

## **MEETING SUMMARY January 27, 2017**

### **Colusa Sustainable Groundwater Management Act (SGMA) – Governance Workgroup Meeting #11**

#### **MEETING RECAP**

- All members at the table confirmed that they intend to participate in a multi-agency Groundwater Sustainability Agency (GSA) for the Colusa County portions of the Colusa Subbasin. These agencies are: the County of Colusa, the City of Williams, Glenn Colusa Irrigation District, Reclamation District 108, Colusa County Water District, Princeton Codora Glenn and Provident Irrigation Districts, Maxwell Irrigation District and Westside Water District, and Reclamation District 479. It was confirmed that the City of Colusa, not in attendance, also intends to participate.
- Reclamation District 1004 is in the West Butte Subbasin and it is still to be determined whether the GSA will cover the County portions of both basins.
- The agencies agreed to include Colusa Drain Mutual Water Company and two private pumper representatives as appointees to the Board.
- The participating agencies preliminarily agreed to a voting structure of one agency=one vote. This includes one vote for each of the two private pumper representatives as well as one vote for the County.

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, facilitator from the Center for Collaborative Policy (CCP), Sacramento State University, welcomed meeting participants, introduced himself and provided an overview of the agenda.

Mr. Ceppos provided a recap of recent work done by the GSA Workgroup. He reminded the group about the new seating structure that was set up at the last meeting where the GSA-eligible agencies that are currently planning to participate in governance are seated at the table and members of the public are seated in the audience. The meetings are more structured and work-focused than previous meetings.

##### **SGMA Process Updates**

Mr. Ceppos reported that the Glenn County Governance group is following Colusa's path. In anticipation of work being done by the Colusa Legal Review Subcommittee (LRS) to refine the MOU, Glenn County postponed their last governance workgroup meeting. Mr. Ceppos took the opportunity to meet with two Glenn County Supervisors and Water Resources staff during the scheduled meeting time to coordinate and continue to move things forward. Glenn County is currently finalizing their "speak now or forever hold your peace" letter to all the GSA-eligible agencies. This is an important step to finalize GSA participants and to create an administrative record. Glenn County is also finalizing their version of Common Principles. The next Glenn GSA Workgroup meeting is February 8.

Glenn County had the first meeting of their Private Pumpers Advisory Committee (PPAC) last week. The majority of the meeting was used to review the December version of the Memorandum of Understanding (MOU). The PPAC was also given homework to review the Common Principles document.

Supervisor Carter provided an update on the last Colusa County PPAC meeting. She said that the County wants private pumpers to have a seat on the GSA Board. It is the County's understanding that they can assign private pumper seats on the GSA Board if the other members agree. The County plans to keep the Groundwater Commission in a restructured form. New requirements for Commissioners will be developed and a new

application process will be put in place. The County is recommending two private pumpers on the GSA Board from the Groundwater Commission. The Groundwater Commissioners would choose the two representatives.

Ms. Fahey provided an update on the Board of Supervisors meeting earlier in the week. She gave the Board an update on SGMA planning efforts in the County. She asked the Supervisors for general approval of the current direction, including three specific items: creation of a multi-party agency wherein all agencies rescind their GSA status and reform as a single agency; moving forward with the MOA attempting to complete a Joint Powers Agreement (JPA) by the June 30 deadline; and inviting two private pumper representatives to the GSA Board. The Board of Supervisors were all supportive of this current path.

Mr. Ceppos mentioned that next week will be the first Supervisor “2X2” meeting with two supervisors each from Colusa and Glenn Counties in attendance. The group will discuss the West Butte subbasin as well as the Colusa Subbasin. The two counties are not obligated to have the same structure but coordination agreements will have to be in place. In the near future there will also be a second staff/facilitator meeting with representatives from Colusa, Glenn and Butte counties.

Mr. Ceppos opened the floor to questions. There were none.

### **Discussion – Draft Memorandum of Understanding**

Mr. Ceppos provided a quick overview of the January 17 Legal Review Subcommittee (LRS) meeting. He provided background on how the group arrived at development of the MOU, which has transitioned to an MOA to be consistent with the language in the statute, and the current path to a JPA. Mr. Ceppos provided an overview of the Critical Path timeline. Although the LRS decided to push forward to develop a JPA, they recognized that it is going to be a heavy lift to get this done by June 30. If that deadline cannot be met, the MOA will be available as a backup. The goal today is to clean up the MOA which the group will continue to refine as they work on the JPA.

Mr. Ceppos turned the group’s attention to the redline versions of the MOU. He explained that Rob Donlan, counsel for Colusa County, did a first legal review of the MOU and forwarded his redline version to the other attorneys for comment prior to today’s meeting. Attorneys for Glenn Colusa Irrigation District (GCID), Reclamation District 108, Princeton Codora Glenn/Provident/Colusa County Water District and Maxwell Irrigation District/Westside Water District provided further comment on their clients’ behalf.

**Question:** In the interest of time, can we jump ahead to a discussion of membership and voting rather than going through the MOA? Legal can continue to review the language, but we will need to spend a lot of time on these other elements. **Answer:** Yes, we can do that, but let’s ask the agencies whose attorneys have reviewed the document for any comment on items that are significant to them.

**Comment:** Mr. Bettner (GCID) stated that Mr. Donlan had done a great job and that GCID had only minor edits to suggest. He called out three items, below:

- Item 2.3: No major changes, just worked on the language
- Added Section 3.1: Provision that the MOA will only exist for 12 months. The feeling is that if we can’t get it done by then, we will say we tried but will have to go back to being a stand-alone GSA. We don’t feel we can let this process go on indefinitely.
- 4.1.9: GCID is in two counties. We want to make sure we have the right to withdraw if the two counties don’t have the same process.

- 5.1.5: We want this section to stay in. If we are not sustainable as a basin because a member is not complying, we want to have the right to withdraw.

**Comment:** Ms. Murphy (Colusa County Water District) stated that her District wants more flexibility in 5.1.5 to be able to withdraw, rather than specific stipulations.

**Comment:** Mr. Bettner said that they want some conditions for being able to withdraw so agencies can't just pull out. We can better define this language.

**Action:** *Revisit stipulations for entities to be able to back out of the Agreement.*

**Comment:** This goes back to GCID's statement that the Agreements between the two counties should be the same or they would have to back out. That could be a stipulation.

Mr. Ceppos stated that it is important to the agencies that exist in both Colusa and Glenn Counties that both counties stay consistent.

**Comment:** Mr. Ruiz (Maxwell Irrigation District and Westside Water District) stated that there was nothing material in their attorney's comments, mostly wordsmithing. They did want to see management areas included. Mr. Ceppos reminded him that the group agreed we would get to management areas later in the process.

**Comment:** John Garner (Princeton Codora Glenn and Provident Irrigation Districts) said that it is important that there is flexibility in withdrawing. They don't see that they would ever withdraw, but their districts are very sustainable and their concern is that they don't want another area of the basin to drag them down. Mr. Ceppos mentioned that the Management Areas could cover this. Mr. Garner said that their attorney wanted to make clear that he is very comfortable with the MOU as it is, with some wordsmithing. For the sake of cost we should put heavy effort into the JPA. Their board agrees with this.

**Comment:** Ms. Murphy reiterated they want the flexibility to be able to withdraw. They agree with pushing to get the JPA completed and getting some of the questions regarding voting and funding answered.

**Comment:** Mr. Bergson said there will be comments coming from their attorney, Best, Best and Kreiger.

**Action:** *Ms. Fahey and Mr. Ceppos will follow up with Mr. Donlan on cleanup work on the MOA.*

**Action:** *Mr. Ceppos will work with Kevin O'Brien on the JPA.*

**Comment:** Mr. Marsh stated that Colusa Drain Mutual Water Company should be included in the Agreement.

Mr. Ceppos reminded the group that mutual water companies, or any private entity, cannot be a stand-alone GSA, they must be invited to participate. The legislation did not want a private entity/agency on a governing body. According to the State Water Resources Control Board, any GSA with a legal agreement that includes a mutual water company as signatory is considered to have an invalid agreement. Mutual water companies must be invited by the signatory members, and those members give the appointed entity the authority. The group needs to discuss whether they want a seat for any mutual water company, or a single representative for all of the mutuals. Mutual water company footprints are ultimately the responsibility of the County.

Mr. Ceppos opened the floor to questions.

**Question:** Ms. Marsh brought up item 5.2.5 on the GCID version of the draft MOA, regarding recharge attributable to leakage. Mr. Williams had suggested some refined language at the last meeting. It needs to be broadened to include all sources of recharge.

**Comment:** Mr. Bettner said that there are many questions that a water balance and other studies will clarify.

**Comment:** Ms. Marsh expressed concern that surface water users can claim that water.

**Comment:** Ms. Fahey clarified that Mr. Donlan had removed this item from the MOA. His opinion is that the Agreement should be kept at a high level and details like this should be addressed in the GSP.

**Comment:** Mr. Garner said that the question is who owns the water under your soil. State law says that you have the right to pump the water under your ground. We haven't gotten to adjudication. It is premature to try to determine who owns the water. It would come under the management areas. If the area is unsustainable, it becomes a management and planning problem. He doesn't think we need to have these details in the Agreement.

**Comment:** Mr. Williams said that the MOA includes all beneficial users and this statement applies to all surface water users. His suggestion is to also include groundwater users because there are BMPs that can be utilized to encourage recharge. This language should be expanded to include everyone. These studies will be defined in the GSP.

**Comment:** Ms. Carter said that 5.2.8 is a more general statement. It has been word-smithed more and now it has been deleted.

**Comment:** Mr. Bettner said that the surface water districts are just saying that they spend a lot of money to bring water in and they want recognition of that. If that water is net recharge to the basin, that's a benefit. That recharge is there and we need to study it.

***Action: Ms. Fahey and Mr. Ceppos will work with Mr. Donlan to develop language for item 5.2.5 that takes the above concerns into consideration.***

**Comment:** Mr. Moresco said that this statement (5.2.5) needs to be removed. There are many other sources of recharge and this just complicates things. If it percolates below the root zone, everyone has a right to it.

#### **Discussion – Preliminary Work on Joint Powers Agreement**

Mr. Ceppos turned to the Critical Path timeline. Today we will begin to look at:

- Membership and Appointments
- Voting Structure
- Funding

Mr. Ceppos talked about roles and responsibilities of a GSA. We are creating a governing agency with far reaching responsibilities.

Mr. Ceppos addressed the agencies at the table and asked if any of them did not intend to have a membership role. All seated agencies indicated that they intend to participate, plus two private pumper representatives.

**Question:** Mr. Ceppos addressed Mr. Ruiz who represents two organizations (Maxwell Irrigation District and Westside Water District) and asked if he intends to have one or two representatives on the GSA Board. **Answer:** Probably one but he will need to ask his board. **Question:** Mr. Ruiz asked if other agencies are expected to sign on to the JPA later in the process. **Answer:** Yes, that is the path.

**Comment:** Mr. Garner stated that similarly to Mr. Ruiz' Districts, Princeton Codora Glenn and Provident Irrigation Districts will likely have one representative, but he will bring this to their full boards as well.

Mr. Ceppos asked Ms. Fahey about any other agencies. She stated that the City of Colusa could not be here today, but they want to participate. Two other entities, Roberts Ditch and Arbuckle PUD, expressed interest but have not been participating. Mr. Ruiz stated that Roberts Ditch is a mutual water company.

**Action:** *Ms. Fahey to follow up with Roberts Ditch and Arbuckle PUD.*

**Question:** Since Irrigation Districts also have private pumpers who are not on the PPAC, shouldn't they be able to appoint a private pumper too? **Answer:** The GSA-eligible agency gets to speak for everyone inside the footprint of the agency service area.

**Question:** Mr. Ceppos asked Ms. Carter if the Colusa County Groundwater Commission members would all be outside of water district boundaries. **Answer:** Ms. Carter said that has not been decided yet.

Mr. Ceppos said that the County Groundwater Commission could be a vehicle for representing private pumpers in an irrigation district that has not noticed.

**Question:** Could we have two voting members from each agency and at least one be a private pumper? **Answer:** This would not work. Private pumpers will have representation from the two private pumpers on the Board and the Groundwater Commission.

**Summary:**

- Everyone at the table will participate on the multi-party GSA
- Ms. Fahey will follow up with Roberts Ditch and Arbuckle PUD
- There will be two seats for private pumper representatives

**Question:** Mr. Ceppos asked Mr. Marsh if he thought there should be representation from all mutual water companies, or just Colusa Drain Mutual Water Company (CDMWC). **Answer:** Mr. Marsh said that he does not know about the other mutuals, but Colusa Drain Mutual should be included.

Comment: Mr. Garner stated that he has no problem with CDMWC on the board. They deal with them anyway. CDMWC encompasses three counties. They could be part of the solution if there are issues.

**Question:** Can you pick and choose which mutuals you want included, or do we have to take them all? **Answer:** You can pick and choose.

**Comment:** We could pick one representative for all mutuals on the Board.

**Comment:** Mr. Bettner said if CDMWC wants to join that's fine. They need to really think about it though because they are a different entity. They are private, they don't have to operate under the Brown Act, they don't have to expose their financials, etc. There are some benefits to being a mutual. If they come on this Board, I am guessing they will be subject to all of the County JPA requirements. Will they have to have public meetings now? I'm fine, but the mutuals need to think about these things.

All at the table stated that they are okay with CDWMC on the Board.

**Comment:** We should ask them to confirm they want to participate.

**Comment:** Ms. Fahey stated that she has spoken with Mr. Wallace this week and he has expressed that they definitely want to participate.

***Action:*** Ms. Fahey to coordinate with the mutuals and County to finalize if there are other mutual water companies that want to participate in governance. Explain that they have to be invited, the roles and responsibilities, etc.

***Action:*** Colusa Drain Mutual Water Company to be invited to participate.

Mr. Ceppos turned to voting structure. He discussed voting structures in other basins. Yolo County formed a Voting Structure subcommittee. Their recommendation is one entity = one vote and that the voting structure should be separate from the funding structure. Different agencies will contribute differently based on several factors. Other groups are looking at proportional voting. Mr. Ceppos stated his opinion that we could argue for a long time for proportional voting, but it is irrelevant. SGMA defines our fate at the subbasin level. At the end of the day, the entire basin must be sustainable.

**\*Key Question:** Mr. Ceppos asked the group if anyone favored proportional voting. **Answer:** All said No.

**\*Key Question:** Mr. Ceppos asked the group if anyone was opposed to one entity = one vote. **Answer:** All said no.

**\*Key Question:** Mr. Ceppos asked the County, since they are recommending two seats for private pumpers, are they recommending equivalent authorities? **Answer:** Yes and one vote per private pumper, plus one vote for the County.

**Question:** Mr. Ceppos asked the County if they expect that the Private Pumper representatives will vote consistently with the County? **Answer:** No.

**Question:** Will the private pumpers be subject to public agency responsibilities? **Answer:** We have to get attorney feedback on this. We can research the Sacramento Groundwater Authority.

Mr. Ceppos said that the legislature decided that local agencies with land use, water supply and water use authority can be a GSA. That's it. What we do beyond that is up to us. We have local control. The original signatories to a JPA will have to be the eligible GSAs only. Everything beyond that becomes an invited entity, like the mutuals, or an appointment, in this case the private pumpers. This triggers Code 6500 of the Joint Exercise of Powers Act. An appointee can be given equivalent authorities. We don't know about the equivalent responsibilities, such as disclosures.

Mr. Steidlemeier said that he believes there's a difference between being an original member and being on the Board. You can have anyone on the Board but not everyone will necessarily be part of the GSA. You can grant the non-GSA eligible agencies equivalent authorities but they wouldn't have the equivalent public requirements. A mutual water company can be part of the Board but not part of the GSA. It can still vote, etc.

***Action:*** Get legal clarification from Mr. Donlan, Mr. O'Brien on public agency requirements for the appointed mutuals and private pumpers.

**\*Key Question:** Mr. Ceppos asked the group if there was any opposition to two private pumpers having the same authorities as the other Board members, but with no strings attached.

**Comment:** Mr. Vanderwaal, RD 108, said that they discussed this at their last board meeting. There was reluctance about this. They are committed to funding this effort but question how the County will get the funding from private pumpers that are sitting on the Board. They need to be able to explain to their landowners how the private pumpers are going to carry the burden. He is starting to see in Yolo County agencies saying they want voting to be more proportional to their funding contribution.

Mr. Ceppos said they are seeing throughout the State the need to have a separate financial agreement between the agencies, clarifying that each agency will pay so much. Each agency will contribute for the first couple of years. This is why we had Grant Davids complete the Work Plan. There could be an MOU between the participating agencies that each will contribute a certain amount for a specified amount of time after which a funding process will be in place and the convening agencies will be reimbursed. This is happening throughout the State. There will be some state funding coming, but not much. There is no other source of funding until we put Proposition 218 into effect.

**Question:** Mr. Vanderwaal asked how the County is going to get the private pumpers to pay their fair share.

**Answer:** Ms. Carter said that will be up to the JPA. In the beginning stages the County will probably have to front the money, and if the Proposition 218 funding passes, we will get paid back. The same thing will happen for the districts.

Mr. Ceppos asked the group to consider if they prefer equivalent or proportional funding, or a good faith effort where each agency contributes what they can. Or will it be pay to play?

**Comment:** Mr. Garner expressed that when we hired Grant Davids to complete the Work Plan, several agencies pitched in the same amount, no matter what size. Their district is one tenth the size of some of the larger districts. If you look at being as fair as possible, a per-acre fee structure might be a better way to fund. They get all of their income off of a per-acre charge. The first time will be voluntary, but hopefully it will equal out.

**Question:** Mr. Ceppos asked if the County could cover a per-acre charge, with the larger acreage that they will cover. **Answer:** Ms. Carter said that is a concern. The County is definitely willing to contribute but it might have to be something where they get paid back later. We are now contributing Water Resources staffing and we would continue to do that. We do expect every landowner to pay eventually.

**Question:** When we get to charging landowners, is there the potential to use the County's tax roll? **Answer:** Yes, there is that potential. The County does have a Water Resources and Flood Control District. It hasn't been active but the shell of the organization is there. That may be an avenue we could use.

**Action:** *Mr. Ceppos will send to Ms. Fahey for distribution sample funding mechanisms from around the State for the group to review.*

**Question:** How long, if all goes well, will it take to get a 218 in place? **Answer:** Two years.

**Question:** Can landowners contribute voluntarily to a JPA? **Answer:** Yes, I think so.

**Action:** *At next meeting we will revisit the Work Plan developed by Grant Davids.*

Mr. Ceppos provided a synopsis from today's meeting:

- Ms. Fahey will communicate with the mutual water companies
- All members at the table have confirmed that they will participate on the GSA, plus the City of Colusa and Colusa Drain Mutual Water Company who could not be at the meeting today
- Mr. Ceppos will coordinate with Mr. O'Brien to modify the draft JPA language
- The group agreed to the one vote per one entity approach
- We have not decided if the voting will be attached to the fees
- Mr. Ceppos will provide sample funding structures
- The group has homework to review the different funding mechanisms and bring forward ideas for frontloading the funding. We realize that the group will have to foot the bill for the first couple of years

- At the next meeting we will have a clean-up of the MOA, this will be the Agreement that Mr. O'Brien will integrate into the JPA
- Mr. O'Brien will bring forward the draft JPA with articles included
- Mr. O'Brien will bring forward language on membership and governance

**Question:** Mr. Marsh asked if Mr. O'Brien would include CDMWC in the GSA? **Answer:** Yes, that will be included.

**Action Items from This Meeting:**

- Ms. Fahey to contact Roberts Ditch and Arbuttle PUD to clarify their intent
- Ms. Fahey to contact the mutual water companies to clarify their intent
- Mr. Ceppos will work with Mr. O'Brien on updating the JPA
  - Include stipulations for an agency to back out of the Agreement
  - Draft language on voting, one agency = one vote
- Ms. Fahey to coordinate with Mr. Donlan on updates to the MOA
- Mr. Ruiz to confirm with his Boards that there will be one representative on the JPA for Maxwell Irrigation District and Westside Water District
- Mr. Garner to confirm with his Boards that there will be one representative on the JPA to cover Princeton Codora Glenn Irrigation District and Provident Irrigation District
- Ms. Fahey to get clarification from Mr. Donlan regarding public records requirements for the appointed Mutual Water Company and Private Pumpers
- Mr. Ceppos to provide sample funding mechanisms from other basins
- Revisit Work Plan for funding discussion at next meeting

## Participant List

<b>GSA Workgroup Members</b>	
➤ John Garner	Princeton Codora Glenn and Provident Irrigation Districts
➤ Chuck Bergson	City of Williams
➤ Darrin Williams	Colusa County Groundwater Commission/ Private Pumper Advisory Commission (PPAC)
➤ Denise Carter	Colusa County Supervisor
➤ Terry Bressler	Reclamation District 1004
➤ Charles Marsh	Reclamation District 479 & Colusa Drain Mutual Water Company
➤ Bill Vanderwaal	Reclamation District 108
➤ Thad Bettner	Glenn Colusa Irrigation District
➤ Dan Ruiz	Maxwell Irrigation District and Westside Water District
➤ Shelly Murphy	Colusa County Water District
<b>Members of the Public</b>	
➤ Lorraine Marsh	Colusa County Groundwater Commission/PPAC
➤ Luke Steidlmeyer	Attorney
➤ Mary Randall	Department of Water Resources
➤ Sharon Ellis	Glenn County
➤ George Pendell	Stony Creek
➤ Gilbert Ramos	Private Pumper
➤ Christy Scofield	Private Pumper
➤ Greg Plucker	Colusa County Planning and Building
➤ Kim Gallagher	Landowner/PPAC
➤ Hilary Reinhard	Landowner
➤ Rod Bradford	Landowner
➤ Lisa Hunter	Glenn County
➤ Nathan Peterson	Private Pumper
➤ Michael Alves	Kanawha Water District
➤ Craig Bradford	Mayflower Farms
➤ Sophie Carrillo	Interested party
➤ Ann Davies	Pacific Gold Agriculture, Colusa
➤ Jeff Moresco	PPAC
➤ Joe Carrancho	Private Pumper
➤ Derrick Strain	PPAC
➤ Lance Boyd	Princeton Codora Glenn and Provident Irrigation Districts

### Staff

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