

MEETING SUMMARY October 11, 2016

Colusa Sustainable Groundwater Management Act (SGMA) – Governance Subcommittee Meeting #3

MEETING RECAP

- The surface water districts (WDs/IDs) presented their proposed principles for SGMA governance.
- The PPAC provided an update on the formation of a water district in the white area near Arbuckle.
- The group identified that further refinement of the Management Areas is needed.
- The group will continue to define the Roles and Responsibilities, and tools needed to implement SGMA.
- The County will send a final letter to non-participating GSA eligible agencies to inform them that the County will assume GSA responsibility for their service areas.
- The County will work with the Center for Collaborative Policy (CCP) to draft an initial Agreement based on the Guiding Principles, the Water Agency Principles, County and Private Pumper needs, and have the Agreement reviewed by Counsel.

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

For information on SGMA visit the [Department of Water Resources SGMA Webpage](#).

MEETING SUMMARY

Opening Remarks

Dave Ceppos, CCP Facilitator opened the meeting, introduced himself, and welcomed subcommittee and observer introductions. Mr. Ceppos reviewed the agenda and explained that the surface water diverters (WDs/IDs) have met and developed a proposal that will be presented at today's meeting.

SGMA Implementation Updates

Mr. Ceppos reported on the following SGMA updates:

- The Glenn County group asked if Management Areas could be created with multiple objectives to address each of the sustainability indicators and it was determined that this is a possibility.
- There is a question throughout the state about what "compliance" means. If just one area of a basin is out of compliance, how will the state intervene? Will they manage the entire basin, or just the portion that is out of compliance? The State does not know yet.
- The State will not accept multiple agencies submitting multiple GSPs at different times. If there is more than one GSP in a basin, all of the GSPs and coordination agreements must be submitted at the same time. (10733.4b)

Question: Why would we have more than one GSP? **Answer:** That is up to the group to decide.

Question: Is there anything specific about how multiple GSPs will have to comply? **Answer:** Coordination Agreements will not be rubber-stamped. The State will look for specificity from each basin.

Question: Why would an agency that has already filed to be a GSA need to re-notice if a multi-agency GSA is formed? **Answer:** The governance structure must be defined in the filing. That is lacking in current filings. Each agency would have to rescind their current GSA filing and resubmit under the new multi-agency agreement. If a current GSA stays on their own, they would not need to resubmit.

Question: Would the JPA be the entity that files for a multi-agency GSA? **Answer:** Yes.

Discussion Topics

Surface Water Diverter Update (the full presentation can be found on the Colusa County Water Resources website: <http://countyofcolusa.org/index.aspx?NID=677>)

Thad Bettner, Glenn Colusa Irrigation District (GCID), provided a PowerPoint presentation outlining the surface water districts' draft principles proposal for Colusa and Glenn Counties. The water districts/irrigation districts (WDs/IDs) that participated in developing the principles included: GCID, Colusa County Water District (CCWD), Reclamation District (RD) 108, RD 1004, Maxwell Irrigation District and Westside Irrigation District, Orland Artois Water District, Glide and Kanawha Water Districts and Western Canal Water District. Managers from the WDs/IDs were involved as well as their attorneys. The WDs/IDs have not yet taken this to their Boards because it is still in draft form and subject to change. They would like to get feedback.

Slide #2: The following are key questions to think about:

1. How much water do I use?
2. Where does it come from? *For WDs/IDs most of the water comes from rivers and reservoirs. Groundwater comes from groundwater in storage, creeks, rivers, streams.*
3. Where could it go if I weren't using it?
4. What is sustainable? *Sustainability includes everyone in Colusa, Glenn, Butte and even the entire Sacramento Valley. It's all connected. It's a stewardship issue. We're all in this together and we should have a good understanding of the system.*

Slide #3: Primary themes include:

- Locally-controlled compliance with SGMA
- Mutual cooperation, flexibility, and fiscal management
- Respect for each member agency's discretion, authority, and expertise
- Avoidance of top-down planning and implementation. *We should keep decisions down at the lowest level possible and avoid having an over-arching GSA telling everyone what to do.*
- Balanced representation of private pumper interests

Slide #4: Preservation of each member agency's discretion to determine whether to be a GSA individually or join in a multi-agency GSA. *Noticed GSAs should be able to retain their ability to be an individual GSA. We have been talking about a multi-agency governing body. When talking with the districts and attorneys, there was a strong feeling that noticed GSAs should be able to retain their ability to be a GSA within the structure. If governance isn't working out, WDs/IDs must be able to maintain the ability to be their own GSA.*

Question: Are you talking about retaining your GSA status within the multi-agency GSA, or do you just retain the right to become a GSA later if the multi-agency is not working out?

Answer: This depends on DWR. If we have to rescind our GSA status to join a multi-agency GSA, then we will.

Comment: If RD 108's board has to make a decision to forever waive their rights, it's hard to make that decision. They want to work as a multi-agency GSA, but there needs to be a clause to say that they have the right to become their own GSA down the road.

Question: If an agency leaves the multi-agency GSA, it will disrupt the entire structure. Is there a timeline to refile?

Answer: the State does not have an answer at this point.

Comment: The only reason GCID would pull out of a multi-agency GSA is if the basin is not sustainable and management actions are not being taken to bring the basin back to sustainability.

Slide #5: Collaboration among member agencies to develop and implement a GSP or multiple GSPs should allow each member to approve its own GSP chapter or section and preserve each member's authority to manage the water resources available to their constituents or customers. *This is a bottom-up approach. The locals in each MA will be responsible for developing their own part of the Plan.*

Slide #6: SGMA governance and implementation must avoid duplicative or conflicting governmental authorities. Each member agency will have the right to implement SGMA within its boundaries. Each member agency retains and preserves police powers or other authorities it has to regulate groundwater use within its boundaries in order to achieve sustainability.

Question: if we need management actions across the entire county, such as a county-wide cutback during drought, how do we do this if there are stand-alone GSAs doing their own thing?

Comment: As a water district that is not a GSA, I want to be able to utilize my own authorities.

Answer: Each MA or each district would decide if they want to enforce the management actions or let the overarching GSA carry out the enforcement.

Suggestion: Add language to Slide #6: "...as long as we're sustainable." If not, then there needs to be oversight by the overarching GSA.

District-specific Principles

Slide #7:

- Landowners within WDs/IDs are overlying landowners and have the same overlying rights to groundwater as overlying landowners in the private pumper white areas.
- WDs/IDs act on behalf of the landowners in their service area. WDs/IDs will cooperate with their landowners to manage and optimize their share of the natural recharge of the Basin at the District level. *Instead of letting landowners manage on their own, WDs/IDs will have more of a distinct plan and oversight of their landowners.*

Question: On the second bullet, you are going to manage your landowners' overlying right and move their groundwater around the district. It seems like you are becoming an appropriator. It's becoming a pool of water.

Answer: Yes, we would probably have agreements with our landowners. It's a question of what right they currently have to use groundwater. Instead of putting in 500 wells throughout the district maybe we only put in a few and share the water. We could use district-owned wells or individual owned wells that the district uses. It's more efficient to put in fewer wells and share the water. If landowners feel they aren't protected, they would probably put in their own wells.

Comment: SGMA did not rescind overlying rights, but it does give the agencies the right to set conditions on pumping.

Slide #8: WDs/IDs recharge the groundwater basin with surface water and may need to call on this recharged groundwater as surface supplies become more limited.

Question: Is there a way to determine if all surface water was shut off, what our water balance would be like. If you are differentiating the right to be able to call on this water, you need to be able to quantify how much groundwater is from recharge and how much is natural.

Answer: It's very complicated in our basin. A groundwater model can give us a number then we need to work with the group to determine if we agree with the number.

Comment: Mr. Ceppos said he has been hearing what he calls the "my groundwater use is more virtuous than yours" debate ramping up. Everyone is starting to define themselves as having groundwater use that is more beneficial and virtuous to the greater good of the County and Subbasin. We need to get past this.

Comment: GCID has all these numbers. We can share them and they will come out in the water balance.

Comment: If you're going to start quantifying which water belongs to whom, I don't know what that is going to get you. You could spend a lot of time and money trying to figure that out, but, again, what is it going to get you?

Question: Is surface water going to become more limited in the future?

Answer: We are fighting hard to retain what we have, but there are threats to the supply.

Comment: I know you have data and you can come up with a number that you can claim is attributable to recharge. How much of that are you going to claim you have a right to? This is going to be a key point. Not all of that water will remain in your district. It will move through the basin. As groundwater users, this is our biggest fear. When I see that you are going to use transfers to finance activities in the district, there will be an increased need to facilitate these transfers and an increased need to utilize groundwater.

Comment: What if groundwater transfers weren't even on the table and this was just for the growers? The WDs/IDs biggest concern is not whether we can transfer, it's whether we will be able to farm.

Question: Are you saying that in a dry year, you get extra groundwater?

Answer: When we come up short with surface water supplies, we will charge our growers more to use the groundwater that we have recharged using our resources.

Mr. Ceppos addressed the private pumpers and asked them to think about if there was no surface water, what would their groundwater look like? It cuts both ways.

Mr. Williams replied that they understand that. The concern is the future loss of surface water and increased use of groundwater. We need to have a meeting of the minds – work together.

Slide #9:

- Additional flows will be needed to meet increasing environmental requirements in streams, rivers, the Bay-Delta or for other purposes. All users have an obligation to meet those requirements. *This includes groundwater users. They are pulling water from creeks and streams.*
- Surface water districts may be willing to meet basin shared obligation but additional groundwater pumping may be needed.

Slide #11: These are some of the big issues:

- The Sacramento River is a losing stream from Redding all the way downstream.
- 30-40% of irrigation demand is met by groundwater in the Sacramento Valley.
- The State Water Resources Control Board (SWRCB) is initiating Phase II of the Bay-Delta Plan. *In the San Joaquin River they are asking for an additional 350,000 AF of water to be left in the river. The 2010 Flow Report showed an estimate of 1,000,000 AF from the Sacramento Valley. This is our biggest challenge right now. We want private pumpers in the room to help come up with solutions.*

Slide #12: WDs/IDs will use surface and groundwater for local transfers to meet local demands. Following transfers will also occur both in and outside of the basin. Revenues will be used by WDs/IDs to help fund their increasing surface water costs, SGMA implementation, etc. Transfers will potentially serve as a tool to settle disputes over environmental obligations or to mitigate impacts during drought periods. *Groundwater transfers will only be local. Following transfers will only be used for out of basin transfers. Revenues will be used for district obligations. Nothing will be done behind closed doors.*

Slide #13: Where actions are required, WDs/IDs will attempt to contribute to solutions but groundwater users will also be required to contribute. *WDs/IDs are committed to local actions.*

Slide #14: Governance Questions:

- We need to continue to define proportionate interests, voting, costs
- Current MAs cut through many of the districts
- If the County appoints MA representatives, are those representatives accountable to the County?
- Need to identify a suite of actions and tools now based on desired outcomes which will then inform governance

These are all items we still need to work through.

PPAC Update

Mr. Williams reported that they are in the process of forming a water district in the area east of Arbuckle and the Arbuckle city parcels. They are gathering names and Assessor Parcel Numbers (APNs). They haven't contacted all landowners but already have a verbal 60% agreement. No one has said they don't want to participate so they are moving forward.. This approach is like GCID's approach to becoming a GSA while continuing to work with the group. This is an effort to become organized and to be better able to contribute to the process. They don't want to rely on the data from the water districts. They want to have the ability to generate their own data. They do hope we can form a multi-agency GSA that represents the private pumpers, but nothing is certain. They are going to go ahead and file the application and see where it goes.

Question: Who is proposing to form a district, all of the white areas? **Answer:** No, just the Arbuckle areas.

Comment: If you form a district you will be under all of the State requirements which can be burdensome.

Question: Have there been conversations with the agencies that aren't participating? For instance, RD 479 could be part of the new district. The area from Colusa south to RD 108 is not well organized. **Answer:** Colusa Drain and RD 479 are still trying to figure out what they want to do.

Mr. Ceppos said that he has been talking to the State Water Resources Control Board (SWRCB). The County is the only agency that has to opt out of SGMA if they don't want to participate. This puts them at a disadvantage because they have to define the white areas to know what they are going to manage. Mr. Ceppos suggested to the SWRCB that they come forward with a policy statement of how a County can do that. The SWRCB agrees with the idea that counties give a drop dead deadline to non-participating agencies, but they will not make this a formal policy statement.

Mr. Ceppos asked the WDs/IDs what proportional representation means? What is proportional? The WDs/IDs presentation contains several slides stressing balanced, proportional representation. What does that mean?

Lewis Bair (RD 108) said he was thinking about the governing board containing five private pumper representatives. It was an initial reaction that generated that. WDs/ID's have 80% of the acreage vs. the 15% private pumper acreage. He doesn't know what decisions that governing board is going to make. We haven't defined those decisions so it's hard to decide what makes sense on the governing board.

Question: Could there be different voting rights for different activities? **Answer:** Yes

Comment: In the PPAC presentation, there was a three-tiered fee schedule – per acre, per well, per water use. This approach to revenue makes sense, but we still need to determine how big each piece of that pie is. If it's more heavily weighted on water use, then is it right to base your governance proportionality on land use?

Mr. Ceppos asked the group if it is in the realm of possibility to have one seat, one vote, if we continue to pursue a multi-agency governance structure. At the end of the day, it is going to come down to trust. Do we need to drill down to these mathematical equations?

Mr. Williams replied that when the PPAC put together the chart the intent was not to be heavily swayed in favor of groundwater pumpers or water districts. It would be best suited if there is representation from all groundwater users. That's why there are five MAs to include groundwater users from five areas of the county. We all have to work it out together. There is not much to gain by talking percentages on the GSA board.

Comment: As long as there is language that makes the agencies feel protected, then yes, one vote would be okay. If we can achieve the minimum bar by June 30 with some comfort language in a formal agreement, I would be good.

Mr. Ceppos asked the group why they are asking the proportionality question. What are they trying to protect?

Comment: I have no idea because I don't know what we are going to have to do. I just saw the five boxes for a small percentage of land. It seems like it's swayed. I really struggle not knowing what decisions that governing body is going to have to make.

Comment: We lack a lot of information. I would like to have more details of what actions take place in the MAs. We have subsidence and falling groundwater levels. We are not sustainable now. Tell me what we are going to do, what tools we are going to have to use to get back to sustainability. We need to start getting into the issues and numbers to figure out what they really mean. The GSP is going to have to say, here is what is going on in this area, and these are the management actions.

Comment: The MA will take care of the issues and the GSA board will not have anything to do. But if the MA doesn't do its job, the GSA will have to take action. We've been working on figuring out the top box (the multi-agency GSA) we need a better idea of what the MA groups will do.

Mr. Ceppos asked the group if, with what information we have now, we could define MAs. We have looked at a couple of options that don't match a hydrogeologic approach. Do you feel you have the information to take a reasonable crack at MAs by June 30, or do we need to do \$800,000 worth of studies?

Comment: We have a county-wide Groundwater Management Plan (GMP) that has some good hydrogeologic information. We can gather information out of the GMP and out of studies that have already been done. We can at least come up with some MAs as a starting point.

Mr. Ceppos asked the group to fast-forward to June 30, 2017. If you did no other work, you would have to present something to the state showing that you are compliant. Here's what we know:

- By June 30 the PPs will have to rely on the County because their district will not be formed by then.
- The County has said that they are not prepared to rescind their overlap until they have seen some things fall into place.
- The County is responsible for the white spaces.
- At the bare minimum, every square inch of the basin must be covered and there can be no overlaps.

We could stop this right now. It would not resolve how we are going to put up \$800,000 for studies.

Comment: Isn't another approach that we sign a legal agreement with language that we will reserve the right of the districts to form their own GSA and the right of the private pumpers to form a district and a line about funding. The County could submit as the GSA for the entire county area of the basins with those conditions in the legal agreement.

Mr. Ceppos said, yes, everything you have said is accurate, but the devil is in the details. What will the County want to see in the agreement to make sure the interests of their constituents are covered? What will the private pumpers want to see in the agreement? Does it still make sense now to keep working on the MAs and add specificity to these things?

Comment: We could put the work plan process that Grant Davids is working on in the Agreement. Try to get it done in the next couple of months. This will be our first trust-building exercise. The districts would be willing to advance funding as long as we get credit in the agreement. Let's put some of these things in place now and keep this thing going.

Mr. Ceppos proposed that maybe it's time to have two conversations at once; one defining governance and one to form the agreement. Maybe we get to a JPA by June 30.

Mr. Ceppos asked the private pumpers for their thoughts.

Mr. Williams said that we are in overlap until things fall into place for the county. What does it look like in the end? I don't know if we would sign onto it. There needs to be more specifics.

Comment: We need to know who is in the top box on the chart (multi-agency GSA), to know who is participating. We have talked about one seat, one vote. Then we move forward on the agreement. We need to know who's in the group to be signing on to the agreement.

Comment: When we talked about MAs, the main purpose was for implementation. MAs are crucial for actions and implementation. Do we form MAs for hydrology or for implementation?

Comment: I don't think it would be that hard. The Districts have expertise in their areas.

Comment: GCID cannot go any further without their Board and attorney beginning to review things and then they need to go out to their landowners. Some sort of an agreement documenting some details is needed for them to keep going with these conversations.

Mr. Ceppos proposed the County draft some initial language and work with counsel, or have one of the surface water diverters do this. All agreed that the County could move forward with this.

Conclusion/Action Items

- County to send final letter to GSA eligible agencies that have not been participating informing them that we are moving forward and the County will assume responsibility for their service areas
- Responses to the letter will define immediate signatories
- County and CCP to draft an initial Agreement based on the Guiding Principles, the Water Agency proposal, and what the County wants, and possibly some items from the PPAC proposal, and have the Agreement reviewed by Counsel
- Receive and review draft work plan from Grant Davids and discuss at next meeting
- Continue to define Management Areas
- Continue to define Roles and Responsibilities

Participant List

➤ Denise Carter	Colusa County Supervisor
➤ Shelly Murphy	Colusa County Water District
➤ Mike Mitchell	City of Williams
➤ Derrick Strain	Private Pumper Advisory Committee (PPAC)
➤ Thad Bettner	Glenn Colusa Irrigation District
➤ Lewis Bair	Reclamation District 108
➤ Darrin Williams	Colusa County Groundwater Commission/PPAC
➤ Kim Gallagher	PPAC
➤ Dan Ruiz	Maxwell Irrigation District, Westside Water District
➤ Jen Archuleta	Integral Consulting
➤ Carol Perkins	Butte Environmental Council

Staff

- Mary Fahey Colusa County Water Resources Coordinator
- Dave Ceppos Center for Collaborative Policy