

RESOLUTION NUMBER 2022-03

A RESOLUTION OF THE SANTA MONICA GROUNDWATER SUSTAINABILITY AGENCY (“GSA”) MAKING FINDINGS AS REQUIRED BY AB 361 TO PERMIT THE GSA TO CONTINUE TO BE CONDUCTED BY TELECONFERENCE WHILE THE COVID-19 EMERGENCY REMAINS IN PLACE

WHEREAS international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named “SARS-CoV-2,” and the disease it causes has been named “coronavirus disease 2019,” abbreviated COVID-19, (“COVID-19”); and

WHEREAS, on March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for broader spread of COVID-19; and

WHEREAS, on March 4, 2020, the Los Angeles County Board of Supervisors and Department of Public Health declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19; and

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

WHEREAS, the Governor's March 4, 2020 declaration of a state of emergency based on the COVID-19 pandemic remains in place; and

WHEREAS, throughout the emergency resulting from the COVID-19 pandemic, the Los Angeles County Department of Public Health ("LACDPH") has issued a series of Health Officer Orders containing mandates and recommendations for keeping safe and preventing the spread of COVID-19; and

WHEREAS, the Ralph M. Brown Act, Government Code Sections 54950-54963, allows for meetings of legislative bodies of a local agency, as those terms are defined in the Brown Act, to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, and that members of the public be allowed to address the legislative body at each teleconference location, see Government Code Section 54953(b)(3); and

WHEREAS, Paragraph 3 of Executive Order N-29-20, issued by the Governor on March 17, 2020, among other things, suspended the Brown Act requirements for teleconferencing, provided that notice and accessibility requirements were met, the public was allowed to observe and address the legislative body at the meeting, and the legislative body had a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, specifying that this suspension would remain in place during the period in which state or local public health officials have imposed or recommended social distancing measures; and

WHEREAS, paragraph 42 of Executive Order N-08-21, issued by the Governor on June 11, 2021, withdrew and replaced paragraph 3 of Executive Order N-29-20's

suspension of the Brown Act requirements for teleconferencing with a similar suspension of those requirements that it specified would remain in place only through September 30, 2021; and

WHEREAS, on September 16, 2021, the Governor signed into law Assembly Bill No. 361 (“AB 361”), which, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Brown Act when a legislative body of a local agency holds a meeting during a declared state of emergency, as that term is defined, when state or local health officials have imposed or recommended measures to promote social distancing or when the legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees; and

WHEREAS, AB 361 requires legislative bodies that hold teleconferenced meetings under its abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option, and to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body; and

WHEREAS, AB 361 requires the legislative body to take no further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency’s control

which prevents members of the public from offering public comments, until public access is restored; and

WHEREAS, AB 361 prohibits the legislative body from requiring public comments to be submitted in advance of the meeting and specifies that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time; and

WHEREAS, AB 361 prohibits the legislative body from closing the public comment period and the opportunity to register to provide public comment, until the public comment period has elapsed or until a reasonable amount of time has elapsed, as specified; and

WHEREAS, when there is a continuing state of emergency, or when state or local officials have imposed or recommended measures to promote social distancing, AB 361 requires a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to these provisions, and to make those findings every 30 days thereafter, in order to continue to meet under AB 361's abbreviated teleconferencing procedures; and

WHEREAS, on September 20, 2021, to avoid potential conflict between AB 361 and Executive Order N-08-21, the Governor signed Executive Order N-15-21, which specifies that Executive Order N-08-21 continues to govern meetings of local legislative bodies through September 30, 2021; and

WHEREAS, in light of the continuing State and local declarations of emergency resulting from the COVID-19 pandemic, the most recent Los Angeles County

Department of Public Health Order of the Health Officer, issued March 3, 2022, which continues to recommend social distancing as one measure to reduce the spread of COVID-19, and to protect the most vulnerable among us in indoor public settings, the GSA desires to again make the findings required by AB 361 to allow the GSA to continue to meet under AB 361's abbreviated teleconferencing procedures.

NOW, THEREFORE, THE SANTA MONICA GROUNDWATER SUSTAINABILITY AGENCY DOES RESOLVE AS FOLLOWS:

SECTION 1. The Santa Monica Groundwater Sustainability Agency ("GSA") finds that the state and local declarations of emergency resulting from the COVID-19 pandemic remain in place.

SECTION 2. The GSA finds that local officials, namely, the Los Angeles County Department of Public Health, has continued to recommend measures to promote social distancing.

SECTION 3. The GSA finds that, as a result of the emergency resulting from the COVID-19 pandemic, in-person meetings of the GSA would present imminent risks to the health and safety of attendees, including in particular, members of the public attending such meetings.

SECTION 4. As a result of the findings in Sections 1 through 3 above, the GSA is authorized to conduct meetings under AB 361's abbreviated teleconferencing procedures, without complying with the requirements set forth in Government Code Section

54953(b)(3), subject to compliance with the requirements set forth in Government Code Section 54953(e)(2).

SECTION 5. If any section, subsection, sentence, clause, or phrase of this Resolution is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution. The GSA hereby declares that it would have passed this Resolution and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this Resolution would be subsequently declared invalid or unconstitutional.

SECTION 6. The Secretary of the GSA shall certify to the adoption of this Resolution, and thenceforth and thereafter the same shall be in full force and effect.

I, Lisette Gold, Secretary of the Santa Monica Groundwater Sustainability Agency, do hereby certify that Resolution No. _____ was duly adopted at a meeting of the Santa Monica Groundwater Sustainability Agency held on the 14th day of April 2022, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

SUNNY WANG
GSA Chairperson

**Santa Monica Basin Groundwater Sustainability Agency
Memorandum**

SECTION 7.A

DATE: April 14, 2022

TO: BOARD OF DIRECTORS

SUBJECT: Approval of Letter of Support for the Wells within the Olympic Well Field and
Charnock Well Field Pursuant to Executive Order N-7-22 executed by Governor Gavin
Newsom on March 28, 2022

RECOMMENDATION

The Board of Directors (“Board”) approve Letter of Support for the Olympic Well Field and Charnock Well Field Groundwater Production Well Replacement.

DISCUSSION

In response to the ongoing drought in the State of California and proclamations of emergency issues on April 12, May 10, July 8, and October 19, 2021 as well as intensified effects of climate change and the driest January and February on record among other extensive and deleterious impacts on statewide water resources, the Governor issued Executive Order N-7-22, *“protect public health and safety... to prepare for and mitigate the effects of the drought conditions, and under Government Code section 8571... strict compliance with various statutes and regulations specified in this Proclamation would prevent, hinder, or delay the mitigation of the effects of the drought conditions.”* Moreover, a provision within the Executive Order states that, *“To protect health, safety, and the environment during this drought emergency, a county, city, or other public agency shall not: a. Approve a permit for a new groundwater well or for alteration of an existing well in a basin subject to the Sustainable Groundwater Management Act and classified as medium- or high-priority without first obtaining written verification from a Groundwater Sustainability Agency managing the basin or area of the basin where the well is proposed to be located that groundwater extraction by the proposed well would not be inconsistent with any sustainable groundwater management program established in any applicable Groundwater Sustainability Plan adopted by that Groundwater Sustainability Agency and would not decrease the likelihood of achieving a sustainability goal for the basin covered by such a plan; or b. Issue a permit for a new groundwater well or for alteration of an existing well without first determining that extraction of groundwater from the proposed well is (1) not likely to interfere with the production and functioning of existing nearby wells, and (2) not likely to cause subsidence that would adversely impact or damage nearby infrastructure. This paragraph shall not apply to permits for wells that will provide less than two acre-feet per year of groundwater for individual domestic users, or that will exclusively provide groundwater to public water supply systems as defined in section 116275 of the Health and Safety Code.”*

Therefore, pursuant to the foregoing section of the Executive Order, it is recommended that the GSA approve a letter supporting the City of Santa Monica's Olympic Well Field and Charnock Well Field Projects. Specifically, within the Olympic Well Field, the City of Santa Monica is installing two new groundwater production wells (SM-8 and SM-9) to replace aging wells and one new groundwater recharge well (SM-10i). Well SM-8 has been drilled and construction is on-going to equip the well. The permit application has not been filed yet with the SWRCB's Division of Drinking Water (DDW). However, that permit application is anticipated to be filed in late Summer or Fall of 2022. Well SM-9 is a new well, which is replacing existing SM-3 groundwater production well. Well SM-9 has been drilled and construction is on-going to equip the well. The permit application has not been filed yet with the DDW. As with Well SM-8, the permit application is anticipated to be filed late Summer or Fall of 2022. Well SM-10i is a groundwater recharge well, which has been drilled and construction to equip it is on-going. The permit application is in process now and actively being reviewed by the RWQCB/DDW for indirect potable reuse. Within the Charnock Well Field, the City is in the process of drilling replacement wells for Charnock 13 and 18 production wells. Both production wells are 1) over 40 years old, 2) have lost significant production capacity, and 3) beyond their asset life. The bid to drill the replacement wells was released and we are awaiting responses to the bid package. The permit application for replacement well has not yet been submitted to DDW for review and approval. The proposed groundwater production well replacements in the Olympic and Charnock Well Fields are critical for the City of Santa Monica to maintain hydraulic control of the contamination plumes at each respective sub-basin.

ATTACHMENTS

Letter of Support