

Response to Grand Jury Report Form

READ AND CONSIDERED
DATE 9-9-17 BY Bullinger

Report Title: **Groundwater Sustainability**

Report Date: June 16, 2017

Response by: Title: Norm Yenni, Acting Chair

Agency/Department Name: North Bay Water District

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SONOMA

SEP 18 2017

BY [Signature]
Deputy Clerk

FINDINGS:

F1, F2, F4, F6, F7, F8, F9, and F10 with clarification and comment, as noted on

I (we) agree with the findings numbered: Attachment "1"

I (we) disagree wholly or partially with the findings numbered: F3, F5. See Attachment "1"

(Attach a statement specifying any portions of the findings that are disputed with an explanation of the reasons.)

RECOMMENDATIONS:

Recommendations numbered: R-1 and R-2

have been implemented.

(Attach a summary describing the implemented actions.)

Recommendations numbered: _____

have not yet been implemented, but will be implemented in the future.

(Attach a timeframe for the implementation.)

Recommendations numbered: _____

require further analysis.

(Attach an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the Grand Jury report.)

Recommendations numbered: _____

will not be implemented because they are not warranted or are not reasonable.

(Attach an explanation.)

Date: August 8, 2017

Signed: [Signature]
Norm Yenni

Number of pages attached: 4

Hard copy to: Honorable Ralma Ballinger
Presiding Superior Court Judge
Hall of Justice
600 Administration Drive
Santa Rosa CA 95403

Hard copy to: Foreperson
Sonoma County Civil Grand Jury
PO Box 5109
Santa Rosa CA 95402

Responses are public records. The clerk of the public agency affected must maintain a copy of your response. Should you have any questions, please contact me at (707)565-6330 or at the above address.

Sincerely,

A handwritten signature in black ink, appearing to read 'M Stone', with a horizontal line extending to the right.

Matthew Stone, Foreperson
Sonoma County Civil Grand Jury

Enclosures: Grand Jury Final Report
Response to Grand Jury Report Form
Penal Code Sections 933 and 933.05 excerpts

**ATTACHMENT "1" TO RESPONSE BY NORTH BAY WATER DISTRICT
TO: GRAND JURY REPORT, GROUNDWATER SUSTAINABILITY:**

FINDINGS:

F1. As recommended by the 2014-15 Civil Grand Jury, the eligible agencies have assigned a high priority to implementing The Sustainable Ground Management Water Act and forming Groundwater Agencies.

Agree, with the following clarifications.

We recommend that the finding be clarified to adjust the tense to the timing of statement so that this Finding would now be stated as:

*"As recommended by the 2014-15 Civil Grand Jury, the eligible agencies **have had** assigned a high priority to implementing The Sustainable Groundwater Management **Water** Act and **forming** **formed** Groundwater **Sustainability** Agencies **before the June 30, 2017 deadline.**"*

F2. The JPAs are still being finalized and all eligible agencies must work diligently to approve them before the June 30, 2017 deadline.

Agree, with the following clarifications.

All JPAs have been approved. This Finding can be deleted as F1 (as re-stated above) suffices.

F3. Wells that pump less than approximately 1,785 gallons per day will be exempt from metering.

Disagree with the following comments.

SGMA gives the power to the GSA for requiring every groundwater extraction facility to measure its use, except for "de minimis extractors." (Sec. 10725.8.(e).) A "de minimis extractor" is defined as a person who extracts, for domestic purposes, two ace-feet or less per year. (Sec. 10721(e)). F3 above does not mention the required qualification of being "for domestic purposes." Also, a limit of 1785 gal/day is not the same as 2 AF/yr. Under the former, one could lose the de minimis status if one pumped 1800 gallons on any day, while under the latter, one could pump ten times more for several days as long as the annual total is under two acre-feet. Due to the normal seasonal fluctuation of demand, a per-year limit is more in line with the real life experience of usage than a per-day limit.

F4. A rate study will be conducted in each basin to ensure that any use fees is appropriate for the cost of services delivered or the benefit received.

Agree, with the following clarifications.

*Although North Bay Water District agrees with the spirit of the above statement, the JPA's do not stipulate how the rate study is to be conducted. We consider it a task of the GSA, rather than that of a Member agency to conduct such a study. In addition, North Bay Water District has always maintained that the aquifer recharge contribution by agricultural land must be recognized and the gross extraction volume should be offset by the recharge. If the groundwater extraction volume is going to be used as a basis of assessment, it should be the **net** figure, not the gross.*

F5. The BOS, because they control the SCWA, will have two votes on the board of each groundwater agency.

Disagree, with the following explanation and comments. *The county is represented by the BOS. SCWA is represented by its board members who happen to be the BOS members at least for now. When, a SCWA board member acts on a GSA board, that board member is expected to act as a GSA board member with the perspective as a SCWA board member, not as a BOS member and the same for a member of the BOS acting on a GSA board; we expect that BOS member to act as a GSA board member with the perspective as a member of the BOS not as a SCWA board member.*

F6. The Petaluma Basin Groundwater Sustainability Agency only has five members. Both the City of Petaluma and the County need to vote in the affirmative for any super majority (2/3) vote to pass.

Agree with the following comment: *Except for the typos corrected above, this Finding reflects accurate facts.*

F7. Each of the three GSAs in Sonoma County will require similar technical and managerial expertise to prepare their respective Groundwater Sustainability Plans.

Agree with the following comment. *So far there has been no compelling evidence to the contrary.*

F8. Many operational issues will be defined after the June 30, 2017 deadline. Residents of Sonoma County will be able to comment on proposed funding mechanisms before they are finalized. Each Basin's JPA will be revisited after a rate study is completed and every ten years after.

Agree, in part, with comment.

The JPA provides for potential amendment to the Agreement by the unanimous consent of the Member agencies, but it does not specify timing. We suggest that "after a rate study" and "every ten years thereafter" would be a suitable schedule for revisiting the JPA's.

F9. In order for Groundwater Sustainability Agency boards to function properly, they will need to focus on representing all users.

Agree, in part, with comment.

Agree, but this should be and is a goal and responsibility of the GSA board rather than the Member agency(s).

F10. Influence by groundwater users, both large and small, may impede the goal of developing an accountability system on an aquifer's many users, therefore groundwater agencies will need to have substantial independence and maintain transparency when implementing their authority.

Agree, in part, with comment.

This is a challenge for the GSA board.

North Bay Water District has advocated, and will continue to advocate, that a priority in groundwater use be given to farmers and rural households who have no alternative source of water like residents of cities and suburban water district(s) have in the form of SCWA-supplied surface water. A clear policy on the use of groundwater will help our efforts in developing a rational approach to groundwater sustainability. In fact, for example, Napa County has such a public policy in their General Plan, to wit: Prioritize the use of available groundwater for agricultural and rural residential uses rather than for urbanized areas... (Goal CON-11, Water Resources Goals and Policies. Conservation Element, Napa County General Plan, June 23, 2009). Sonoma County currently lacks such a policy statement.

RECOMMENDATIONS:

R1. Continue to work cooperatively in order to finalize and approve the JPAs by the State mandated June 30, 2017 deadline. [F1, F2]

*Recommendation numbered **R1** has been implemented.*

Both the Petaluma Valley GSA JPA and the Sonoma Valley GSA JPA's were adopted by the board of the North Bay Water District unanimously and signed by Acting Chair on May 9, 2017.

R2. Specifically instruct, through their JPA agreement that the three Groundwater Agencies pool technical resources and staff in order to avoid costly duplication. [F7]

*Recommendation numbered **R2** has been implemented.*

Although the JPAs don't contain the exact wording of R2, the same intent is expressed in Section 4.05 - Coordination between Basins, as well as the 8th through 10th "WHEREAS" clauses of the RECITALS of each JPA agreement.