

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 — Starlite CSD — Tri Valley Groundwater Management District — Wheeler Crest CSD

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STAFF REPORT

DATE: July 12, 2018

TO: Owens Valley Groundwater Authority Board of Directors

FROM: Staff

SUBJECT: Discussion of comment letter to DWR regarding draft re-prioritization of the Owens Valley Groundwater Basin.

Staff is drafting comment letter in response to the Department of Water Resources' (DWR) DRAFT 2018 Sustainable Groundwater Management Act (SGMA) Basin Prioritization (Draft Prioritization). DWR proposes to re-categorize the Owens Valley Groundwater Basin (Basin) to a high-priority basin based on the fact that groundwater is exported from the Basin by LADWP. The current draft letter includes several comments concerning DWR's failure to follow existing law, flawed approach and methodology of categorization, reliance on statewide rather than Basin-specific data, and the financial impact and burden placed on Eastern Sierra local governments, agencies, and communities while SGMA exempts LADWP from its regulatory purview. The main points are as follows:

- DWR failed to consider all required factors in its categorization of the Basin;
- DWR's failure to utilize available groundwater and pumping data results in an arbitrary scoring of the Basin;
- DWR's scoring of the Basin is internally inconsistent with its described methodology;
- Categorizing the Basin as a high-priority basin solely because of LADWP's SGMA-exempt out-of-basin transfers is arbitrary, inequitable, and will do nothing to further the intent of SGMA.

The draft comment letter ultimately requests that DWR re-categorize the Basin as a low-priority basin based on the scoring of the required and relevant criteria in Water Code Section 10933(b). The public comment period on the Draft Prioritization closes on August 20, 2018. Staff requests the Board provide any high level input to incorporate into a final draft that will be brought back before the Board at the August meeting.

LADWP already provided a comment letter. That and DWR's draft reprioritization report are attached to this staff report.



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June 25, 2018

Ms. Anita Regmi, PG
Engineering Geologist
Southern Region
California Department of Water Resources
770 Fairmont Avenue, Suite 102
Glendale, California 91203
Anita.Regmi@water.ca.gov

Dear Ms. Regmi:

Subject: Draft 2018 Sustainable Groundwater Management Act Basin Prioritization
Process and Results

The City of Los Angeles Department of Water and Power (LADWP) has reviewed the Draft 2018 Basin Prioritization Process and Results report released in May 2018. Following our review of the prioritization process and methodology regarding the Owens Valley Groundwater Basin 6-012.01 (OVGB), LADWP respectfully requests reconsideration of the OVGB priority classification based on the following primary concerns:

- The Sustainable Groundwater Management Act (SGMA) does not apply to adjudicated basins and such basins should not be considered as part of the basin prioritization process.
- Lands owned by the City of Los Angeles in the Inyo County portion of the OVGB are managed by terms of the Inyo County/Los Angeles Water Agreement and are considered as an adjudicated basin by the SGMA.
- The basin prioritization for the OVGB should be applied only to the non-adjudicated portion of the OVGB.
- Considering the eight criteria for the sustainability of a groundwater basin identified by the SGMA, the OVGB is one of the best managed basins in California. Therefore, assigning a "High" priority to the OVGB is a gross

mischaracterization of actual basin conditions and LADWP respectfully requests a reevaluation of the basin prioritization for the OVGB.

- Even if the entire OVGB was to be included in the basin prioritization calculations, the numerical values assigned to each component are inaccurate when compared to publicly available data.

LADWP submits the following comments and concerns in greater detail concerning the application of the 2018 prioritization process to the OVGB:

Section IV, Adjudicated Areas (page 4): DWR (California Department of Water Resources) determined that SGMA prioritization should exclude those portions of the basin that were adjudicated . . . DWR evaluated the non-adjudicated portion of the basin to determine the extent that these areas have the potential to affect groundwater management in the entire basin

The basin prioritization process should be performed pursuant to Water Code Section 10720.8, which states that the SGMA requirements do not apply to adjudicated basins, and Part (c) of this code specifies that portions of the OVGB are recognized as an adjudicated basin (Inyo County Case No. 12908, known as the Inyo County/Los Angeles Water Agreement). However, from the data presented, it is evident that contrary to the statement that “DWR evaluated the non-adjudicated portion of the Basin . . .” (Section IV, page 4), the DWR has applied the prioritization process to the basin as a whole, by using basin-wide figures for population, wells, water use, and perceived water transfer. In doing so, data representing the basin as a whole (non-adjudicated and adjudicated areas) was applied and propagated throughout the entirety of the prioritization calculations, contrary to the SGMA provisions, resulting in Priority Points reflective of areas in which the SGMA does not apply.

As the majority of the OVGB in the Inyo County is managed under the terms of the Inyo County/Los Angeles Water Agreement, the condition of the basin is generally judged as the result of the groundwater management by LADWP. Considering the eight criteria for the sustainability of a groundwater basin identified by the SGMA, the OVGB is one of the best managed basins in California. Therefore, assigning a “High” priority to the OVGB is a gross mischaracterization of actual basin conditions and LADWP respectfully requests a reevaluation of the basin prioritization for the OVGB.

Component 3 (page 11): Public supply wells can be small, single-connection wells used in parks, rest stops, gas stations, and restaurants, or multi-connection systems serving tens or hundreds of thousands of connections.

It is ambiguous whether a "public supply well" encompasses potable water wells designated solely for agricultural or industrial use. The DWR Water Well Standards delineate "Public Water Supply Wells" from "Industrial Wells" and "Agricultural Wells" (Chapter II.i.1) so it would be appropriate that public supply wells, as applied in this component, to exclude the latter types of wells. Additionally, wells located on adjudicated portions of the OVGB should not be included in this analysis as the SGMA is not applicable and it would be misleading to represent said wells as a reflection of non-adjudicated areas. However, LADWP was unable to independently verify either of these factors or the calculation as the referenced State Water Resources Control Board public supply well database with the feature to repeat the queried result of 133 wells could not be located in the public domain.

Component 6.a.4 Estimating Agricultural Groundwater Use (page 17): *The portion that is considered groundwater was estimated by multiplying the total applied water (Step 3) by the groundwater percentage of total applied water provided in the California Water Plan Update 2018.*

The method utilized in Component 6 appears to use basin-wide data, including adjudicated areas, and derives the total water applied via a crop mapping survey model in which the groundwater applied is determined by proportionality. While this method is highly derivative and discounts non-pumped groundwater sources, the result could not be verified as there is no indication of a region-specific groundwater percentage neither in the Draft California Water Plan 2018 (January 9, 2018) nor the Draft Assumptions and Estimates for California Water Plan Update 2018 (April 2017), aside from a narrative that the statewide estimate of "Groundwater comprises nearly 40 percent of all water used in California" (page 2-9), which is not a region-specific, traceable value that should be used for OVGB calculations.

Component 6 Data (Dashboard Data for Owens Valley): $C6_Groundwater_Use_AF = 166297$

This estimated groundwater pumping from the non-adjudicated portion of the basin is highly overestimated. The cause of the error could not be identified as the source data was not provided, though it may be a result of analyzing non-adjudicated with adjudicated areas, where the SGMA is inapplicable. Nevertheless, if wells on adjudicated lands were to be considered despite SGMA applicability, the average LADWP pumping for the last 25 years has been approximately 75,000 acre-feet per year, pumping by the City of Bishop has been less than 2,000 acre-feet per year, and pumping in the Tri-Valley portion of the basin was less than 16,000 acre-feet per year. Accordingly, a conservative estimate of groundwater pumping from the entire basin would have been less than 100,000 acre-feet per year.

Component 8.a (page 25): Evaluating adverse impacts on local habitat and local stream flows.

We understand the purpose and necessity for this component and the process due to irreversible habitat impacts and inconsistencies of basin management and data collection throughout the State, respectively. However, this subcomponent does not accurately reflect the environmental management of the OVGB according to officially recorded plans and documentation. LADWP, Inyo County, and other OVGB stakeholders have a long history of habitat and watershed management actions and plans detailed in the Inyo County/Los Angeles Water Agreement, which outlines the guidelines for monitoring and specific actions to ensuring OVGB activities (to include groundwater pumping) avoid significant impact to the habitat or environment. The Priority Points applied for this component to the OVGB is therefore inconsistent with actual conditions.

Component 8 Data (Dashboard Data for Owens Valley): C8a_AdverseComment = 1) Evaluation of the Hydrologic System and Selected Water-Management Alternatives in the Owens Valley – details and modeling results demonstrating impacts to surface habitat and stream flow from pumping.

It is our understanding from this comment that, in addition to the process described in 8.a, Priority Points for Components 8.a and 8.b were assigned based on USGS Water-Supply Paper 2370-H (Danskin, 1998) in which modeling relied on data collected between 1963 and 1988. That is data over three decades old being used for the 2018 legislative updates while abundant recent data and models are available but not used in this basin prioritization process.

Sub-component 8.d.2 (page 30), and Section IV, Groundwater Related Transfers (page 4): . . . groundwater related transfers from a basin is a relevant factor . . . if [the basins involved] are not managed pursuant to a GSP (Groundwater Sustainability Plan) or Alternative Plan . . . transfers undertaken without an adequate understanding of the changes in groundwater levels, water budget, groundwater-surface water interactions, and land subsidence, and other features considered in a GSP, would leave the basin . . . vulnerable to adverse impacts.

The portion of the OVGB, where the majority of groundwater extractions and uses occur, is managed according to the terms of the Inyo County/Los Angeles Water Agreement. The subcomponent 8.d process should be applied only to non-adjudicated portions of the OVGB as explicitly stated by the SGMA (Water Code Section 10720.8) and in Section IV, Adjudicated Areas (page 4) of this document. Additionally, LADWP is

Ms. Anita Regmi, PG
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not aware of any direct, non-replenished, or net-depleting groundwater transfers outside of the OVGB and therefore should have zero Priority Points for Component 8.

Page 30: *Groundwater related transfers were evaluated by reviewing available published data in DWR Bulletin 132*

Upon review of DWR Bulletin 132-16 (June 2017), LADWP staff was unable to locate any reference to OVGB-related groundwater transfers consistent with Type B.

Page 30: *Out-of-basin groundwater transfers are transfers that pump percolating groundwater from a source basin and convey the pumped water to a location outside the source basin to be used in ways that does not benefit the source basin.*

It is unclear how groundwater can be “conveyed to a location outside the source basin to be used in ways that benefit the source basin”. The differentiation between Type A and B transfers is ambiguous, inconsistent, and incongruous with the eight components of Water Code Section 10933(b). In light of this, water balance and operational calculations clearly show that groundwater pumped from adjudicated and non-adjudicated areas in the OVGB are used within the basin including irrigation, town water system, Enhancement/Mitigation projects, fish hatcheries, stock water supply, and dust mitigation, and do not contribute towards the out-of-basin exports. In fact, recharge to the OVGB has continually exceeded extraction for the last three decades.

Page 31: *The maximum points (42) were applied to each of the basins in Table 13 and as a result are high priority.*

The report provides no justification as to the reasoning for the arbitrary and unscaled weight of subcomponent 8.d.2 to the Total Priority Points. This subcomponent contributes 100 percent of its weight to the total prioritization points despite not being an explicit component of Water Code Section 10933(b) nor does the subject of Water Transfer have a direct correlation to any aforementioned components in a way that can be applicable statewide.

Despite the entire OVGB (including adjudicated areas) being used for calculating this component, groundwater pumped by LADWP used within the basin ultimately percolates partially back into the basin. In fact, the water used by LADWP within the OVGB far exceeds the amount of groundwater pumping and the difference is supplied by surface water. LADWP is not aware of any groundwater transfer from the non-adjudicated portion out of the basin either. Therefore, zero Priority Points should be assigned to the OVGB for this component. As evidenced by the previously mentioned court judgement, agreements, Memorandums of Understanding, Environmental Impact

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Reports, studies, reporting, and monitoring, the OVGB is one of the most highly managed basins in the State. Declaring it a "High" priority based on inaccurate factors and correlated models contradicts actual management and physical conditions.

LADWP appreciates the effort DWR staff have put forth in SGMA related activities with the focus on protecting the State's resources and for taking the time to review and address our concerns.

If you have any questions or would like to discuss LADWP's comments, please contact Mr. Saeed Jorat, Manager of Eastern Sierra Environmental Group, at (213) 367-1119.

Sincerely,



James G. Yannotta
Manager of Aqueduct

MC:jm
c: Timothy Ross, Ph.D., PG, CHG (DWR)
Mr. Saeed Jorat (LADWP)

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July 12, 2018

Via U.S. Mail and E-Mail

Anselmo G. Collins, Director of Water Operations
Los Angeles Department of Water and Power
111 North Hope Street
Los Angeles, CA 90012

RE: Inclusion of Property Owned by the City of Los Angeles within the Owens Valley
Groundwater Authority

Dear Mr. Collins:

This letter is in response to your letter dated May 22, 2018, requesting that properties owned by the City of Los Angeles be excluded from the area managed by the Inyo County Groundwater Sustainability Agency (GSA) for portions of the Owens Valley Groundwater Basin (Basin). In your letter, you request a meeting to discuss and ensure that such properties are excluded from the boundaries of the GSA. The Owens Valley Groundwater Authority (Authority), now the exclusive GSA for the Basin, as discussed further below, recognizes that the Sustainable Groundwater Management Act does not apply to “adjudicated areas,” including specifically “[a]ny groundwater basin or portion of a groundwater basin in Inyo County managed pursuant to the terms of the stipulated judgment in *City of Los Angeles v. Board of Supervisors of the County of Inyo, et al. (Inyo County Case No. 12908)* shall be treated as an adjudicated area pursuant to this section.” (Wat. Code, § 10720.8(c).) The Authority does not disagree that Los Angeles owns properties located in the Basin to which Water Code section 10720.8(c) applies; however, we disagree that these lands should be excluded from the boundaries of the Authority for the following reasons:

1. SGMA requires that GSAs be formed and groundwater sustainability plans (GSP) be prepared and implemented for the entirety of medium- and high-priority basins. Specifically, Water Code section 10727 requires: “A groundwater sustainability plan shall be developed and implemented for each medium- or high-priority basin by a groundwater sustainability agency to meet the sustainability goal established pursuant to [SGMA].” Such GSPs may be any of the following:
 - a. A single plan covering the entire basin developed and implemented by one groundwater sustainability agency;
 - b. A single plan covering the entire basin developed and implemented by multiple groundwater sustainability agencies; or

- c. Multiple plans implemented by multiple groundwater sustainability agencies and coordinated pursuant to a single coordination agreement that covers the entire basin.

(Wat. Code, § 10727(b) (emphasis added).) Moreover, the Authority's failure to prepare a GSP that covers the entire Basin would result in the State Water Resources Control Board designating the Basin as probationary. For example, Water Code section 10735.2(a) provides:

The [State Water Resources Control] board, after notice and a public hearing, may designate a high- or medium-priority basin as a probationary basin, if the board finds one or more of the following applies to the basin (1) After June 30, 2017, none of the following have occurred: (A) A local agency has decided to become a groundwater sustainability agency that intends to develop a groundwater sustainability plan for the entire basin. (B) A collection of local agencies has formed a groundwater sustainability agency or prepared agreements to develop one or more groundwater sustainability plans that will collectively serve as a groundwater sustainability plan for the entire basin... (emphasis added).

The clear intent of SGMA is to have a single GSP, or group of GSPs, cover the entire Basin to ensure the statute's sustainability goal is met. Accordingly, the Authority intends to develop a GSP for the entire Basin, with the recognition that Water Code section 10720.8(c) limits the regulatory power of the Authority, and any GSP it prepares and implements, over lands managed pursuant to the Inyo/Los Angeles Long-Term Water Agreement.

2. For the GSP to succeed in managing the Basin sustainably, it is important that the GSP work in coordination with the Inyo/Los Angeles Long-Term Water Agreement. Specifically, although Water Code section 10720.8(c) exempts from SGMA lands managed pursuant to the Inyo/Los Angeles Long-Term Water Agreement, any GSP prepared by the Authority will need to account for the management activities required and taken pursuant to the Inyo/Los Angeles Long-Term Water Agreement. A Basin-wide GSA boundary will foster such coordination.
3. The properties owned by Los Angeles within the Basin are not subject to SGMA only to the extent that Los Angeles and its Department of Water and Power (LADWP) conform to the Long-Term Water Agreement. (See Wat. Code, §10720.8(a)). If Los Angeles's or LADWP's management of such properties is found to be not in conformance with the Long-Term Water Agreement, then those properties would become subject to SGMA. For this reason, it is important that the Authority boundary include the entire basin.
4. The extent of lands "*managed pursuant to the terms of the stipulated judgment in City of Los Angeles v. Board of Supervisors of the County of Inyo, et al. (Inyo County Case No. 12908)*" is not well defined. The area shown on the Department of Water Resources websites as the "adjudicated" area is the extent of Los Angeles owned lands, but this extent may change in the future when Los Angeles sells or acquires land. Because the extent of land in the Basin owned by Los Angeles may change and evolve, it is important that the Authority boundary include the entire basin.

5. Los Angeles argues that because properties managed pursuant to the Long-Term Water Agreement are not subject to SGMA, such lands should not be within the Authority boundary. This is inconsistent with SGMA. There are many limitations to SGMA's applicability based on land ownership. In addition to adjudicated lands, SGMA has limited enforceability on federal, state, and tribal land, but SGMA does not exclude these lands from GSA boundaries. On the contrary, as noted above, SGMA requires that entire basins be managed while recognizing that SGMA has limited powers within those lands.

As mentioned above, the Authority was recently formed by the four local agencies that previously decided to be GSAs (Inyo County, Mono County, City of Bishop, Tri-Valley Groundwater Management District). These agencies formed the Authority to consolidate SGMA management responsibilities in the Basin into a single entity. The boundaries of the new GSA include all lands within the Owens Valley Groundwater Basin, and the Department of Water Resources has indicated that the Authority is the exclusive GSA for the Basin as of June 27, 2018. The Authority appreciates your letter and Los Angeles and LADWP's interest in how SGMA relates to and may affect its properties in the Basin. However, notwithstanding Water Code section 10720.8(c), the Authority's boundaries will include all properties located in the Basin, including those owned by Los Angeles and managed by LADWP.

If you have any questions or would like to discuss this matter further, please feel free to contact me at (760) 878-0001 or bharrington@inyocounty.us.

Sincerely,

Robert Harrington
Executive Director
Owens Valley Groundwater Authority

cc: Owens Valley Groundwater Authority Board of Directors
Erik Ekdahl, State Water Resources Control Board
Mark Norberg, Department of Water Resources



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David H. Wright, General Manager

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MAY 24 2018

Inyo County Water Dept.

May 22, 2018

OVGA Board of Directors
c/o Laura Piper
Inyo County Water Department
P.O. Box 337
Independence, CA 93526

Mr. Erik Ekdahl
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812

Mr. Mark Nordberg
California Department of Water Resources
901 P Street, Room 213-B
P.O. Box 942836
Sacramento, CA 94236

Dear Owens Valley Groundwater Authority Board of Directors:

Subject: Owens Valley Groundwater Authority

The County of Inyo has filed a notification with the California Department of Water Resources to the Groundwater Sustainability Agency (GSA) for a portion of Owens Valley Groundwater Basin. Inyo County's filing includes Exhibit A, a map showing Inyo County's service area boundaries, and a map showing the boundaries of the portion of the Owens Groundwater Basin (6-012.01) that Inyo County intends to manage groundwater within the basin. The two maps included in Exhibit A depict a portion of Owens Valley that includes the lands within the basin that are owned by the City of Los Angeles (City).

Owens Valley Groundwater Authority Board of Directors

Page 2

May 22, 2018

The Sustainable Groundwater Management Act (SGMA) explicitly states that requirements under SGMA do not apply to the adjudicated basins (Water code 10720.8). Also, as part of the SGMA, "any groundwater basin or portion of a groundwater basin in Inyo County managed pursuant to the terms of the stipulated judgement in City of Los Angeles v. Board of Supervisors of the County of Inyo, et al. (Inyo County Case No. 12908) shall be treated as an adjudicated area pursuant to this section."

The City owned lands in Inyo County are managed under the terms of Inyo County/Los Angeles Water Agreement. However, the boundaries proposed to be managed by Inyo County overlaps with these lands, which are treated as adjudicated under SGMA. Therefore, the Los Angeles Department of Water and Power (LADWP) opposes the boundaries of the basin that are intended to be managed by County of Inyo, as indicated on their GSA formation notice. As a result, Inyo County's filing for the GSA for Owens Valley shall exclude all City owned property, which is treated as an adjudicated area, and as such the requirements under SGMA do not apply. Additionally, the Owens Valley Groundwater Authority (OVGA) founding documents, such as the OVGA Joint Powers Agreement and Inyo County's filing for establishment of the OVGA, do not properly exclude City lands from the OVGA jurisdiction. We request discussion with the OVGA on this matter to ensure the City owned property is removed from the OVGA.

If you have any questions, please contact me at (213) 367-1001 or Mr. Gregory A. Loveland, Manager of Aqueduct Conservation & Northern District Operations, at (760) 872-1104.

Sincerely,



Anselmo G. Collins
Directory of Water Operations

Enclosure

GL:fj

c: Gregory A. Loveland

Exhibit A:

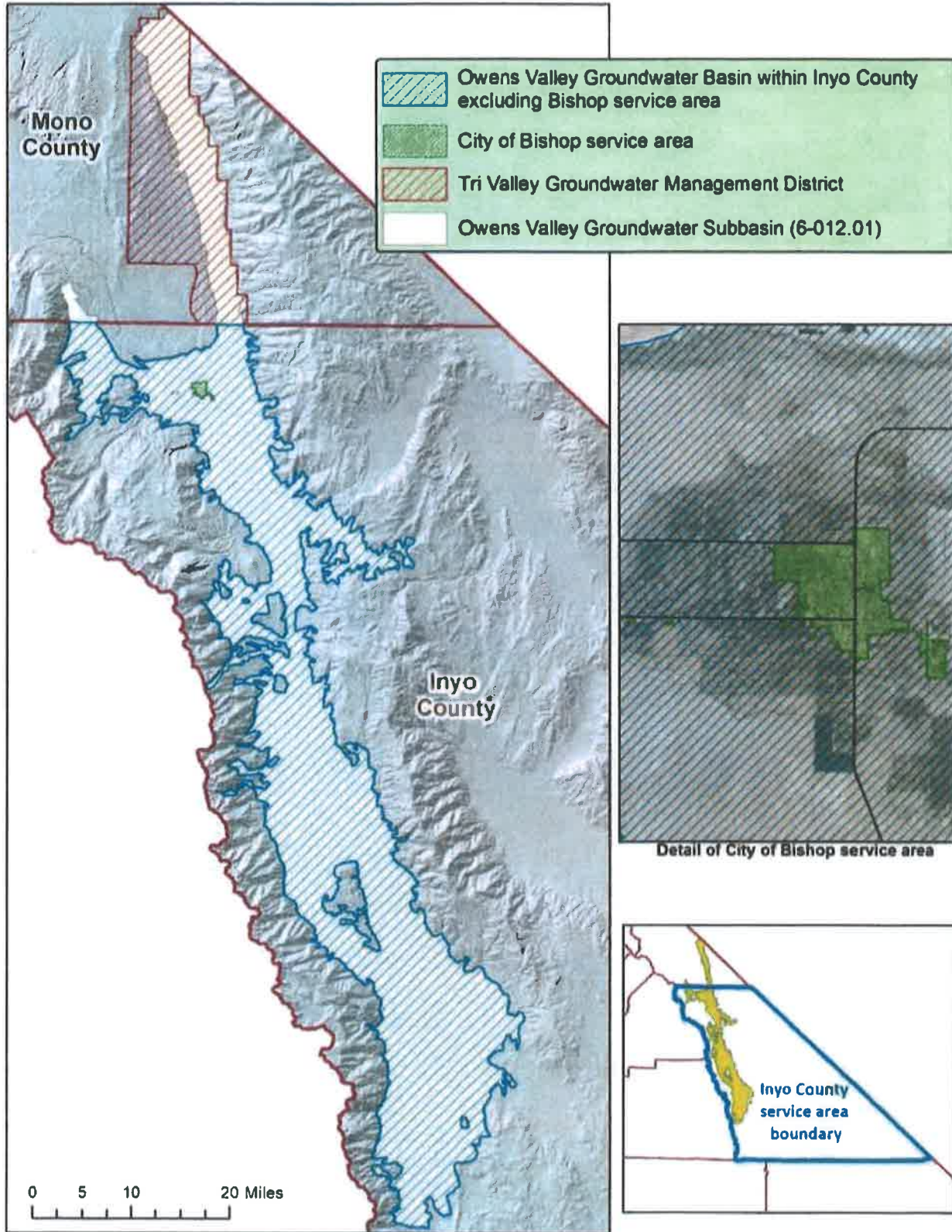
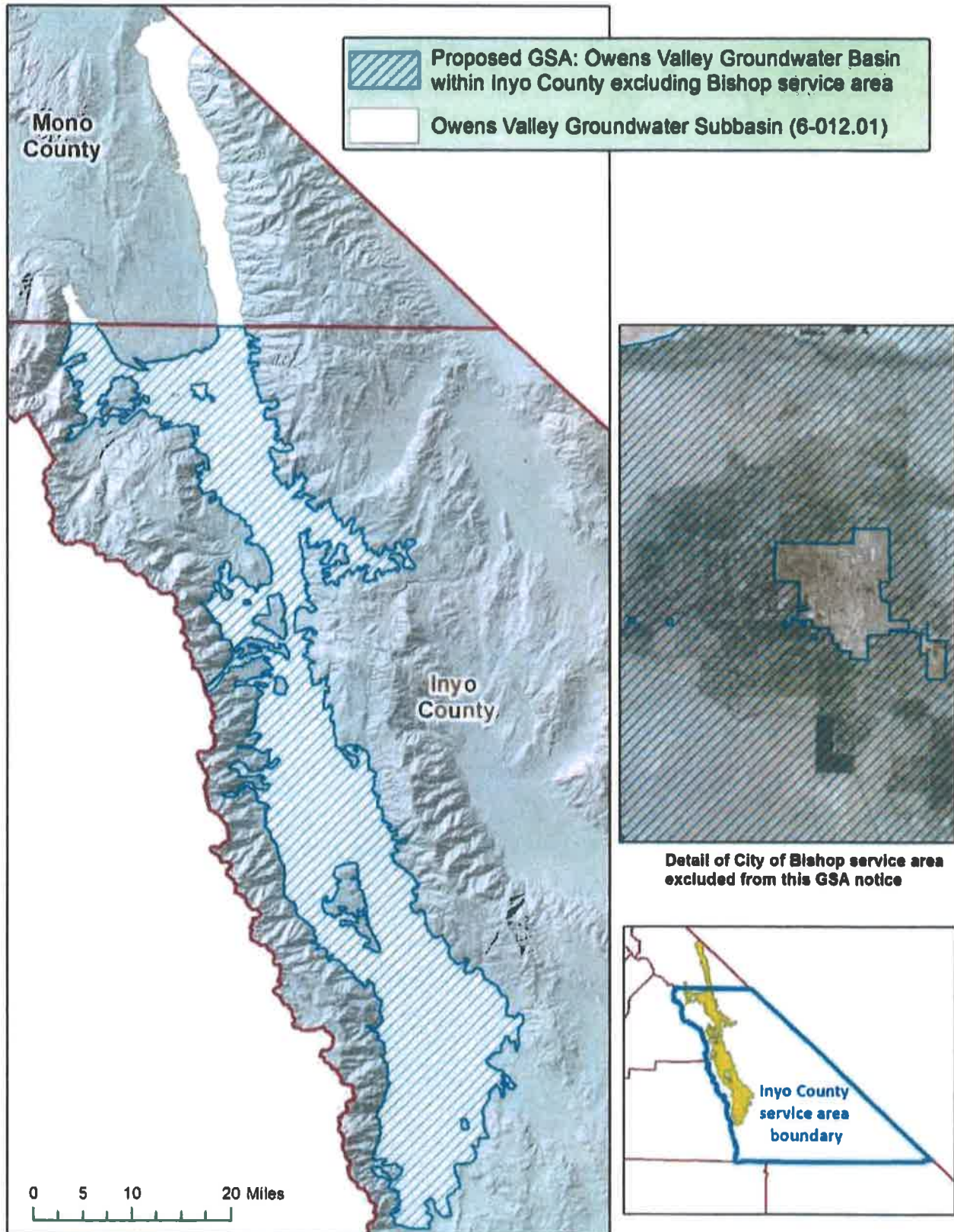


Exhibit A (cont.):



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STAFF REPORT

DATE: July 12, 2018

TO: Owens Valley Groundwater Authority Board of Directors

FROM: Staff

SUBJECT: Discussion of comment letter to LADWP, DWR, and SWRCB concerning the boundary of the Owens Valley Groundwater Authority.

The Los Angeles Department of Water and Power (LADWP) provided the OVGGA Board and staff from the Department of Water Resources (DWR) and the State Water Resources Control Board (SWRCB) a letter objecting to the inclusion of LADWP land in the boundaries of the OVGGA's groundwater sustainability agency. Staff has drafted a letter replying to LADWP's letter, highlighting a number of reasons why LADWP lands should be included in the GSA boundaries. LADWP's letter and the draft reply are attached.