



## Board Report

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**File #:** RES 19-171, **Version:** 1

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Public Hearing by the Board of Supervisors for the County of Monterey to consider:

- 1) Adoption of a resolution: A) approving the formation of a Groundwater Sustainability Agency Pursuant to Water Code Section 10724 for a portion of the 180/400 Foot Aquifer Subbasin, commonly referred to as the CEMEX property, and authorizing the filing of Groundwater Sustainability Agency Formation information and documents with the Department of Water Resources (DWR); and B) finding that this action is not a project under CEQA pursuant to section 15379 of Title 14 of the California Code of Regulations;
- 2) Authorization and direction to the CAO or his designee to file a notice of formation of GSA with DWR;
- 3) Authorization and direction to the CAO or his designee to submit notice of adoption of the proposed Resolution and all information required by the Sustainable Groundwater Management Act, including but not limited to, all information required under Water Code sections 10723.8, and 10724, to DWR, and to support the development and maintenance of an interested persons list as described in Water Code section 10723.4 and a list of interested parties as described in Water Code section 10723.8(a)(4).

### RECOMMENDATION:

It is recommended that the Board of Supervisors conduct a public hearing to:

- 1) Adopt a resolution: A) approving the formation of a Groundwater Sustainability Agency Pursuant to Water Code Section 10724 for a portion of the 180/400 Foot Aquifer Subbasin, commonly referred to as the CEMEX property, and authorizing the filing of Groundwater Sustainability Agency Formation information and documents with the Department of Water Resources (DWR); and B) finding that this action is not a project under CEQA pursuant to section 15379 of Title 14 of the California Code of Regulations.
- 2) Authorize and direct the CAO or his designee to file a notice of formation of GSA with DWR;
- 3) Authorize and direct the CAO or his designee to submit notice of adoption of the proposed Resolution and all information required by the Sustainable Groundwater Management Act, including but not limited to, all information required under Water Code sections 10723.8, and 10724, to DWR, and to support the development and maintenance of an interested persons list as described in Water Code section 10723.4 and a list of interested parties as described in Water Code section 10723.8(a)(4).

### SUMMARY

This item is a return on a referral from Supervisor Phillips (Referral No. 2019.10) requesting that the County become the Groundwater Sustainability Agency (GSA) limited to the area necessary to avoid any of the 180 /400 Foot Aquifer Subbasin being declared unmanaged or probationary as the result of overlaps.

It is recommended that the Board of Supervisors adopt a resolution (Attachment A), pursuant to Water Code section 10724, notifying the California Department of Water Resources of the County's election to become the GSA for a portion of the 180/400 Foot Aquifer Subbasin in Monterey County, commonly referred to as the CEMEX property, and authorizing and directing the CAO to provide all necessary documentation to the DWR to form the GSA.

### DISCUSSION:

On September 16, 2014, Governor Brown signed into law the Sustainable Groundwater Management Act

(SGMA) in order to provide, among other things, for the local sustainable management of medium and high-priority groundwater basins. SGMA requires the formation of one or more groundwater sustainability agencies (GSA) in a basin that will develop one or more groundwater sustainability plans (GSP) in order to sustainably manage groundwater in the basin.

Monterey County is a member of the Salinas Valley Basin Groundwater Sustainability Agency (SVBGSA), a joint powers authority. On April 27, 2017, the Department of Water Resources (DWR) posted the SVBGSA's notice to become the GSA for the entire 180/400Foot Aquifer Subbasin in Monterey County, which includes an approximately 400-acre area within the City of Marina, commonly referred to as the CEMEX property. The 180/400-Foot Aquifer Subbasin is classified as a high priority basin and has also been identified by DWR as a critically overdrafted basin.

On April 26, 2018, DWR posted the City of Marina Groundwater Sustainability Agency's (MGSA) notice to become the GSA for the CEMEX property. MGSA's late filing created an overlap in the proposed jurisdictional areas for the SVBGSA and MGSA at the CEMEX property.

Had MGSA not filed to become the GSA for the CEMEX property a year after SVBGSA, no overlap would exist. The SVBGSA is a joint powers authority and a separate legal entity from the County. The County is a voting member of the SVBGSA, but represents only one (1) vote out of the eleven (11) member Agency. Further, the SVBGSA's action to establish its jurisdictional boundaries, including the CEMEX property, predated MGSA's late filing by approximately one (1) year; thus, there is no evidence that either the County or SVBGSA intentionally caused the overlap.

Due to the overlap, DWR considers the CEMEX Property an "unmanaged" area under SGMA. Under Water Code sections 10727.6 and 10733.4(b), SVBGSA and MGSA may coordinate and submit a joint GSP for the CEMEX property, if the Agencies were able to agree on a plan for the management of the groundwater at the property. However, if the SVBGSA and MGSA are unable to agree upon a GSP for the CEMEX property by January 31, 2020, the State Water Resources Control Board would most likely declare the property (or perhaps the entire 180/400Foot Aquifer Subbasin) "probationary" and prohibit water pumping or extraction until such time as a GSP is approved for the area.

To avoid the CEMEX property being declared "probationary," it is recommended that the County resolve to become the GSA over that area pursuant to Water Code section 10724. Water Code section 10724 presumes that the County will become the GSA for any unmanaged areas of a high priority basin upon the County notifying DWR of its election to become the GSA. County CAO, Charles McKee, notified DWR of the County's intent to consider becoming the GSA for the CEMEX property in correspondence dated October 9, 2019 (Attachment B). In a response to CAO McKee's letter, DWR confirmed that section 10724 permits the County to become the GSA for the CEMEX property under these circumstances without the necessity of the County becoming the GSA for the entire 180/400Foot Aquifer Subbasin (Attachment D). The SVBGSA is supportive of the County becoming the GSA for the CEMEX property; however, the MGSA opposes the proposed County action (Attachment C.)

The SVBGSA has drafted a GSP for the entire 180/400 foot aquifer, which include the CEMEX property, and that plan will be considered for adoption by the SVBGSA in January 2020. To comply with SGMA, the County GSA would also need to adopt a GSP. Therefore, if the Board approves the resolution to form a GSA, staff intends to bring forward subsequent items for the GSA to consider entering into an agreement(s) to cooperate with SVBGSA in the development and implementation of a GSP for the CEMEX property and for the

SVBGSA to manage groundwater at the CEMEX property and implement the GSP.

Water Code Section 10723.2 List of Interested Parties:

Pursuant to Water Code section 10723.2 the parties interested in the formation of the GSA in this area are as follows:

- 1) Local Water Districts within or adjoining the GSA:
  - a. Marina Coast Water District
- 2) Holders of Overlying Groundwater Rights (agricultural and domestic well owners, municipal well operates and public water systems):
  - a. Armstrong Ranch
  - b. CEMEX
- 3) Surface Water Users:
  - a. Monterey One Water and Monterey County Water Resources Agency for the Castroville Seawater Intrusion Project
- 4) Environmental Users of Groundwater:
  - a. Fort Ord Dunes State Park
  - b. Marina Beach State Park
- 5) Local Land Use Planning Agencies
  - a. County of Monterey
  - b. City of Marina
- 6) Federal Government: none
- 7) California Native America Tribe: none
- 8) Disadvantaged Communities: none
- 9) Entities listed in California Water Code Section 10927 that are monitoring and reporting groundwater elevations in all or part of the basis to be managed by the County as the designated GSA:
  - a. Monterey County Water Resources Agency
- 10) Other Entities:
  - a. Salinas Valley Basin GSA
  - b. City of Marina GSA
  - c. Marina Coast Water District GSA
  - d. GSAs that may be formed to manage other portions of the 180/400 Foot Aquifer Subbasin

CEQA:

The recommended action is not a project under Title 14 California Code of Regulations, section 15378 as they will not result in any reasonably foreseeable environmental impacts, and neither the County, nor any other permitting authority is divested of future discretionary review or approval of any use of the CEMEX property as a result of these actions. Moreover, in the event that this action is determined to constitute a project under CEQA, the action(s) would be exempt from environmental review under CEQA pursuant to CEQA Guidelines 15061(b)(3), 15307, 15308 and Water Code section 10728.6.

OTHER AGENCY INVOLVEMENT:

This report has been reviewed by the County Administrative Office.

FINANCING:

Costs associated with these actions include mostly staff time. Any non-staff time costs will be covered by the CAO office budget.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

N/A

Mark a check to the related Board of Supervisors Strategic Initiatives

Economic Development

Administration

Health & Human Services

Infrastructure

Public Safety

Prepared by:

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Brian Briggs, Deputy County Counsel

Date:

Approved by:

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Charles McKee, County Administrative Officer

Date:

Attachments:

Board Report

A - Draft Resolution

B - Letter from the CAO to DWR and SWRCB, dated October 9, 2019

C - Letter from Farella Braun & Martel, LLP to DWR and SWRCB, dated October 21, 2019

D - Letter from DWR dated November 5, 2019