

6. USDA grant (addendum) *Handed out
by Terry Tye*

As of 8/09/2019 Indian Creek-Westridge CSD is in the final stages of the Preliminary Engineering Report (PER) review. USDA State Engineer Robert Neilson Provided Tim Rudolph with three items that needed to be added to the PER. Mr. Rodolph provided the revised PER including the missing items to Mr. Neilson on 8/9/2019 which will be reviewed this week and approved if all the missing information is acceptable. The PER is the most important part of the application since it will define the entire project and show what the project cost will be along with defined areas of where the project will take place.

Now that we have a good understanding of the project with the PER in it final stages the environmental portion can begin. I do not foresee any issues that would cause the environmental to be difficult since the land where the pipeline replacement will take place has been previously disturbed. If the State Environmental Coordinator requires a Categorical Exclusion with report, I will be able to assist Mr. Tye with the report which consists of reviewing a few websites for possible endangered species in the area or other potential environmental issues.

I know this process has been long and at times frustrating, but things have actually changed in the applicants favor with rates dropping to 2.75%.

Thank you for your patience through this long process.

Antonio Ybarra

Community Programs Specialist

OWENS VALLEY GROUNDWATER AUTHORITY

Big Pine CSD — City of Bishop — County of Inyo — County of Mono — Eastern Sierra CSD — Indian Creek-Westridge CSD — Keeler CSD —
Sierra Highlands CSD — Tri Valley Groundwater Management District — Wheeler Crest CSD

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Staff Report

Date: August 8, 2019
Subject: Groundwater Basin Re-Prioritization

Dr. STEINWAND

Introduction

The Department of Water Resources (“DWR”) released its final 2019 SGMA Basin Prioritization Process and Results. DWR reprioritized the Owens Valley Groundwater Basin (“Basin”) as a “low priority” basin. This agenda item is before your Board to provide an overview of what this reprioritization means to the OVGA in terms of its obligations and options moving forward.

Effects of low priority designation on OVGA and Owens Valley stakeholders.

A fundamental difference between the prior designation as a medium priority basin and the current low priority basin is that the threat of State intervention no longer exists if the OVGA does not comply with SGMA in the eyes of DWR. So even though SGMA encourages low priority basins to prepare groundwater sustainability plans (GSPs), the OVGA is not required to prepare a GSP. This and a number of additional issues are set forth on Table 1, below.

Table 1. Effect of low priority on various issues of interest to the OVGA and stakeholders.

Issue	Low Priority Effect
Requirement for formation of a GSA and preparation and implementation of a GSP.	No requirement for a GSA or GSP. GSA formation and GSP implementation is at the discretion of local agencies in very-low and low priority basins.
Potential for state intervention in Owens Valley.	SGMA provides no authority for the state to intervene in very-low and low priority basins.
Financial burden imposed by SGMA.	If no GSP is in place, SGMA imposes no costs on Owens Valley groundwater users (or others). If a GSP is prepared, the OVGA will have to fund the preparation and implementation of the GSP through the fee levying authority provided by SGMA or some other source of funds (e.g., grant funds, property tax assessment, member contributions, etc.).
Access to state funds for groundwater projects and studies.	Likely to be ineligible or lower priority for future grant funds for SGMA-related activities. DWR has indicated that basins reprioritized from high or medium to low that were approved for a Sustainable Groundwater Planning Grants will still be eligible for the grant if they pursue the work plan that was submitted in the grant application.

GSA Formation — 1 YR⁺ in
 GSP Consultant Search — Selected, Hired, Working
 GSP Grant — Applied for and Approved
 \$\$\$ = Funds Already Spent
 How can we change out of this land?

Issue	Low Priority Effect
Effect on Inyo/LA Water Agreement.	No effect on lands subject to the Water Agreement. Even if a GSP is prepared, the Water Agreement would retain its adjudicated status and thereby be exempt from GSA and GSP authority. If no GSP is prepared, there would be no SGMA-based process for groundwater management on Owens Lake.
Effect on tribes.	Tribes are exempt from SGMA; however, SGMA allows that tribes "may voluntarily agree to participate in the preparation or administration of a groundwater sustainability plan."
Effect on OVGA.	The OVGA could withdraw its GSA notice, because a GSA and GSP would not be required. Or, the OVGA could remain in place to prepare and implement a GSP, or remain in place but not prepare a GSP unless the basin is reprioritized as medium or high priority.
Effect on private agricultural pumpers or other businesses (e.g., water bottling).	No effect or cost, unless OVGA elects to prepare a GSP, in which case the OVGA may decide to make groundwater users subject to fee, metering, reporting, and other GSA regulations as determined by the OVGA.
Effect on environmental users of groundwater.	No effect, unless OVGA elects to prepare GSP, in which case the OVGA may decide to make groundwater users subject to fee, metering, reporting, and other GSA regulations as determined by the OVGA.
Effect on public water systems.	No effect, unless OVGA elects to prepare GSP, in which case the OVGA may decide to make groundwater users subject to fee, metering, reporting, and other GSA regulations as determined by and the OVGA.
Disadvantaged communities.	No effect, unless OVGA elects to prepare GSP, in which case groundwater users could be subject to fee, metering, and reporting, and other GSA authorities as determined by GSA and GSP.
Effect on domestic well owners. SGMA defines "de minimis extractors" as "a person who extracts, for domestic purposes, two acre-feet or less per year."	No effect, unless OVGA elects to prepare GSP and regulates domestic well owners, which is unlikely in Owens Valley.

Options Moving Forward

Assuming the low priority designation becomes final, there are a range of options available to your Board. Broadly speaking, they range from moving forward without regard to the priority designation to completely disbanding the OVGA. Some specific options are listed below to help guide your Board's discussion, but the list below does not represent all possible options available.

- Option 1: Make No Changes

Although a GSP is not required for a low-priority basin, your Board could continue to move forward with a GSP and the Board as if no priority change was made. Alternatively, the Board could discuss with the GSP consultant what a GSP for a low-priority basin might look like, including the GSP remaining "dormant" while the Basin is rated a low-priority and then activated through performance-based standards or if it were ever to be reprioritized as a medium- or high-priority basin.

- Benefit(s):

An obvious benefit of this option is that the development of the GSP will be funded by the current grant and the Basin will have an enforceable GSP. A GSP may be beneficial to issues regarding the Owens Dry Lake as well as possible concerns relating to water use and long-term availability in discrete areas within the Basin. Additionally, if the State were to later change the Basin priority back to medium or high, all of the required SGMA implementation steps will already be in place (aside from any required GSP updates).

- Downside(s):

A possibility exists to craft the GSP to minimize costs and monitoring and reporting requirements. However, the continuation of the OVGA and implementation of a GSP will probably subject Basin water users to some degree of fees, metering, reporting, and other OVGA regulations and GSP mandates, depending on the structure of the GSP. There is the additional indirect cost of resources required by the Member agencies in continuing in this process.

- Option 2: Continue with GSP development but change approach to OVGA membership

Your Board, and the individual Members, may consider the low priority designation's underlying significance to be a reason to reduce the size and complexity of the Board while continuing to develop the GSP.

- Benefit(s): Same as Option 1. Additionally, a smaller governing body will streamline the OVGA's functionality and result in some cost savings. As set forth in prior staff reports, advisory committees are available to facilitate informed public engagement in the GSP development.
- Downside(s): Same as Option 1. Any qualitative difference of a smaller Board and/or use of advisory committees is unclear. The exit of any Member providing some funding to the OVGA will require agreement among the members, possibly require a change in contribution from remaining Members, and will affect vote share.
- Hypothetical Regarding Basin Coverage: In theory, only Mono County and Inyo County need to remain members of the OVGA in order for the OVGA to have regulatory authority over the entire Basin. Without their participation, any GSP developed by the OVGA can only be enforced within the remaining Members' jurisdictional boundaries. For example, if only the City of Bishop and Tri-Valley Groundwater Management District remained in the OVGA, any GSP could only be enforced within the boundaries of those two Member entities. While the State would likely reject any such GSP, the State could not thereafter intervene in the Basin.

- Option 3: Discontinue GSP development

Your Board could stop GSP development but retain the OVGA in a relatively dormant state in case a GSP is desired and/or required in the future.

- Benefit(s): The most obvious benefits to this approach are that the groundwater users of the Basin will not be subject to any GSP requirements, which are unknown at this time. Maintaining the OVGA in existence will also be of benefit if DWR was to later change the Basin priority back to medium and/or high, since formation of the OVGA as the Groundwater Sustainability Agency (GSA) will already be complete.
- Downside(s): There will be some loss of funds that have been spent toward development of the GSP and if a GSP were required in the future, grant funds may not be available. The OVGA has not received reimbursement yet from DWR and no funds have been drawn from the advance payment, and therefore no funds need to be reimbursed at this time. However, approximately \$102,000 has been expended on GSP development that would not be recouped through the grant under this option. There probably will be no interest penalty on the grant repayment. There will be some cost for maintaining the OVGA, but those could be limited by significantly reducing the number of regular Board meetings. More substantively, issues regarding the Owens Dry Lake as well as possible concerns relating to water use and long-term availability within the Tri-Valley will not be addressed.

- Option 4: Disband

A low-priority basin is not required to have a GSA and not required to develop a GSP.

- Benefit(s): The most obvious benefits to this approach are that the groundwater users of the Basin will not be subject to any GSP requirements, which are unknown at this time.
- Downside(s): If the basin is re-rated to a medium or high priority basin in the future, a GSA would need to be re-formed and grant fund availability for GSP development is unknown. The OVGA has not received reimbursement yet from DWR and no funds have been drawn from the advance payment, and therefore no funds need to be reimbursed at this time. However, approximately \$102,000 has been expended on GSP development that would not be recouped through the grant under this option. There probably will be no interest penalty on the grant repayment. Issues surrounding the Owens Dry Lake as well as possible concerns relating to water use and long-term availability in discrete areas within the Basin will not be addressed.