

Bennett, Jim

From: Diane E.P. Johnson <depjohnson@aol.com>
Sent: Tuesday, May 21, 2019 5:01 PM
To: LUEG, GroundWater, PDS
Subject: Stewardship Council comments on BVGSP

Borrego Valley Stewardship Council

May 21, 2019

County of San Diego

Planning & Development Services

C/O: Jim Bennett

5510 Overland Avenue, Suite 310

San Diego, CA 92123

Re: Groundwater Sustainability Plan

Borrego Valley Groundwater Basin

Borrego Springs Sub-basin

Dear Mr. Bennett,

The Borrego Valley Stewardship Council (BVSC) submits the following comments in reviewing the Draft Groundwater Sustainability Plan.

I. Introduction

The Borrego Valley Stewardship Council is a convening entity, guided by the Borrego Valley Geotourism Charter, that regularly brings together a collection of civic and community organizations, government officials, agency staff, academic institutions, and interested citizens to address major issues of concern impacting the Anza-Borrego Desert State Park, the Valley, and residents. The Council was formed in 2014 in cooperation with the National Geographic Society's Geotourism Program and the University of California, Irvine Steele/Burnand Anza-Borrego Desert Research Center. Signatories include Anza-Borrego Desert State Park--California State Parks; Borrego Water District; Borrego Springs Unified School District; Borrego Art Institute; Anza-Borrego Foundation; Anza-Borrego Desert Natural History Association; Borrego Modern; Borrego Springs Chamber of Commerce & Visitors Bureau; Borrego Village Association; Tubb Canyon Desert Conservancy; Borrego Outfitters; Borrego Springs Homeowners Association; de Anza Country Club; La Casa del Zorro; and The Springs at Borrego RV Resort. These organizations comprise virtually all the major NGOs and businesses in town.

<http://www.borregovalleystewardshipcouncil.org/home.html>

The BVSC wishes to thank you, and the BVGSA Core Team and Dudek for tremendous efforts in producing such a substantial Draft GSP. A remarkably wide breadth of skills and types of work were required. As the Stewardship Council representative to the GSA Advisory Committee, I attended many meetings and witnessed the dedicated, on-going efforts put forth.

II. Background of intent: SGMA and related water law

SGMA has opened a new era in California water law, with its emphasis on *local* solutions to *local* groundwater basins. The DWR website on SGMA and Groundwater Sustainability Agencies states, "The Sustainable Groundwater Management Act (SGMA) established a new structure for managing California's groundwater resources at the local level by local agencies."

<https://water.ca.gov/Programs/Groundwater-Management/SGMA-Groundwater-Management/Groundwater-Sustainable-Agencies>

The San Diego County SGMA website states: "The intent of the law is to strengthen local groundwater management of basins most critical to the state's water needs with an understanding that groundwater is most effectively managed at the local level. SGMA requires basins to be sustainably managed by local public agencies (e.g., counties, cities, and water agencies) who become groundwater sustainability agencies, or GSAs. The primary purpose of the GSAs is to develop *and implement* [italics added] a Groundwater Sustainability Plan (GSP) to achieve long-term groundwater sustainability." <https://www.sandiegocounty.gov/pds/SGMA.html>

It is important to note that, just as the Bill of Rights is predicated on the existence of the U.S. Constitution, SGMA was written in the context of the long-established and regularly updated and reaffirmed California Water Plan. The Plan underlies all state water legislation and programs, emphasizing four societal goals in addition to the traditional hydrologic goals of state water law:

"Update 2018 organizes the intended outcomes that have been expressed by the water community around four broad categories of public benefits, or "societal values."

- **Public Health and Safety** — All Californians are protected from health and safety threats and emergencies.

Comment: This includes guaranteed access to safe drinking water, as expressed in the Human Right to Water Act, AB 685, ch. 524, 2012 Cal. Stat. 91 (Codified at Cal. Water Code § 106.3 (West 2012). AB685 is “a comprehensive law guaranteeing the right to safe, affordable water without discrimination, prioritizing water for personal and domestic use and delineating the responsibilities of public officials at the state level. AB 685 specifically charges relevant California agencies with fulfillment of the law’s mandate by considering the human right to water in policy, programming, and budgetary activities.”

[https://www.law.berkeley.edu/files/Water_Report_2013_Interactive_FINAL\(1\).pdf](https://www.law.berkeley.edu/files/Water_Report_2013_Interactive_FINAL(1).pdf)

- **Healthy Economy** — A strong, diverse economy provides satisfying ways of life and well-being, as well as opportunities for economic prosperity, for all Californians.

Comment: The economy of Borrego Springs is totally dependent on its groundwater aquifer. Beneficial users in Borrego Springs include not only its 3500 residents (who pay over \$300,000,000 to the County in property taxes each year), but also visitors – numbering in the hundreds of thousands annually -- to the town and to the Anza-Borrego Desert State Park. If water becomes so unaffordable to municipal water users (residents and businesses) that the Borrego Water District cannot be sustained, then both residents and the Park – an important State resource – are irreparably damaged.

- **Ecosystem Vitality** — Ecological functions and processes that sustain ecosystems and fish and wildlife habitat are maintained and improved.
- **Opportunities for Enriching Experiences** — All Californians have opportunities for cultural, spiritual, recreational, and aesthetic experiences."

III. Stewardship Council comments on the Draft GSP

A. The underlying assumptions of the Draft GSP are more reflective of the long-time California tradition of conflating property rights with water rights, and regarding water as a privately-held resource free to its owners. Water is now recognized as a public common-pool resource, and the right to potable water is a basic human right in California. Moreover, the Draft GSP breaks the tenet of local control. Its hard line on across-the-board proportional reductions to pumping allocations comes not from any one sector of the local Borrego stakeholder ecosystem, but is instead being driven by Sacramento-based large agricultural interests funding attorneys to assist them in resisting change. As shown above, SGMA says that decisions should be derived locally, so as not to perpetuate the inequitable water interests that have made California the last state in the nation to adopt integrated watershed management planning. Borrego Springs should not be held hostage to the interests of state-level big agriculture.

B. Collaborative governance and transparency are also tenets in SGMA; the law makes clear that the relevant County is an important part of the local control it encourages. It’s hard to see how, after accepting a special grant given to Borrego because it is an SDAC, the GSP can both ignore SDACs in its contents and its intentions. The County, including its strong property-rights advocates, would be better served to be at the table than ceding control to the state Water Boards.

C. The Stewardship Council would also like to reiterate its 2016 letter to the county in which it encouraged fully embracing the GSP process; particularly around inclusion, equity, and transparency. Including SDAC communities and Tribes/native Americans, equity in water allocation, land use and economic development. Transparency in water transfers and land use decisions is required.

Sincerely,

Diane E. Johnson