

MEETING SUMMARY | October 3, 2016
Private Pumper Advisory Committee (PPAC) Meeting #3

MEETING RECAP

- The PPAC has been working with John Garner, Garner Law Office and Bill Vanderwaal, Provost and Prichard to investigate forming a water district in the Arbuckle area. Mr. Garner and Mr. Vanderwaal presented information on the Glenn County process to form a water district and the potential formation of a new water district in the Arbuckle area.
- Private pumpers will move forward to form a water district in the Arbuckle area, but if they can get assurances that they will have equal footing on a Governance board, they will not necessarily go forward with forming the new district. They want to have that option.
- The County supports private pumper representation on a governing board with equal voting rights. The County also supports the private pumpers forming a new district.
- The private pumpers are being encouraged to form a district in order to be organized, to be able to fund their own studies, and to have equal footing with the other GSA-eligible agencies.
- Mr. Garner encouraged the private pumpers to begin raising funds.

For more local information please visit the [Colusa County Water Resources Webpage](#).

MEETING SUMMARY

1. INTRODUCTION

Mary Fahey, Colusa County Water Resources Coordinator, reviewed the agenda, and asked for introductions. The facilitator was not available to attend today's meeting due to a family emergency.

2. SGMA IMPLEMENTATION UPDATES

PPAC Action Items Progress Report

- Ms. Fahey mentioned that outreach to landowners is ongoing.
- Davids Engineering has provided a map with acreages of the white areas for the County. Bill Vanderwaal (Provost and Pritchard) has done the same for the private pumpers. Mr. Vanderwaal stated that he utilized Assessor Parcel Number (APN) information from 2012 DWR shapefiles and utilized data from Glenn Colusa Irrigation District. The maps will require ongoing refinement.

3. DISCUSSION TOPICS

Private Pumper Water District Formation *(Information only)*

Ms. Fahey invited Mr. Garner and Mr. Vanderwaal to present information on the private pumper water district formation process.

Mr. Garner gave some background on the private pumper district formation in Glenn County. The reality for private pumpers is that they cannot have direct representation on a GSA. Water Districts are in a much better position to coordinate, raise revenues, conduct studies, etc. The private pumpers in the white areas are unorganized. There are going to be disputes. How do private pumpers have studies done in their areas to dispute the water agencies' data? How do these folks organize so that every landowner in the white areas is participating? Investing in forming the district now is the price you pay

for security down the road. PPACs are good, but in the case of Glenn County, PPAC members will be chosen by the Board of Supervisors. Mr. Garner feels they should be elected so that they are representing the landowners, not the County. The bottom line is to have everyone on equal footing.

The Glenn County water district is just over 36,000 acres and there are landowners in the Princeton area of Colusa County that are considering joining in. The LAFCO process that is necessary to form a district is a very convoluted and an underfunded process.

A common concern/question that Mr. Garner hears from landowners is regarding costs of forming a district. His feeling is that it will be a wash because he thinks the County will have an assessment to provide services necessitated by SGMA. The new water district could raise its own funds. As an example, a district may raise \$15/acre from its landowners. If a district is managing its groundwater and participating on the GSA, why would the County get any money from the district? Why would the County have any involvement at this point? The district would have an elected board and would control their funds. People have said, 'you don't have staff, you don't have offices. How are you going to fund those things?' The district would raise money to pay for those things. Another option is to pay a neighboring water agency to provide those services for them. In the end it's about having equal representation.

So far the new district in Glenn County has been fairly well received, but he anticipates pushback from the Counties.

Ms. Fahey mentioned that in Colusa County we have found a mechanism where the private pumpers can serve on a JPA board with equal voting authorities. Colusa County is not opposed to that model and the County is not opposed to the private pumpers forming a district.

Mr. Garner said that is the key. We are just talking about voting equality. The PPAC should not be beholden to anyone but the farmers they represent. Again he mentioned that he has an issue with Glenn County Supervisors appointing PPAC members. He feels the farmers should choose them through an election process so they can answer to the landowners.

Mr. Garner said that any money that is for the private pumper committees is for the private pumper committee representatives to manage, just like surface water districts. It's critical that the PPAC has the autonomy to say that they don't like the way things are going. For example, regarding studies, if they don't like the County's numbers, or the surface water district numbers, they should be able to raise money to fund their own studies. He doesn't think the PPACs can't work, but a water district has control over their money, their board members and the ability to contract for studies.

Ms. Fahey mentioned that there are differences in Glenn and Colusa Counties. She addressed Mr. Garner and stated that it seems he is separating the private pumper group from everyone else which is not how we have been moving forward in Colusa County and not in the spirit of SGMA. Mr. Garner said they are cooperating in the SGMA discussions. They would be just as happy with one GSA that covers both counties. They just want to make sure they put their foot in the door. What if we get to July and

we don't have an agreement? Who represents the private pumpers? Is it the County? That's a problem at least with the Glenn County private pumper group.

Ms. Fahey stated that she is hearing the following from this discussion:

- Private pumpers need to raise their own money and not share it with the County or with an overarching GSA.
- Private pumpers need to conduct their own studies that may provide information that differs from studies done by the surface water districts and the County.

We can't do that. We have to work together, coordinate, and use data that is consistent.

Comment, Mr. Garner: Let's talk about funding as a pie.

Comment, Ms. Fahey: We haven't figured out the funding piece yet.

Comment, Mr. Garner: The farmers I represent don't care if the money goes to the County or to a GSA. Surface water districts will be good stewards of their money. We are being collaborative. The private pumpers are unorganized. We are scrambling in a protective way. We want to be collaborative in the same way GCID wants to be collaborative. They are going to be a slice of the pie. We are not convinced the private pumpers will have the same slice of the pie as any surface water district. It's not fair for a pumper outside of a water district to have less of a slice of the pie than one inside a district. We need to solve the 3rd among equals problem.

Ms. Fahey mentioned that Colusa County's supervisors have approached SGMA in a very collaborative way. She feels that Mr. Garner is approaching this in a defensive way and it's not how we have approached SGMA in Colusa County.

Mr. Garner again expressed his feeling that private pumper representatives should be elected.

Ms. Fahey commented that it is not an easy process and she is not sure that the Supervisors would want to do that. It will take creating new districts and holding elections. Who will pay for that?

Mr. Garner stated that it is a critical thing.

Ms. Fahey asked for discussion from the PPAC.

Darrin Williams, PPAC member, said that he is in favor of forming a district in the Arbuckle area. Current surface water districts already have resources and studies completed. They have an advantage over the white areas. The GSP will be the law. The white areas don't have their own studies. He is not comfortable putting everything in the County's hands. We are talking about groundwater law that will last into the future. The path of least resistance is not good. It may be difficult and costly, but it's what we need to do. Mr. Williams asked Mr. Garner and Mr. Vanderwaal to discuss the process and costs associated with forming a water district.

Mr. Garner stated that the longest part of the Glenn County process was getting the signatures. They are required to have signatures from landowners that represent 50% + 1 total acres in the proposed district in order to move forward. Getting all of the APNs figured out, and determining who was signing for which parcels was time consuming. They hired John Farrell out of Sacramento. He is a retired

Executive Director of LAFCO. He would be available to assist the Colusa private pumpers put together the necessary application paperwork. There was a \$5,000 application fee in Glenn County. LAFCOs can increase or decrease application fees, so it could be more or less than \$5,000 in Colusa County. The Supervisors can streamline a lot of this by accepting by Resolution to approve the application. The private pumpers can ask the Supervisors to waive the application fee and expedite the process.

A requirement for the application is a legal boundary map from the Board of Equalization (BOE) which can cost \$20,000 to \$40,000.

Bill Vanderwaal (Provost and Prichard) described the LAFCO process. First, LAFCO will have to hold a public hearing. If LAFCO approves the application, it goes to a 30-day reconsideration period where people can bring forward new information that might inform LAFCO. After this period, there is a reconsideration hearing. If there is reconsideration, LAFCO votes up or down. If nothing is brought forward, it goes to a 30-day protest phase in which people within the district can protest formation of the district. After the protest period and the BOE map is submitted and accepted, it goes to election. People who own land within that district vote on the district formation, and on the Board of Directors. They need 50% approval.

Question: How onerous would it be to include other areas in the map? **Answer:** It would be an annexation. An annexation is easier than forming another district. You could annex in dormant districts. The legal definition of contiguous is up to 2 miles. In Glenn County, LAFCO required all of the land in the new district to be touching. If the lands are not contiguous, you just need to have 50% + 1 acre sign on in each area. Separate areas could be one district, if each area has the 50% + 1 acre sign-off. LAFCO has a lot of control over this.

Question: If you have outliers that you want to annex in after the GSAs have been formed, this will create overlap with the County. Does there need to be an agreement beforehand that the overlap would be resolved under these circumstances? **Answer:** Yes.

Question: What are the costs year in and year out?

Answer: Provost and Prichard manages districts down south. Bare bones cost is \$30,000-\$50,000 per year. This would include hiring a part-time General Manager, conducting monthly board meetings, and collaborating with other districts periodically. Mr. Garner mentioned that in Glenn County they told clients to estimate a \$3.00/acre assessment per year. Mr. Vanderwaal reiterated that these are bare bones costs. If needed, an initial Proposition 218 process would be very straightforward.

Comment: Farmers just want to do what they've always done. As a water district you will be responsible for sustainability for those farmers. Now you have to do studies, put meters on wells, etc. Now you've taken on more responsibilities as a GSA.

Mr. Garner agreed that yes, they will have to take on some things, but he doesn't think it will be any more than they would have to under SGMA anyway. By forming the district, they can get their own studies done, and everyone in the district will need to pitch in with funding. Right now, only some private pumpers are taking on the responsibility of showing up to meetings, etc.

Ms. Fahey asked about costs. What about staff, labor, state requirements for running a District? What are the State reporting requirements? The district will need an accountant, Board of Directors, Brown Act compliance, etc. Mr. Vanderwaal said that is all included in the \$30,000-\$50,000 estimate. Ms. Fahey mentioned that it would be good to have all of those details so folks know what they are getting into.

Mr. Vanderwaal mentioned that water balances and other studies will have to be done. Ms. Fahey stated that these are added expenses beyond the administrative expenses. Mr. Vanderwaal said that someone will have to pay for that. Is the County going to pay for it or the water district? Mr. Garner said that in Glenn County as they moved towards I-5, landowners weren't as much on board with the Glenn County district. A district has to be the right choice for the landowner. Ms. Fahey said that if she had to make that decision, she would want all of those details, and cost estimates over time. Mr. Vanderwaal said that starting up a District is going to cost more. It will be more than the \$30,000-\$50,000 estimate. Mr. Garner suggested that the private pumpers would want to start building up some reserves. Mr. Williams said there is no question there will be costs. No matter which direction we go we won't be able to operate like we have in the past. He sees value in being organized.

Question to Mr. Williams: have you considered annexation into Colusa County Water District (CCWD)?

Answer: CCWD does not have the resources or infrastructure so it's not a possibility.

Mr. Williams said that the private pumpers can't go into this relying on data from GCID and RD 108. Private pumpers don't have their own studies or neutral studies. Ms. Fahey mentioned that going forward we will have to do a county-wide or basin wide water balance and groundwater model that will be funded by everyone. If you want to do your own separate study, it still has to be based on the same methodologies. It will all have to be approved by DWR when we submit our GSP(s).

Ms. Fahey asked the private pumpers involved in the potential new district if they are thinking about being a stand-alone GSA or is it too early to know? Mr. Williams said it's too early.

Ms. Fahey mentioned to Mr. Garner and Mr. Vanderwaal that discussions in Colusa County have been around one multi-agency GSA that covers the entire county. Mr. Garner replied that in Glenn County, the private pumper group just wants to be on equal footing with GCID. He thinks a multi-agency GSA is good. In Glenn County the private pumper agency would have to be a GSA because the County and some of the surface water districts have elected to be GSAs. He checked with DWR regarding the 90-day rule, and they have told him that if the new agency made an effort to file to be a GSA in a timely manner after the district is formed, they would be in good shape.

Question: Ms. Gallagher (PPAC) asked if there is anything precluding neighbors from getting together to do studies without forming a district, and submitting this information to the GSA. Is it the vote? What is the push to form the district? **Answer:** Mr. Garner answered yes, they could do that, but the district would ensure that everyone participates. It ties everyone together. It's more of being on an equal footing. Mr. Garner asked what the votes on the GSA would look like. Will it be one vote per district? The PPAC could form those roles, but they would need assurances.

Ms. Fahey stated that the Colusa GSA working group and the County have given private pumpers that option. The County is not against the private pumpers forming a District. They have also offered to give the private pumpers a voting seat or seats on a JPA board that serves as a multi-agency GSA.

Mr. Williams said that he is looking at this as a parallel process. At any point if they feel they will have adequate representation, they will not have to form a District, but they want to have the option.

PPAC Vision for Governance

Ms. Fahey mentioned that we will be hearing the surface water district proposal next week, which will move the governance discussion forward. She asked for any comments or updates from the PPAC on their proposed governance model (Appendix A).

Mr. Williams said that at the last Subcommittee meeting, we switched the Management Area Advisory Committee label to just Management Area (MA) because there was a thought that the authorities would be pushed down to the MAs. He doesn't see it that way. He feels that creates a division between MAs. He sees the structure as flowing up to the GSA.

Ms. Gallagher asked, wouldn't the GSA board be the backstop and to keep costs down and keep things flowing, implementation would be managed at the MA?

Mr. Williams said the two have to work together simultaneously.

Ms. Fahey said that this is one of the questions the group still needs to work through – what are the authorities of the GSA board vs. the MAs?

Mr. Vanderwaal said that the private pumpers want an acre of their land to be equal to a GCID acre. GCID is the single biggest district in Colusa and in Glenn Counties. We need to come to some collaboration with the water districts. There needs to be some understanding of acreage or water use.

Mr. Williams said it will come down to water use, the people using the groundwater. They should have more votes.

The following discussion took place:

Mr. Vanderwaal: You will need a water balance to show that your stake in the game is higher. If you want to have voting based on water usage, you should get that on the table now.

Mr. Williams: We don't know now, we don't have meters.

Ms. Gallagher: Votes and funding are important pieces that have not been worked out. If you go by acre it will be hard to sell. If we go by water use it makes more sense.

Lorraine Marsh, (PPA): At the last Governance meeting, a statement was made that if surface water users get a percentage cutback, groundwater users should have the same percentage cut back. GCID has stated that they have a claim to groundwater as well. There's current use and potential future use involved. We shouldn't charge fees based solely on current use.

Ms. Gallagher: Agrees with the 3- tiered funding approach (acreage, number of wells, water use) presented in the PPAC proposal. We really need to consider acreage vs use. She doesn't deny that surface water districts will want to put in wells. They are going to have to pay for it.

Mr. Williams: Surface water rights are already engrained. Private pumpers have used groundwater for numbers of years and now with SGMA they have to be subordinate to surface water districts. How can a surface water district's right to use groundwater be the same as mine?

Mr. Garner: This was challenged when GCID wanted to put in five large wells. A farmer paid someone out of his own pocket to develop a comment letter against the wells. The farmer just wrote the check. How much can one person put in to fight the fight? He encouraged the private pumpers to start now to organize to start to raise money and grow a fund for future advocacy.

Mr. Garner stated that private pumpers have been able to rely on groundwater and now the state has come in and changed the rules. Ms. Fahey mentioned that things are changing for the surface water districts too. Their allocations are being threatened and we all need to figure out how to deal with it and make it work, together. Mr. Vanderwaal mentioned that GCID and RD 108 have almost single-handedly been battling the environmental regulations. Ms. Fahey mentioned that this is benefitting all of us.

Next Steps / Action Items

- We will listen to the water agency proposal
- Ms. Fahey will schedule next PPAC meeting
- PPAC will continue ongoing outreach and organizing efforts

MEETING PARTICIPANTS

PPAC Members

Kim Gallagher
Darrin Williams
Jeff Moresco
Derrick Strain
Lorraine Marsh

Public

Mary Randall, DWR
Mike Andriotti, landowner
Theresa Bright, landowner
Sharon Ellis, Glenn County PPAC
Bill Vanderwaal, Provost and Pritchard
John Garner, Garner Law Office

Staff

Mary Fahey, Colusa County Water Resources

Appendix A: Proposed Governance Options

PPAC Option, Modified 9.20.2016

JPA, MOU or Chartered Organization (*review legal agreement options)

