



MARINA COAST WATER DISTRICT

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April 4, 2017

The Honorable Ralph Rubio, Chair
Board of Directors, Fort Ord Reuse Authority
920 2nd Avenue
Marina, CA 93933

Dear Chairman Rubio and Members of the Board;

The following comments concern Agenda item 7e, "Groundwater Sustainability Agency Report". They provide clarification and additional information about the Sustainable Groundwater Management Act (SGMA) and actions that Marina Coast Water District (MCWD) has taken under SGMA that may be useful for future FORA discussions and decisions.

MCWD is the owner of the water infrastructure and (except for those rights owned by the U.S. Army) the groundwater rights necessary that serve the Ord Community. Five MCWD production wells are located in the Ord Community. Therefore MCWD has stewardship responsibilities for the groundwater resources that serve the Ord Community. We take these responsibilities very seriously. These responsibilities include prudent management and control of these groundwater resources for the benefit of all MCWD customers and the protection of these resources from any proposal that threatens them.

MCWD has filed Groundwater Sustainability Agency (GSA) Notices of Intent (NOI) (to become the Exclusive GSA under SGMA) with the California Department of Water Resources (DWR) for the following four specific areas:

- (1) For all lands within MCWD's political boundaries within the Monterey Sub-basin (essentially Central Marina);
- (2) For all lands within the Ord Community service area within the Monterey Sub-basin; and
- (3) For all lands within MCWD's political boundaries within the 180/400 Foot Aquifer Sub-basin;
- (4) For all lands within the Ord Community service area within the 180/400 Foot Aquifer Sub-basin.

The purpose of these filings is to ensure that MCWD has control of its groundwater resources under SGMA. MCWD is the only GSA eligible agency that has a direct and abiding concern for complying with SGMA in a way that best serves the interests of the Ord Community and Central Marina. Outside agencies such the State Water Resources Control Board (SWRCB) and the County simply will not have the time, resources or political interest that MCWD can and will devote to these communities.

MCWD's first NOI filing was submitted to DWR last September, and as a result, MCWD has already been designated by DWR as the exclusive GSA for Area (1). FORA obviously has interests in Area (2) and (4). Unfortunately, in December 2016 the County filed a competing GSA NOI for Area (2) at the last minute. This created an overlap with MCWD's Area (2) GSA NOI. (Note: the FORA staff report incorrectly states that the overlap was filed by the Monterey County Water Resources Agency.) At this point in time, we don't know what the County or the new Salinas Valley Groundwater Sustainability Agency (SVGSA) will do regarding Areas (2), (3) and (4).

The County and the SVGSA have no rights to serve water within MCWD's Ord Community service area. It stands to reason that they should not dictate how much water MCWD may pump to serve the Ord Community so long as MCWD pumps within the groundwater allocations under the 1993 Fort Ord Annexation Agreement. But control over MCWD's groundwater resources appears to be the intent of the County and possibly the newly formed SVGSA.

The Discussion section of the staff report on pages 15 and 16 of the FORA Board packet for April 7, 2017, needs to be clarified. In the first paragraph, the term "service area overlap" is used. As explained above, the County has no right to serve water within MCWD's Ord Community. The overlap is a "GSA overlap", i.e., a dispute over what local agency will be designated as the exclusive GSA for the overlap area [Area (2) above]. MCWD will continue to be the exclusive GSA for Area (1) and has never filed an NOI for any part of the Monterey Sub-basin outside of Areas (1) and (2).

If the Area (2) overlap remains unresolved after June 30, 2016, SGMA allows the SWRCB to take over as the GSA for Area (2) and levy fees and reporting requirements on MCWD (as the service provider and pumper in Area (2)). If this happens, MCWD will have to include such additional costs in its Ord Community water rates. The County is causing this to happen, not MCWD. If the County were to withdraw its NOI for Area (2) (and the SVGSA refrains from submitting a new NOI for Area (2)), this GSA overlap and the possibility of additional State costs to the Ord Community would be immediately resolved.

When the County decided to submit a competing GSA NOI for Area (2) of the Monterey Sub-basin, County legal staff asserted that MCWD could not, under SGMA, legally be the exclusive GSA for Area (2). Counsel for MCWD disputed County Counsel's assertion at that time. More recently, DWR's lead SGMA manager, Mark Nordberg, confirmed in a DWR SGMA webinar that MCWD's interpretation of SGMA was correct, i.e., that the term "boundaries" should be interpreted to mean "service area boundaries" and not "political boundaries" as the County staff argues. Therefore, DWR does not agree with the County's main legal argument against MCWD being the GSA for Area (2).

MCWD is seeking support to ask the County to rescind its NOI for Area (2) and to oppose the possibility of the SVGSA filing competing NOIs for Areas (2) and (4). As the exclusive GSA for Area (1), SGMA requires MCWD to work jointly with whatever agency or agencies become the GSA for Area (2) and the GSA for the rest of the Monterey Sub-basin. And since Area (1) adjoins the 180/400 Sub-basin, the latter's sustainability plan will have to be coordinated with the sustainability plan for the Monterey Sub-basin. What this means is that SGMA requires

MCWD and the SVGSA to work jointly on the sustainability plans for the Monterey and the 180/400 Sub-basins.

MCWD must be able to protect its groundwater rights on behalf of its customers, to develop augmented water supplies as requested by FORA, to operate, maintain, and improve its Ord Community water infrastructure, and to fulfill its obligation to its ratepayers to provide safe drinking water at affordable rates. If FORA decides to become involved in future decisions regarding GSA formation, the following key questions must be addressed:

Does FORA want the SVGSA, dominated by Salinas Valley interests, to tell MCWD how much water MCWD can pump to serve the Ord Community now and in the future?

Does FORA want the State Water Resources Control Board to tell MCWD how much water it can pump to serve the Ord Community?

Moving forward, MCWD intends to proactively engage with the SVGSA, the County, DWR, SWRCB and other stakeholders so that we may achieve the sustainability requirements of SGMA for the benefit of the customers in the Ord Community and Central Marina. To that end, we look forward to working with FORA in consideration of supporting MCWD's efforts to be the exclusive GSA for the Ord Community.

Sincerely,

A handwritten signature in cursive script that reads "Thomas P. Moore".

Thomas P. Moore, Ph.D.
Vice President, Board of Directors
Marina Coast Water District