Municipal Utility District (EBMUD) filed to be a GSA for the portion of the East Bay Plain Basin that underlies the EBMUD service area. Following public noticing and a ninety-day review period, DWR formally designated EBMUD as a GSA for the East Bay Plain Basin. As both a water purveyor and land use agency, the City of Hayward is eligible to become the GSA for the remaining portion of the East Bay Plain Basin that underlies the City. As a GSA, Hayward would be better positioned to protect its ability to sustainably, reliably, and flexibly manage groundwater resources. Figure 3 shows the proposed groundwater basin coverage for the City of Hayward GSA.

SGMA requires sustainable management of the East Bay Plain Basin in its entirety. If the City elects to become a GSA, between EBMUD’s existing GSA coverage area and Hayward’s proposed GSA coverage, all of the East Bay Plain Basin would be covered except for a small 20-acre area located generally on the east side of Mission Blvd under the Chapel of the Chimes cemetery property. This property is outside both the City corporate limits and ACWD’s service area. Staff is currently in discussions with the State and neighboring agencies to ensure that the GSA boundaries cover the entire basin.

SGMA requires formation of GSAs by June 30, 2017, following a prescribed process of stakeholder outreach and involvement, a public hearing, governing board approval, and a ninety-day public comment period after the application is filed. In the interest of working in an open and transparent manner with basin stakeholders, staff convened a meeting on December 12, 2016 that included representatives from EBMUD, ACWD, the County of Alameda, and DWR. Staff provided an overview of the City’s groundwater interests and proposed approach for complying with SGMA, including potentially becoming a GSA for a portion of the East Bay Plain Basin. All parties expressed interest in working cooperatively to implement SGMA locally and there were no concerns voiced by any of the participants regarding Hayward potentially becoming a GSA. Staff has also reached out to the Hayward Area Park and Recreation District (HARD) and Chabot College, both of which use groundwater for some irrigation purposes, and invited them to participate in the City’s stakeholder process for complying with the new groundwater law.

GSP Preparation and Implementation

A key responsibility of being a GSA is the preparation and implementation of a GSP. GSPs are intended to sustainably manage and utilize groundwater without causing “undesirable results” such as the unsustainable lowering of groundwater levels over time. The document will generally consist of a description of the basin and aquifer, baseline conditions and basin objectives, management actions to achieve the objectives, and a monitoring plan. It will be subject to public review and governing body approval. GSPs for medium-priority basins, such as the East Bay Plain Basin, must be completed and adopted by January 31, 2022. Progress reports

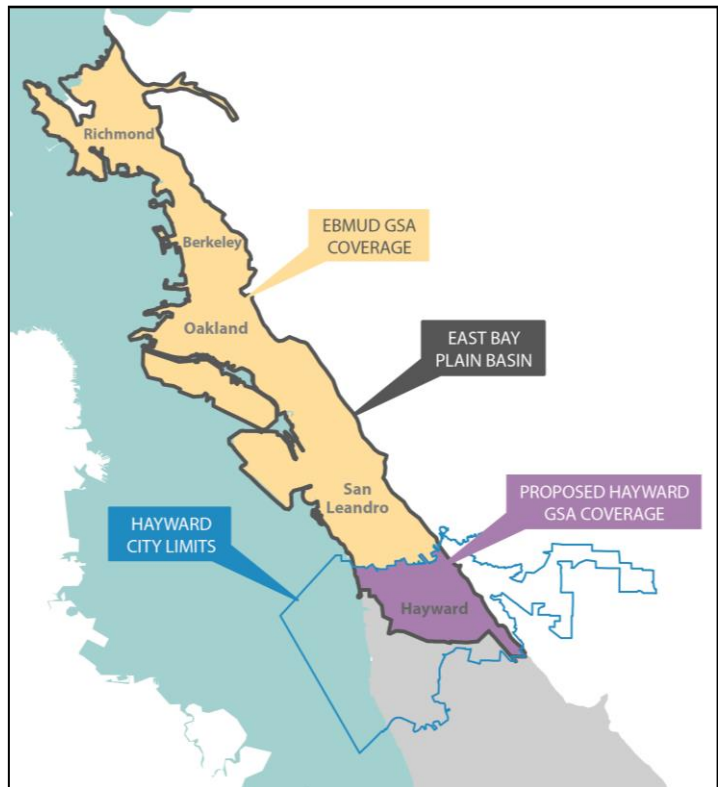


Figure 3. Proposed East Bay Plain Basin GSA Coverage

are to be submitted to DWR annually, beginning in April 2022, and GSPs are required to be updated every five years.

Should Hayward decide to become a GSA, staff recommends that the City coordinate with EBMUD on the preparation of a single Hayward-EBMUD GSP for the East Bay Plain Basin. Working cooperatively with EBMUD would significantly reduce duplication of technical work and thus the cost of preparing the GSP. Further, it would position the City more favorably to receive grant funding for preparing the GSP. The Council Sustainability Committee supported staff's efforts to work with EBMUD to develop an agreement and scope of work. The goal of both parties would be to have sufficient information available to apply for grant funding from DWR in mid-2017 to help fund preparation of the GSP.

The new groundwater law also allows a GSA or exclusive local agency to submit an Alternative to a GSP to comply with the requirements of SGMA. The deadline for Alternative submittals to DWR was January 1, 2017. Alternatives will be reviewed by DWR and, to be approved, must meet the criteria of being functionally equivalent to a GSP, which includes addressing how the interests of basin stakeholders have been considered. On December 31, 2016, ACWD submitted an Alternative to a GSP to meet the requirements of SGMA. As a significant stakeholder in the Niles Cone Basin, the City is reviewing ACWD's Alternative submission to ensure that Hayward's interests are considered and protected.

ECONOMIC IMPACT

The economic impact of the City becoming a GSA for a portion of the East Bay Plain Basin has not yet been fully evaluated, and will depend in large part on the activities required to manage the basin. There is potential need for some of the costs to be recovered in future years either through water rates or through grants. These costs are difficult to estimate at this time but are not expected to significantly affect customer rates.

FISCAL IMPACT

Costs to implement the GSP will depend on the actions identified in the GSP that are necessary to ensure long-term basin sustainability. Some of the costs could potentially be offset by grants and cost-sharing with EBMUD if a joint GSP is pursued. The Water Improvement Fund includes funds for groundwater-related activities such as preparation of a GSP and its implementation actions. Staff believes that the resources are sufficient to complete the technical studies and investigations necessary to prepare the GSP. There would be no impact on the General Fund.

SUSTAINABILITY FEATURES

Hayward's active participation in becoming a GSA and developing a GSP would provide Hayward with the authority to ensure that groundwater beneath the City is protected and sustainably managed for the future. A long-term commitment to groundwater supplies increases Hayward's overall water supply reliability, maximizes local supplies, and diversifies the City's water resources which will help the City respond to future water supply uncertainties such as the impacts of climate change.

PUBLIC CONTACT

SGMA requires extensive outreach and involvement of stakeholders. Initial outreach was summarized in the Discussion section. The City's desire is to continue to work in an open and collaborative way with the public and local agency stakeholders to implement SGMA requirements. Staff will maintain a list of interested stakeholders to be used to ensure regular communication.

Notice of this public hearing was published twice in the *East Bay Times* in accordance with Government Code 6066. Written notices were also sent to interested parties in advance of the meeting.

NEXT STEPS

If the Council approves the City becoming a GSA, staff will submit all required documentation to DWR in a timely manner so that the City is designated as a GSA by June 30, 1017. Staff will also remain engaged in the implementation of SGMA by neighboring water agencies and at the State level.

Prepared by: Jan Lee, Water Resources Manager

Recommended by: Alex Ameri, Director of Utilities & Environmental Services

Approved by:



Kelly McAdoo, City Manager