

NOTICE AND AGENDA OF REGULAR MEETING

GROUNDWATER SUSTAINABILITY AGENCY FOR THE CENTRAL MANAGEMENT AREA IN THE SANTA YNEZ RIVER GROUNDWATER BASIN

**HELD AT
BUELLTON CITY COUNCIL CHAMBERS
140 WEST HIGHWAY 246, BUELLTON, CALIFORNIA**

AT 10:00 A.M., MONDAY, MAY 22, 2023

AGENDA OF REGULAR MEETING

1. Call to Order and Roll Call
2. Additions or Deletions to the Agenda
3. Public Comment (Any member of the public may address the Committee relating to any non-agenda matter within the Committee's jurisdiction. The total time for all public comment shall not exceed fifteen minutes and the time allotted for each individual shall not exceed five minutes. No action will be taken by the Committee at this meeting on any public comment item.)
4. Review and consider approval of meeting minutes of March 27, 2023
5. Review and consider approval of Financial Statements and Warrant List
6. Receive update on Polo Village Well Access
7. Review and Summary of Request(s) for CMA GSA Written Verification under Executive Order N-7-22 as amended in Executive Order N-5-23 for well permits processed by County EHS in the CMA
 - a. None at this time
8. Discuss SGMA Governance for the CMA
9. Informational Correspondence
 - a. Santa Barbara County Farm Bureau, April 5, 2023
 - b. State Water Resources Control Board, April 14, 2023
 - c. Santa Barbara County Cattlemen's Association, May 3, 2023
10. Next CMA GSA Regular Meeting, Monday, June 26, 2023, at 10:00 a.m. at Buellton City Council Chambers, 140 West Highway 246, Buellton, California
11. CMA GSA Committee reports and requests for future agenda items
12. Adjournment

[This agenda was posted 72 hours prior to the scheduled regular meeting at 3669 Sagunto Street, Suite 101, Santa Ynez, California, and SantaYnezWater.org in accordance with Government Code Section 54954. In compliance with the Americans with Disabilities Act, if you need special assistance to review agenda materials or participate in this meeting, please contact the Santa Ynez River Water Conservation District at (805) 693-1156. Advanced notification as far as practicable prior to the meeting will enable the GSA to make reasonable arrangements to ensure accessibility to this meeting.]

MEETING MINUTES

Groundwater Sustainability Agency for the Central Management Area in the Santa Ynez River Groundwater Basin March 27, 2023

A regular meeting of the Groundwater Sustainability Agency (GSA) for the Central Management Area (CMA) in the Santa Ynez River Groundwater Basin was held on Monday, March 27, 2023, at 10:00 a.m. at the City of Buellton City Council Chambers, 140 West Highway 246, Buellton, California.

CMA GSA Committee Directors Present: Art Hibbits, David Silva (Acting Alternate), and Meighan Diethofer (non-voting Acting Alternate)

CMA GSA Committee Directors Present: Cynthia Allen

Member Agency Staff Present: Bill Buelow, Marliez Diaz, Rose Hess, and Amber Thompson

Others Present (in person): Doug Circle and Larry Lahr

Others Present (Video Conference): Curtis Lawler (Stetson Engineers), Miles McCammon (Stetson Engineers), and Brett Stroud (Young Wooldridge)

I. Call to Order and Roll Call

CMA GSA Committee Chair Art Hibbits called the meeting to order at 10:00 a.m. and asked Mr. Buelow to call roll. One CMA GSA Director and one Acting Alternate Director were present providing a quorum. In addition, one Alternate Director and one non-voting Acting Alternate Director (arrived at Agenda Item No. VI) were present.

II. Additions or Deletions to the Agenda

No additions or deletions were made.

III. Public Comment

There was no public comment.

IV. Review and consider approval of meeting minutes of February 27, 2023

The minutes of the CMA GSA Committee meeting on February 27, 2023 were presented for GSA Committee approval. There was no discussion or public comment.

CMA GSA Acting Alternate Director David Silva made a MOTION to approve the minutes of February 27, 2023, as presented. GSA Director Art Hibbits seconded the motion. There was no discussion or public comment, The motion passed unanimously.

V. Review and Summary of Request(s) for CMA GSA Written Verification under Executive Order N-7-22 and other well permits processed by County EHS in the CMA

a. APN 099-240-058 - Hudson River LLC

Mr. Buelow presented the Review of Well Application in the Santa Ynez River Valley Groundwater Basin, Central Management Area (CMA) APN: 099-240-058 (WP 0005438) Hudson River, LLC, dated March 21, 2023 and the CMA GSA Verification letter dated March 22, 2023 for a replacement well in the River Alluvium. Mr. Buelow stated that as per the CMA GSA written verification process, a written verification was issued by staff since the well will be located in the River Alluvium. There was no discussion, no public comment and no action.

VI. Consider Approving and Submitting the Second Annual Report for the Central Management Area of the Santa Ynez River Valley Groundwater Basin to DWR

Non-voting Acting Alternate Director Meighan Diethofer joined the meeting.

Curtis Lawler, Stetson Engineers, presented information about the Second Annual Report for the Central Management Area of the Santa Ynez River Valley Groundwater Basin for submission to DWR. He stated that, as required by DWR, the Second Annual Report includes data from the prior water year of October 1, 2021 through September 30, 2022. He noted that the last data points of water levels in the Report are the measurements of October 2022 before the recent winter storms. He also pointed out that that the Annual Report chapters are organized by SGMA reporting requirements. Discussion followed. There was no public comment.

CMA GSA Acting Alternate Director David Silva made a MOTION to approve the Second Annual Report Water Year 2022 for the Santa Ynez River Valley Groundwater Basin Bulletin 118 Basin No. 3-15 Central Management Area Groundwater Sustainability Agency, authorize staff to make any non-substantive edits, if needed, and direct staff to upload document to DWR. GSA Director Art Hibbits seconded the motion and it passed unanimously.

VII. Discuss SGMA Governance for the CMA

Mr. Buelow provided and update on staff efforts in creating a JPA for the CMA GSA. Discussion followed and public comments were received. There was no action.

VIII. Update on Required Conflict of interest Form 700 Filings

Ms. Amber Thompson reported that everyone has filed their required Conflict of Interest Form 700s with the County of Santa Barbara prior to the deadline.

IX. Next CMA GSA Regular Meeting, Monday, April 24, 2023, at 10:00 a.m. at Buellton City Council Chambers

The next scheduled CMA GSA regular meeting will be Monday, April 24, 2023 at 10:00 a.m. at the Buellton City Council Chambers, 140 West Highway 246, Buellton, California.

Mr. Buelow announced that as per the GSA Directors' previous request, if there are no items needing to be addressed, this meeting will be cancelled and notice provided at least one week prior.

CMA GSA Director Art Hibbits thanked the City of Buellton for the allowing the CMA GSA Committee to use the City Council Chambers.

X. CMA GSA Committee reports and requests for future agenda items

There were no requests or comments.

XI. Adjournment

GSA Committee Chair Art Hibbits adjourned the meeting at 10:52 a.m.

Art Hibbits, Chairman

William J. Buelow, Secretary

CMA GSA
Balance Sheet
As of March 31, 2023

	<u>Mar 31, 23</u>
ASSETS	
Current Assets	
Checking/Savings	
1150 - Five Star Bank Checking #5978	60,078.23
Total Checking/Savings	<u>60,078.23</u>
Total Current Assets	<u>60,078.23</u>
TOTAL ASSETS	<u><u>60,078.23</u></u>
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Other Current Liabilities	
2300 - Deposits - Well Verification	1,342.50
Total Other Current Liabilities	<u>1,342.50</u>
Total Current Liabilities	<u>1,342.50</u>
Total Liabilities	1,342.50
Equity	
3000 - Ret Earnings	32,373.47
Net Income	26,362.26
Total Equity	<u>58,735.73</u>
TOTAL LIABILITIES & EQUITY	<u><u>60,078.23</u></u>

CMA GSA Profit & Loss YTD Comparison January through March 2023

	<u>Jan - Mar 23</u>	<u>Jul '22 - Mar 23</u>
Income		
4000 · Oper Assess fr Member Agencies	0.00	31,146.09
4500 · Grant Revenue	0.00	48,133.33
4600 · Interest Income	15.82	40.61
Total Income	<u>15.82</u>	<u>79,320.03</u>
Gross Profit	15.82	79,320.03
Expense		
5320 · Office Expense (incl postage)	0.00	24.70
5330 · Outside Staff Support	300.00	900.00
5350 · Public Relations	0.00	163.20
6280 · GSP - AEM Survey	0.00	45,607.37
6400 · Annual Report	1,450.50	3,327.75
6500 · GSP Implementation	2,196.00	2,887.00
6510 · Well Verification Support	47.75	47.75
Total Expense	<u>3,994.25</u>	<u>52,957.77</u>
Net Income	<u><u>-3,978.43</u></u>	<u><u>26,362.26</u></u>

CMA GSA
Transactions by Account
Deposits - Well Verification
 As of March 31, 2023

	<u>Type</u>	<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Cir</u>	<u>Split</u>	<u>Amount</u>	<u>Balance</u>
2300 - Deposits - Well Verification									2,007.50
	Bill	03/13/2023	02024.001-2	GSI Water Solutions			2000 - Accounts Payable	-665.00	1,342.50
Total 2300 - Deposits - Well Verification								-665.00	1,342.50
TOTAL								-665.00	1,342.50

**GROUNDWATER SUSTAINABILITY AGENCY FOR THE
CENTRAL MANAGEMENT AREA (CMA)
IN THE SANTA YNEZ RIVER VALLEY GROUNDWATER BASIN**

JANUARY 2023 WARRANT LIST FOR COMMITTEE APPROVAL

<u>NUMBER</u>	<u>DATE</u>	<u>PAYEE</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
			NONE	
MONTH TOTAL				\$ -

FEBRUARY 2023 WARRANT LIST FOR COMMITTEE APPROVAL

<u>NUMBER</u>	<u>DATE</u>	<u>PAYEE</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
			NONE	
MONTH TOTAL				\$ -

MARCH 2023 WARRANT LIST FOR COMMITTEE APPROVAL

<u>NUMBER</u>	<u>DATE</u>	<u>PAYEE</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
1003	03/13/23	GSI Water Solutions	November 2022 Well Verification Review (paid by Well Owner Deposits)	\$ 665.00
1004	03/13/23	Stetson Engineers	December 2022 Engineering Service (WY2022 Annual Report & GSP Implementation Work)	\$ 2,586.75
1005	03/13/23	Santa Ynez River Water Conservation District	Reimburse costs paid by SYRWCD for November 2022 Stetson Engineers CMA Monitoring Well and GSP Implementation	\$ 1,107.50
1006	03/13/23	Valley Bookkeeping	2023 1st Quarter Bookkeeping (January, February, March 2023)	\$ 300.00
MONTH TOTAL				\$ 4,659.25

TOTAL CHECKS THIS QUARTER: \$ 4,659.25



Santa Barbara County Farm Bureau

Affiliated with the California Farm Bureau Federation and the American Farm Bureau Federation

April 5, 2023

Brett Marymee, Chairman EMA GSA
Art Hibbits, Chairman CMA GSA
Chris Brooks, Chairman WMA GSA

c/o William (Bill) Buelow
Santa Ynez River Water Conservation District
3669 Sagunto St. Suite 101
Santa Ynez, CA 93460

Re: GSA Committee Agricultural Representation

Gentlemen,

The Santa Barbara County Farm Bureau, a nonprofit California corporation representing approximately 500 agricultural and associate members in Santa Barbara County, is concerned with the lack of agricultural representation on all 3 GSA committees representing the Santa Ynez River Water Basin.

Our members grow a wide variety of crops along with livestock operations within the basin that rely on groundwater that is integral to their operations and the local economy. Our farmers lead in adoption of low volume irrigation methods, such as drip, subsurface and micro irrigation systems.

It is estimated that in a wet year with above average precipitation, agriculture uses 30% of the available groundwater for irrigation, while in a dry year that share could increase to 50%.

Given agriculture's vested interest in maintaining a sustainable water supply in the Santa Ynez River Basin, we believe it is imperative that a representative from agriculture serves on each of the three current GSA Committees, with all members utilizing an equal voting structure. We understand the Santa Ynez Water Group has been actively involved in this process to date and would support candidates vetted by them to serve on the 3 GSA committees.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sheldon Bosio'.

Sheldon Bosio, President.
Santa Barbara County Farm Bureau

State Water Resources Control Board

April 14, 2023

Monica Salais
GSP Review Section Manager
Sustainable Groundwater Management
Office
Department of Water Resources
Monica.Reis@water.ca.gov

Shane Edmunds
GSP Review Section Manager
Sustainable Groundwater Management
Office
Department of Water Resources
Shane.Edmunds@water.ca.gov

SANTA YNEZ RIVER VALLEY GROUNDWATER SUSTAINABILITY PLANS, GROUNDWATER BASIN NO. 3-015

The Santa Ynez River Valley Groundwater Basin is managed by three groundwater sustainability agencies (GSAs) which cover the three management areas (western, central, and eastern) that comprise the basin. Each GSA submitted a groundwater sustainability plan (GSP) for its management area. The GSPs state that the GSAs will not manage the Santa Ynez River Alluvium—a significant portion of the basin—because it is “underflow” of the Santa Ynez River and is subject to management by the State Water Resources Control Board (State Water Board).¹ However, the assertion that all underground water in the Santa Ynez River Alluvium is surface water managed by the State Water Board is not correct, and it appears that it will be necessary to treat this area as an unmanaged area under the Sustainable Groundwater Management Act (SGMA).

¹ E.g., Santa Ynez River Valley Groundwater Basin – Eastern Management Area Groundwater Sustainability Plan, pp. 29-30 (“Water present within the Santa Ynez River Alluvium is considered surface water subject to the jurisdiction of the SWRCB, and, thus, is not managed by the GSAs under SGMA... The hydraulic continuity of this underflow with the surface flow of the Santa Ynez River is such that diversion from the underflow constitutes diversion of the surface water system.”); Santa Ynez River Valley Groundwater Basin – Western Management Area Groundwater Sustainability Plan, p. ES-3; Santa Ynez River Valley Groundwater Basin – Central Management Area Groundwater Sustainability Plan, p. ES-2.

SGMA does not alter surface water or groundwater rights under common law or any provision of law that determines or grants surface water rights. (Wat. Code, § 10720.5, subd. (b).) Accordingly, the presumptions and principles that guide the distinction between surface water (and underground water flowing in known and definite channels) and groundwater in California law also apply to the determination of whether underground water is subject to SGMA. The similar terminology used in SGMA's definition of "groundwater," which excludes "water that flows in known and definite channels," and Water Code section 1200, which includes "subterranean streams flowing through known and definite channels" with "surface water" for the purpose of identifying water that is subject to the appropriative water rights system, supports this conclusion. (Compare Wat. Code, § 1200 and Wat. Code, § 10721, subd. (g).)

Water under the ground is presumed to be percolating groundwater, and the burden of proving otherwise is on the person asserting that the groundwater is a subterranean stream flowing through known and definite channels. (*City of Los Angeles v. Pomeroy* (1899), 124 Cal. 597, 628 (*Pomeroy*); State Water Resources Control Board Water Rights Decision 1639 at p. 3 (Garrapata Decision).) It is not unusual for groundwater to flow underground within a defined subterranean basin, but unless the flow is through known and definite channels the water is properly classified as percolating groundwater. (*Pomeroy*, 124 Cal. at 629, see Hutchins, *The California Law of Water Rights*, at pp. 426-427.)

The State Water Board addressed the interpretation and application of "subterranean streams flowing through known and definite channels" as used in Water Code section 1200 in the Garrapata Decision. Relying on the California Supreme Court's decision in *Pomeroy*, the State Water Board identified a four-factor test for determining whether groundwater is properly classified as a subterranean stream flowing in known and definite channels: (1) a subsurface channel must be present; (2) the channel must have relatively impermeable bed and banks; (3) the course of the channel must be known or capable of being determined by reasonable inference; and (4) groundwater must be flowing in the channel. (Garrapata Decision at p. 4.)² As noted above, because SGMA's definition of "groundwater" is nearly identical to the language used in Water Code section 1200, it is appropriate to apply both the presumption of percolating groundwater and the four factors from the Garrapata Decision to determine whether water beneath the ground is flowing through known and definite channels and thus excluded from SGMA's definition of "groundwater." This means that unless there has been an actual determination that the Garrapata factors are present, water that is beneath the ground is

² The First District Court of Appeal held that the Garrapata factors are consistent with the language and intent of Water Code section 1200 in *North Gualala Water Co. v. State Water Resources Control Board* (2006) 139 Cal.App.4th 1577, 1606.

presumed to be percolating groundwater and is subject to SGMA, even if the water is moving in a defined subterranean basin.

“Underflow” is not defined in the Water Code: it is an informal clarification of the source of water that is sometimes used in State Water Board permits and licenses authorizing diversion from streams subject to the Board jurisdiction when the diversion occurs through wells. An appropriative water right that identifies “underflow” as a source authorizes the holder to divert the identified water in accordance with the terms of the right, but the issuance of such a right does not authorize the diversion of percolating groundwater or constitute a determination regarding the existence or location of any known and definite subsurface channels unless there is a State Water Board determination or order containing findings that identify subsurface channels pursuant to the Garrapata factors. If a State Water Board determination or order does find sufficient proof that the four factors of the Garrapata test are present and identifies a subterranean stream flowing through known and definite channels, the State Water Board will proceed to manage extractions from the subterranean stream under the appropriative water rights system. But until the State Water Board makes or issues such a determination or order, the presumption of percolating groundwater holds and management under SGMA is necessary. Thus, while it may be appropriate for a GSA to forgo management of wells that are subject to regulation through a Board-issued permit or license, it is not appropriate for a GSA to exclude any other wells, let alone an entire alluvial subbasin, from management under SGMA based on the existence of a discrete number of Board-regulated wells.

Prior to the issuance of the Santa Ynez River GSPs, Division of Water Rights staff conducted an initial review of State Water Board files and notified the Groundwater Program Manager of the Santa Ynez River Water Conservation District in September 2021 by phone of staff’s findings: (1) the Board has not made a determination that the Santa Ynez River Valley Basin does contain a subterranean stream, and (2) the State Water Board does not manage groundwater extractions this area, aside from three permits for wells approved without consideration of whether the source was surface water or groundwater. After the Santa Ynez River GSPs were finalized, staff conducted a further review of State Water Board files to determine whether there have been any technical determinations sufficient to overcome the presumption that underground water in areas near the Santa Ynez River is percolating groundwater. The staff review is summarized below.

The State Water Board has issued appropriative water rights permits and licenses in the Santa Ynez River watershed that use wells for diversion or identify “Santa Ynez River underflow” as the source of the appropriation but has not made any subterranean

stream designations or determinations in the watershed or for the alluvial basin. For example, Water Right Decision 886 addresses the geology in the Santa Ynez River Basin and refers several times to “underflow” and the presence of impermeable rocks but does not make a determination identifying known and definite channels with impermeable banks, and instead indicates that there are areas of the river (and its alluvium) that are adjacent to water bearing rocks. (See Decision 886 at p. 18 [description of Buellton Subarea].) Water Right Decision 1338 also involved appropriation from “Santa Ynez River Underflow” but does not determine that the entire alluvial basin is a subterranean stream flowing in known and definite channels. A memo written in 1966 regarding one of the water rights considered in Decision 1338 does address identifiable “bed and banks” and can be read as supporting an argument that some water in the alluvium can be characterized as part of an subterranean stream flowing in known and definite channels, however it also misinterprets the geology at depth, meaning that it fails to recognize that the water-bearing Careaga Sands form part of the “bed and banks” of the alluvium. Furthermore, a staff analysis written in 1968 by the same author discusses percolation between streams and groundwater basins in the Santa Ynez River Valley and can be read to support the conclusion that the groundwater is percolating groundwater due to the permeability of the “bed and banks.”

The State Water Board’s Division of Water Rights’ Sacramento Valley Enforcement Unit drafted a memo dated February 6, 2019, addressing a subterranean stream designation for a single well completed in alluvium near Buellton, CA. However, this memo is a staff-level analysis regarding one well, not a State Water Board subterranean stream designation for the entire Santa Ynez Alluvium and is not sufficient to overcome the general presumption that underground water in the Santa Ynez Alluvium is percolating groundwater. Moreover, the current data shows that the Santa Ynez Alluvium is not completely bounded by relatively impermeable bed and banks. There is complex geology in this area and not all margins of the river valley are underlain by the same units that are present in the well log that is the subject of the memo. Recent mapping published by the USGS shows the alluvial deposits are underlain by both the Paso Robles Formation and the Careaga Sandstone in large portions of the river valley. Subterranean streams, as determined by the State Water Board and its predecessor, generally have banks of low or very-low permeability fractured bedrock that confine beds of alluvium and other high permeability materials. Both the Paso Robles and Careaga formations are productive, unconsolidated regional aquifers with generally high permeability, and do not meet the definition or characteristics of a bounding or constraining ‘bank’ of a subterranean stream. Having relatively permeable underlying units negates the possibility of satisfying the bed and banks criterion of the Garrapata four-part test in the Buellton area.

At this time, it is appropriate to continue treating the Santa Ynez River Alluvium as percolating groundwater subject to SGMA, which provides tools to manage groundwater use to avoid the undesirable result of depletions of interconnected surface water that cause significant and unreasonable adverse impacts. If, in the future, the State Water Board finds that water in the basin or a portion of the basin meets the Garrapata factors, State Water Board staff would begin the process of identifying water rights or recording statements of claim to all wells within the areas identified as subterranean streams. Those wells would be required to file annual reports of water diversion and use, and failure to do so could result in future enforcement.

Sincerely,

A handwritten signature in cursive script that reads "Natalie Stork".

Natalie Stork
Supervising Engineering Geologist
Groundwater Management Program
Office of Research, Planning, and Performance



May 3, 2023

Brett Marymee, Chairman EMA GSA
Art Hibbits, Chairman CMA GSA
Chris Brookes, Chairman WMA GSA

c/o William (Bill) Buelow
Santa Ynez River Water Conservation District
3669 Sagunto St. Suite 101
Santa Ynez, CA 93460

Re: GSA Committee Agricultural representation

Dear Gentlemen,

The Santa Barbara County Cattlemen's Association, a nonprofit California corporation representing approximately 125 agricultural and associated members in Santa Barbara County, is concerned with the lack of agricultural representation on all 3 GSA committees representing the Santa Ynez River Water Basin. Members of the Cattlemen's Association currently own and/or manage nearly 360,000 acres of grazing land in the County.

Ranching has been an integral part of Santa Barbara County's community since the first Spanish, and later, Mexican Land Grants. Many of these Land Grants have been handed down from generation to generation, continuing the ranching heritage.

Ranchlands are vital to the bucolic atmosphere that is greatly cherished by all who those who both live and visit our County. Agriculture feeds our local economy. "Open space, wildlife corridors, carbon sinks" – all exist because of our Santa Barbara County ranches. Groundwater has always been essential to our livestock operations. Landowner overlying water rights are critical for our ranches to continue. Ranchers know the importance of sustainable land stewardship.

Given agriculture's vested interest in maintaining a sustainable water supply in the Santa Ynez River Basin, we believe it is imperative that a representative from agriculture serves on each of the three current, and future GSA Committees, with all members utilizing an equal voting structure.

We understand the Santa Ynez Water Group (SYWG) has been actively involved in this process to date and we support candidates vetted by SYWG to serve on the 3 GSA committees.

Sincerely,

Billy King, Jr.
Santa Barbara County Cattlemen's Association