

MEETING SUMMARY March 23, 2017

Colusa Sustainable Groundwater Management Act (SGMA) – Governance Workgroup Meeting #15

MEETING RECAP

- The Workgroup reviewed and discussed the latest version of the Colusa Joint Powers Agreement (JPA), with comments included from the 3/21/17 Legal Review Subcommittee meeting.
- Due to new information from DWR that they will be developing data to support Groundwater Sustainability Plan (GSP) formation, it was decided to put on hold any work on a request for proposal for a Water Budget.
- After discussion about whether JPA members should be elected officials or staff, or a combination, the group agreed to keep the current language, with elected board members serving on the Groundwater Sustainability Agency (GSA).
- There was disagreement regarding whether the Proposition 218 process should be initiated county-wide by the GSA or if individual agencies should do their own. A Proposition 218 Subcommittee was formed to develop options and pros and cons of each option.

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MEETING SUMMARY

➤ Opening Remarks

Mr. Ceppos, the facilitator, introduced himself, welcomed everyone and explained the facilitation procedures for the meeting. He then provided an agenda review.

➤ SGMA Process Updates

Mr. Ceppos said that lately, members of the group have been having more and more questions regarding GSA formation. To date there has been a lot of back and forth between the facilitation team and the Department of Water Resources (DWR) and the State Water Resources Control Board (SWRCB). It may be helpful if the member Agencies start asking the questions directly of DWR and SWRCB instead of funneling them through the facilitation team.

Mr. Ceppos reported that some questions have come up in Glenn County regarding the West Butte and Corning Subbasins. RD 1004 has decided to be a stand-alone GSA. RD 2106 in the Glenn County portion of the West Butte Subbasin has recently noticed themselves as a GSA for an area that exceeds their service area – a non-starter with the State. SWRCB recently released policy guidelines stating that SB 13 is not retroactive, which is being interpreted to mean that any overlaps that existed before SB 13 went into effect are acceptable as long as the parties can prove that they are working together. That is not an issue in the Colusa Subbasin but it is creating a strange dynamic in the West Butte Subbasin. RD 2106 has noticed themselves over a pre-SB 13 overlapped area. However, is this a valid notice since it is after the 90-day period? We don't have answers now, but this could have implications for the West Butte Subbasin.

Ms. Fahey and Mr. Vanderwaal provided an update on the progress of the Water Budget request for proposals (RFP) that was discussed at the last meeting. Mr. Vanderwaal has been reviewing the Colusa County and Glenn County Proposition 1 projects. Grant Davids, Davids Engineering, is looking into coordinating the two Counties' projects. It was decided to put the RFP on hold until Mr. Davids comes back with his coordination plan for the two projects. Also, last week, the Northern California Water Association (NCWA) and DWR held a joint meeting to discuss groundwater and surface water interaction. At that meeting, DWR presented information that they are working on developing statewide data to support GSP development. The data that DWR will be providing may cover what is needed for a Water Budget. We don't want to duplicate efforts. DWR is working on a model

for the entire valley that should be completed by late 2017. This could save a lot of costs. It seems to make sense to look at what is already being done in the Prop. 1 County projects, and evaluate the data that DWR will provide, before developing an RFP. Ms. Fahey mentioned that the Project Solicitation Package (PSP) is coming out soon for the next round of Prop. 1 funding, and if we are successful with a proposal, that will also cover many of the costs for these projects. Mr. Ceppos mentioned that the new round of Prop. 1 funding likely won't be available until this time next year.

Question: do you feel that DWR's model will be good quality? **Answer:** That is yet to be determined.

Question: Is Butte County evaluating models now? **Answer:** Yes, this is being run through the Northern Sacramento Valley IRWMP group and it is still in progress.

Mr. Ceppos posed the question to the group: Will DWR's model be sufficient to define sustainability? **Answer:** We do not know.

Comment: DWR is developing these models to analyze impacts of wells on stream aquifer interaction.

Question: Do we have the ability to provide input on the model? **Answer:** Yes.

Comment: There are other models out there. There's a specific reason DWR is developing this model, it's not specifically for SGMA.

Mr. Ceppos asked if anyone was opposed to putting a hold on the RFP. There was no opposition.

Ms. Fahey mentioned that Butte County wants assurance that all of the agencies in the West Butte Subbasin will cooperate and work together on a Prop. 1 grant proposal. Ms. Fahey also mentioned that this group needs to decide if it will cover the white areas of the West Butte Subbasin. Mr. Ceppos suggested forming a PSP subcommittee to prepare for the Prop 1 PSP.

Action: Ms. Fahey and Mr. Ceppos will follow up with Ms. Hunter in Glenn County and Ms. Newlin in Butte County to discuss coordination related to the West Butte Prop. 1 PSP.

Mr. Ceppos gave an overview of Tuesday's Colusa Legal Review Subcommittee (LRS) meeting. He said that it was a very good discussion and there were no red flags raised. Yesterday, he participated in a phone call with Mr. Donlan, Glenn County's Counsel Alicia Eckland, and Ms. Fahey to coordinate details of the LRS meeting discussion.

➤ **Joint Powers Agreement Content**

The group referred to the 3/21/17 version of the draft Joint Powers Agreement. Ms. Fahey mentioned that she made the additions from the 3/17/17 version based on discussion from the LRS meeting, but that Mr. Donlan may have some other edits to add.

Mr. Ceppos referred the group to the Recitals section, item F. He explained that we are working off of the Yolo County draft JPA, and there are several differences between Yolo and Colusa Counties. One of those differences is that Yolo County has enough data to define Management Areas (MA). In the Colusa version, at the bottom of page 2, "Management Areas" has been struck. The Colusa MOA references future MA development.

Regarding item F in the Recitals, Mr. Ceppos was asked how much authority the GSA will have vs. how much authority will exist at the agency level. He said the attorneys felt that it was more logical to vest responsibilities in the Authority at large, not to the individual agencies, so it is clear that the GSA has authority. He asked for comments from the group.

Mr. Vanderwaal (RD 108) said that he prefers how the Yolo version is worded (see page 14). It states that in the event of a failure of the local agencies, the GSA will step in. It is pushing the authority down to the local agency.

Ms. Murphy (Colusa County Water District) mentioned that in the Colusa version, item 8.5 states basically the same thing.

Mr. Garner (Princeton-Codora-Glenn, and Provident Irrigation Districts) said that he got a report back from their attorney, Mr. Atlas. The idea is not to do away with MAs; he just feels that we don't have time to determine MA boundaries before June 30. We understand the concept but we will address it later. We are not there yet. Can we put that language in the JPA?

Mr. Ceppos referred back to items 8.4 and 8.5 in the Colusa JPA. Mr. Vanderwaal would like the acknowledgement, as stated in item 8.5, that the first line of responsibility for sustainability exists at the MA level, but if it is not being achieved, the GSA steps in.

Action: Retain items 8.4 and 8.5 and add a reference in these items in item F in the recitals.

Mr. Bettner (Glenn Colusa Irrigation District (GCID)) said that he spoke with GCID's attorney, Mr. Ferguson, and he agrees with Mr. Vanderwaal. His Agency wants to make sure that members have the first chance to do the work. If they fail, the GSA can step in. Mr. Ferguson felt that there was more of a top-down approach being discussed at the LRS meeting.

Ms. Murphy agreed with Mr. Bettner's assessment.

Mr. Ceppos suggested striking all references to MAs.

Referring to item F of the Recitals, Ms. Carter (County of Colusa) said that the GSA will do more than coordinating and administration. **Action: Change language to "coordinating, administrative and implementing authority."**

Ms. Murphy suggested leaving in the MA definition since we will be using them in the future.

Mr. Ceppos said that the MOA has a reference to the intent to consider MAs in the future. Do we want to bring that language into the JPA? The MOA will be an attachment.

Action: It was decided to strike the MA language from the JPA but leave the language in the MOA.

Mr. Ceppos referred to Page 4, comment #13. He said that SGMA has very few "shalls" and a lot of "mays." The LRS discussed comment #13 and including in the JPA all of the potential authorities of a GSA. The LRS decided that it is premature to know what authorities we are going to use, so best to have less content in the JPA.

Question: Can we have an exhibit in the JPA of what the GSA authorities are? **Answer:** Yes

Action: add an exhibit that lists all of the GSA authorities, all of the "mays."

Article 2, Item 2.4: if a member decides to exit the GSA, there will be a period of time when the jurisdiction will need some cleaning up.

Action: Add a statement to Item 2.4 that the GSA and the exiting member wil work cooperatively to coordinate boundary adjustments with DWR.

Article 3: it was suggested at the LRS meeting to add detail regarding outreach responsibilities. Mr. Ceppos asked if the group felt this was worthwhile. Should we provide a reference to the statute, or provide a separate exhibit? It was determined to put the language in the JPA.

Action: Follow up with Ms. Siprelle (Counsel for the City of Williams) who volunteered to draft this language.

Regarding Item 2.3, Mr. Ceppos said there is language about water budgets and balances that pops up in several places in the JPA. This is an example of referencing one item from the SGMA regulations. Does this make sense? Mr. Ceppos mentioned that Mr. Bergson (City of Williams) has requested language regarding water banking in the JPA. The group needs to decide how expansive they want the GSA to be. He asked Mr. Bergson to speak to water banking.

Mr. Bergson explained that he would like the GSA to have the ability to bank and transfer water. The group reviewed the language that Mr. Berson introduced which he took from a study by the University of Reno and from a document from Kern County.

Comment: I do not disagree with this concept, but it belongs more as a special project, rather than part of governance.

Mr. Bergson said that he has been in basins with water shortages and they used this as a tool to share water. They needed to know in advance if there would be water available. The infrastructure is not in place now, but he would like to have something like this for the City of Williams for the future.

Comment: This group is here to organize a governance structure. This is something that should be part of a Plan, not the governance part of it.

Mr. Ceppos said that we could reference this in the MOA.

The group agreed that this was a concept that belonged in the plan, not in governance, and it was decided to not include water banking in the JPA or the MOA, but that it would be considered in the GSP.

Comment: Doesn't the legislation mention "Actions" rather than "Special Projects?" Maybe we should re-title Article 7. **Action: retitle Article 7 to Projects and Management Actions**

Mr. Ceppos addressed Article 4 and clarified that the word "members" is sometimes capitalized (big M) and sometimes not (little m). Big M agencies are signatories to the JPA, while "little m" are appointed members. At the bottom of page 6, there is a representative from the Colusa Drain Mutual Water Company (CDMWC) and two representatives for the Private Pumpers. Both of those seats are appointed seats. Who officially does the appointing and what does that imply? We have said that the private pumper seats should be appointed by the County, but they don't have to be. Is the CDMWC appointed by the County or by the entire GSA?

Discussion about who actually sits on the GSA Board: In Article 4 of the JPA, All of the agencies currently listed (up to and including RD 479) are local public agencies, and all "big M" agencies. Article 4 states that they are all represented by Member agencies' Board or Council members; in other words, these seats will be taken by elected officials. The statute does not necessarily say that they have to be elected officials. **Question:** If these folks are making regulatory decisions, should they be staff members?

Question: Doesn't the GSA have to validate all three of these "little m" members?

Mr. Ceppos said that the process could be as simple as the County appointing the members and the GSA approving them. He posed the hypothetical question, if the County wants to remove one of these appointments, is it their decision, or the GSA Board's decision?

Question: Are the water districts comfortable with a board member or staff person on the GSA?

Question: Didn't we talk about having a Board member and an alternate?

Mr. Ceppos said that if the group allows for alternates, there should be language in the Agreement that the alternate must be fully prepared to take action at meetings. Often, alternates are not fully informed to make decisions at meetings and this could cause problems.

Comment: We need to think about what business the Board going to engage in related to governance. Do we anticipate the Board will do all of the work to develop the GSP, or will there be a working group? Will the Governing Board meet quarterly and have a GSP committee that does the work in between Board meetings?

Mr. Ceppos said that the Board is going to have police power. There will be decisions to make like delegation of finances, or if there's a bad actor and you have to walk onto their property. Who do you want to do that?

Comment: If there is a bad actor in a district, it will likely be the General Manager or staff.

Comment: We should leave it as flexible as possible. It's an internal decision.

Mr. Ceppos said that he could work on some language with different options.

Comment: For GCID, they will have Board members on the JPA because of the gravity of the decisions.

Question: In GCID's case, will there be an alternate in the case of an absence? **Answer:** No, there will be an absence.

Mr. Ceppos asked if the group would be comfortable having no alternates and have all the Board members be elected officials. Or do you want to vet some options? Remember if you send staff, you are going to have elected officials at the table along with staff members.

Comment: Princeton and Provident agree that there should be an elected board member on the GSA.

Comment: It should be flexible.

Comment: I agree it should be elected officials. There will be some huge decisions being made.

Question: To CDMWC, how are your board members selected? **Answer:** They are elected by the landowners. I agree it should be board members on the GSA.

Action: Article 4; new language for CDMWC: One representative of the Board of the Colusa Drain Mutual Water Company, proposed by Colusa Drain Mutual Water Company, approved by the Authority.

Mr. Ceppos asked the group if they agree with the current language, or if anyone wanted a write-up of options. The group agreed to keep the current language, with elected officials on the GSA.

Public Comment:

Question: To clarify, could you explain the "big Ms" and "little ms?" **Answer:** The Big M members are signatory to the JPA, they are local public agencies. The Little m folks are members of the big M group, but they must be appointed by the Big Ms.

Comment: In this case, the little ms will have the same voting rights as the big Ms, but that is a decision that differs depending on the GSA. This group has agreed that the little ms will have equal authority.

Mr. Ceppos explained that the legislature did not want to take away local control. They only went as far as to say that the GSAs will be created by local public agencies with land use and water use authorities. They have left it up to local authorities to decide how they want to structure their GSAs. This workgroup has decided that it is going to grant voting authorities for private pumpers that are equivalent to those of the rest of the GSA board members.

Question: Will all of the authorities in Article 4 then pertain to the private pumpers and CDMWC? **Answer:** That is up to this workgroup to decide.

Question: Do Articles 4.1-4.6 apply to the three non-Board representatives?

Answer: *refer this question to Mr. Donlan.*

Comment: Article 4.1 mentions alternates. Are you suggesting changing that language? **Answer:** That depends on what the group wants to do.

Question: Do we want to remove the option of alternates?

Question: If this gets signed on, can we make that determination at the first board meeting that alternates could be an option? **Answer:** I don't know.

Comment: Could we put it in the by-laws?

Action: *Refer these questions to Mr. Donlan*

Turning to Article 5: Financial Provisions, Mr. Ceppos said that we will be developing an Exhibit C: Funding Agreement. This will be a stand-alone document that will take in all of the information about contributions. It will be a multi-party contract defining who will contribute what. Within this document will be some things that have not been decided yet. There is a presumption the JPA will do a Proposition 218 in two years. What is not known is if the agencies can get paid back for their contributions when the 218 is put in place. We need to get clarification on this. So there are two options: a) the agencies contribute initial funding and are reimbursed; b) members pay outright.

This group needs to start thinking about the terms and conditions for exhibit C. For example, the JPA says that the Authority will not hire staff. If an agency provides staff time, will they get credited and get a break on the yearly fees? A term and condition could be that an agency that provides staff time gets in-kind credit.

Comment: Mr. Vanderwaal said that it was mentioned that there would be a JPA/county-wide Prop. 218. This needs to be discussed. RD 108 has not presumed this.

Question: Where are the County's contributions coming from? **Answer:** The General Fund.

Comment: Mr. Vanderwaal said that RD 108 has land that is owned by the district that they lease out. Their SGMA funding could come from this. What do the other districts think about a district-wide or county-wide 218?

Comment: Mr. Garner said that if there are more acres involved in the 218 area (vs. taking districts out of the area), the cost per acre will go down. This could make it easier to pass the 218.

Comment: It would be cleaner and simpler to do a 218 for the whole GSA that is responsible for funding itself, rather than the individual districts. The GSA would establish the rates.

Comment: If each district is going to do its own 218, why not stay a stand-alone GSA?

Mr. Ceppos said that the underlying interest is that the landowners are not double-billed. There has to be a mechanism to ensure this. He asked Mr. Vanderwaal what the pros and cons are of the GSA running a single

Prop 218 vs. each agency running their own 218. Mr. Vanderwaal said RD 108's funds are from the land they own and lease, and a water use assessment. They do not have a land assessment.

Comment: Costs to run the JPA will be small compared to projects and actions. For projects, GCID could raise funds easier than a County-wide GSA. Say we asses everyone a dollar per acre to run the GSA, but then there will be different costs for projects. In this case, landowners will get multiple bills. It's easier to administer project costs locally. If we do a county-wide 218 we will have to break it up anyway because there will be different situations in different areas. I think we need to be more strategic. Think about how we charge for the actions.

Question: This is not tied to the JPA is it? **Answer:** No, but it is tied to the funding agreement.

Comment: Where are we on the legality of whether we have to do a 218? **Answer:** It is still pending in court. You have two options. You can do the 218, or try to treat it as a regulatory fee and see what happens when it ends up in court.

Action: A subcommittee was formed including Ms. Carter, Mr. Bettner, Mr. Garner, Mr. Vanderwaal and Ms. Fahey, to put together proposals with pros and cons of different options of a Prop 218.

Action Items from This Meeting (Not Regarding the JPA):

- Ms. Fahey and Mr. Ceppos will follow up with Ms. Hunter in Glenn County and Ms. Newlin in Butte County about forming a Prop. 1 PSP Subcommittee.
- Ms. Fahey will follow up with Ms. Spirelle on language related to outreach responsibilities
- A newly formed Proposition 218 Subcommittee will develop different options for running a Proposition 218 process, with pros and cons of each
- Ms. Fahey will provide information from today's meeting to Mr. Donlan for the next iteration of the JPA
- The group got "homework" to read through the JPA document thoroughly
- There is a need to develop a funding agreement

Action Items from This Meeting Regarding the JPA

- Recitals, Item F:
 1. Change language on first line regarding authorities: "The Authority will serve a coordinating, ~~and~~ administrative **and implementing** role..."
 2. Add a reference to Item 8.5, similar to the Yolo County version
- Article 2, Item 2.4:
 1. Add a statement that the JPA and the exiting Agency will coordinate on boundary adjustments on the GSA filings
- Article 3, Item 3.4:
 1. Add language to be provided by Ms. Siperelle regarding outreach responsibilities
- Article 3, Item 3.5:
 1. Ask Mr. Donlan to prepare an Exhibit that lists all the possible authorities of a GSA (all of the "mays")
- Article 4:
 1. Re: Colusa Drain Mutual Water Company, change language to read: "One representative of the Board of the Colusa Drain Mutual Water Company, proposed by Colusa Drain Mutual Water Company, approved by the Authority."
 2. Re: Private Groundwater Pumpers, first line: Change "members" to "representatives."
- Article 4, top of page 7, fourth line:
 1. Talk with Mr. Donlan about including language about alternate members. The group is not sure if we want to have that option. Is this something that can be taken out of the JPA and put into by-laws? Other options?
- Article 4, Items 4.1-4.6

1. Talk with Mr. Donlan re: “little m” members vs. Directors, do Articles 4.2-4.6 apply to the three “little m’s” (private pumpers and CDMWC)?

➤ **Article 7, Title:**

1. Change title to “Projects and Management Actions” to be consistent with the language in the legislation.

For copies of all meeting materials, visit the [Colusa County Water Resources Webpage](#).

Participant List

GSA Workgroup Members	
➤ John Garner	Princeto- 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
➤ Bill Vanderwaal	Reclamation District 108
➤ Thad Bettner	Glenn Colusa Irrigation District
➤ Shelly Murphy	Colusa County Water District
➤ Charles Marsh	RD 479
➤ Dan Ruiz	Maxwell and Westside Irrigation Districts
Members of the Public	
➤ Christy Scofield	Private Pumper
➤ Gilbert Ramos	Private Pumper
➤ Mike Alves	Kanawha and Glide Water Districts
➤ Derrick Strain	PPAC
➤ Kim Gallagher	PPAC
➤ Jeff Moresco	PPAC
➤ Matt LaGrande	PPAC
➤ Greg Plucker	Colusa County Development Services

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