



COUNTY OF SISKIYOU

COUNTY ADMINISTRATIVE OFFICE

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MEMORANDUM

TO: General Public

FROM: Elizabeth Nielsen, Natural Resource Policy Specialist

DATE: October 14, 2016

SUBJECT: County Staff Report on the Groundwater Management Initiative/Measure H

The Groundwater Management Initiative/Measure H conflict with California law, if implemented:

The proposed Groundwater Management Initiative/Measure H (GMI) states that it should be implemented because the Sustainable Groundwater Management Act (SGMA) is "virtually powerless" in protecting volcanic groundwater sources, such as those located in Siskiyou County, because the State does not identify these areas as groundwater basins. However, SGMA is intended to provide local agencies with incentives and tools to ensure that all groundwater is managed in a sustainable manner, including areas beyond State-designated "basins." It should also be noted that County staff has been contacted and encouraged to apply to the Department of Water Resources (DWR) to expand the Shasta Valley basin to include volcanic areas to the north because of the connection between these "waters" and the Shasta Valley basin. In addition, DWR staff has also indicated that they are considering such a basin modification as well. During the development of the Shasta Valley Groundwater Sustainability Plan this issue will require review and consideration. As such, SGMA is potentially far from powerless in protecting groundwater resources under this scenario.

Generally, SGMA is targeted to chronically over-drafted groundwater basins in the Central Valley, Central Coast, and Southern California. In Siskiyou County, DWR has placed a medium priority on addressing groundwater planning in Scott Valley, Shasta Valley, Butte Valley, and the Tulelake Basin. To the degree that the GMI seeks to extend the application of the County's groundwater export ordinance to all areas of the County, it sets up potentially redundant analysis with anticipated Groundwater Sustainability Plans directed by SGMA. The GMI establishes new

requirements for export permits regardless of whether groundwater overdraft is an actual problem. The key distinction between the GMI and SGMA is that the state law provides a statutory definition of “undesirable results” in terms of groundwater conditions and then sets a path for addressing issues on a specified sustainability horizon.

The more noticeable potential conflict with California law is the definition in the GMI of “groundwater source” which includes spring water. This definition potentially intrudes upon State law which already includes spring water in certain State-decreed surface water rights in Siskiyou County. The GMI then purports to establish limitations on the exercise of those State water rights. The actual effect of the GMI is made murky by the inclusion of a broad “severability” clause in Section 4 that directs the initiative be interpreted to be consistent with all state and federal rules and regulations. Ultimately, the GMI would be subject to judicial review in order to make the GMI consistent with law.

What is “use” of water outside the basin from which it was extracted:

Questions have been raised about water use that contributes to other products, such as irrigation of agricultural products or production of consumer goods such as wine or beer. As stated in Section 3-13.101(d) of the existing Siskiyou County Code, “Much of the economic production of the County depends upon the use of groundwater.” To the extent groundwater contributes to the production of other products, its “use” generally occurs at the place where it contributes to the final product. By deleting the current exception in the County Code that allows commercial bottling water enterprises to operate without an export permit, the GMI may imply that an export permit is required for such activity. However, the existing County ordinance seeks to prevent “water mining” and the transfer of large quantities of raw water outside the County without thorough review and protection of local uses. Attempting to implement and apply GMI to any use of water that may result in a product that leaves the County, appears to be overly broad and goes well beyond the intent of the export ordinance.