

# GSAG Meeting Notes

August 4, 2016 | Vacaville, CA



## OVERVIEW

### GSA Advisory Group Participants

Jim Allen, Ag Advisory Committee  
(alternate for Russ Lester, non-voting)

Jack Caldwell, Cal Water

Jim Christensen, Travis Air Force Base

John Currey, Dixon Resource Conservation District

Royce Cunningham, City of Vacaville

Mike Hardesty, RD 2068

Don Holdner, Maine Prairie Water District

Misty Kaltreider, Solano County

Cary Keaton, Solano Irrigation District

Joe Leach, City of Dixon

Chris Lee, Solano County Water Agency

Russ Lester, Ag Advisory Committee

Derrick Lum, Solano County Farm Bureau

Ryan Mahoney, Maine Prairie Water District

(alternate for Don Holdner, participated as primary)

David Melilli, City of Rio Vista

Steve Mello, North Delta Water Agency/RD 563

Tim O'Halloran, Yolo County Flood Control & WD

Felix Riesenber, City of Fairfield

Erik Ringelberg, Northern Delta GSA

Chris Rose, Solano RCD

Kristen Sicke, Yolo County Flood Control & WD

\*Brooking Gatewood, Ag Innovations, Facilitator

\*Joseph McIntyre, Ag Innovations, Facilitator

\*Tessa Opalach, Ag Innovations, Notes

Not in attendance: Peter Miljanich, Solano County; Melinda Terry, North Delta Water Agency; Gordon Stankowski of Rural North Vacaville Water District; Darrell Eck, Sacramento County Water Authority; Jack Caldwell, California Water Service; Merlin Miller, Travis Air Force Base

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### Meeting Goals

- Finalize proposed GSA governance structure.
- Discuss & vote on JPA vs MOU format.
- Begin clarifying our proposed approach to initial funding for the GSA.

### Featured Resources

1. [June 2, 2016 GSAG Meeting Notes](#)
2. Governance Working Group [Proposal](#)
3. [SID Concerns Memo](#) (in response to proposal)
4. [RCD Recommended Governance Structure Ammendments](#) (in response to proposal)
5. [GSA Finance Research Brief](#)
6. [Yolo County Finance Estimation Matrix](#)

### Meeting Summary

1. **INTROS & UPDATES.** Members introduced themselves and shared SGMA-related updates and reactions to the proposal formed by the governance working group.
2. **GOVERNANCE STRUCTURE DISCUSSION.** Members reviewed the governance proposal and determined a charter is needed to create a foundation of principles and authorities prior to deciding upon a GSA governance structure.
3. **JPA vs MOU DISCUSSION.** The Facilitator reviewed the pros and cons of forming a JPA vs MOU. Due to the absence of County Council expertise, the group decided to postpone a decision until the next meeting.
4. **GSA FINANCING DISCUSSION.** The group reviewed four options for funding and cost estimations for the GSA and GSP implementation. Yolo County staff explained their approach to assessing financing needs for SGMA. A funding working group was formed to discuss the four options in depth and provide 1-2 proposals for the larger group at the next meeting.

## Next Steps

1. **ALL MEMBERS will provide principles input for charter.** Ag Innovations will circulate a sharing method for members to suggest principles that reflect the entire group to inform charter development; we will obtain legal counsel to support the charter development.
2. **ALL MEMBERS will provide input into the GSA cost estimation matrix.** Ag Innovations will circulate the Yolo County finance matrix as a template for GSAG members to build on and add data appropriate to our Subbasin.
3. **Ag Innovations** will synthesize the information from both of these group inputs and create summary materials to support charter development.
4. The funding working group will meet to discuss matrix input and practical financing models. They will bring 2-3 proposals to the next GSAG meeting.
  - a. Members: Erik Ringelberg, Peter Miljanich, John Currey, Russ Lester, Joe Leach.

## DETAILED MEETING NOTES

### Welcome and Agenda Review

- Brooking reviewed the context of our work, and reemphasized our long-term SGMA goal: to maintain a sustainable groundwater basin so we can continue to enjoy our water resources into the future.
- Reality check: Though Solano is better off than many, data show that some areas in our subbasin are extracting unsustainably. Change isn't easy, but if we fail to collaborate now, the state will step in and regulatory outcomes will likely be worse for most participants.
- Brooking reviewed the [Theory U approach](#) to solving complex problems we are following in this meeting process.
  - Our **long-term goal** is to develop a GSP that minimizes conflict in the community, maximizes our shared interests, builds trust, engages stakeholders, is resource efficient and makes the best use of technical knowledge. We are currently in the middle of the U, exploring and prototyping a draft GSA. We are discussing those ideas and utilizing public input and feedback from boards to refine our proposal for another round of public input.
- Like the old [Chinese Parable of the Elephant](#), we all hold different parts of the whole and bring different views and assets to the table to help create workable solutions for all. *We want to engage our creative (as opposed to positional) attitudes and mindsets as much as possible in this process.*
- Groundrules and working agreements review:
  - Be present, Listen openly, Speak courteously, Suspend certainty, Represent your Agency/Constituency Interests above personal interests.
  - We will need to make assumptions to move forward in this process. Where we get new information, we will go back and adjust prior assumptions.
  - We will use our 6 point decision-making protocol laid out in our [GSA Advisory Group Charter](#).

### Info Shares and Updates

Members introduced themselves and provided updates on their participation or their constituencies' perspectives on our deliberations to date.

- **Chris Lee:** The governance working group has met twice since the last GSAG meeting. They created a proposal from the top two governance structures that came out of the June GSAG meeting. The SCWA board will hear an update in September. DWR has preliminarily accepted the Yolo County basin boundary modification request, which separates Yolo County from Solano County, with the exclusion of RD 2068. They have 33 potential GSA agencies, who are discussing a model similar to what we have been discussing.
  - The SCWA board is awaiting more information to weigh in on the process.
- **Misty Kaltreider:** County staff attended some of the Yolo County Agency governance process discussion meetings. In May, the County Board submitted an opposition letter to the proposed Yolo modification. Some County staff have participated at DWR's basin boundary modification public hearings in July and reiterated the Solano County Board's position. It appears that Yolo's boundary modification will move forward as proposed. The County board requested to hear an update on the GSAG progress at their meeting on Tuesday, August 9.
- **Chris Rose:** The GSAG process was discussed during the last Solano RCD Board meeting and John provided a [letter explaining their view](#).
- **John Currey:** Dixon RCD would like to know how the regulatory requirements that the Irrigated Lands Program utilizes can be integrated into the SGMA process to avoid duplicative effort. Dixon RCD would like the group to

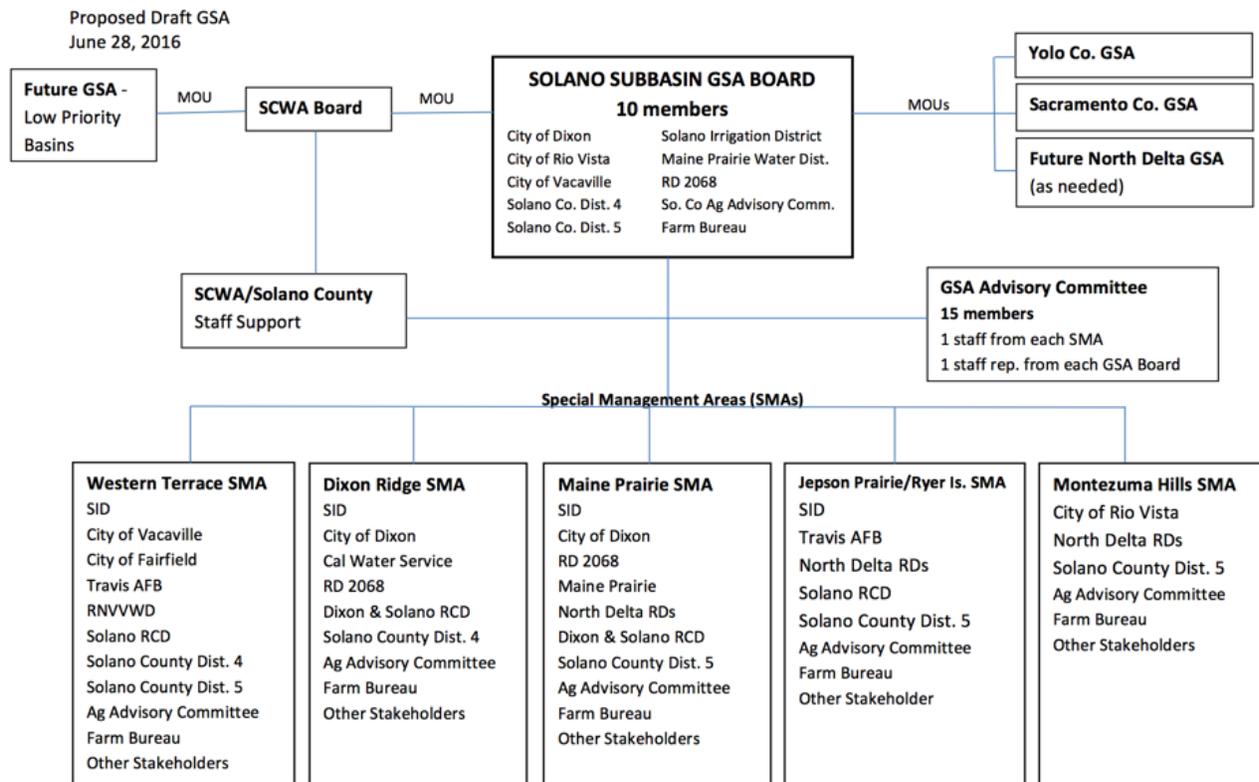
consider ways to utilize both financial and staff resources of the member agencies to reduce duplicative effort between the GSA and its member agencies/individuals.

- **Cary Keaton:** SID supports the structure of the proposal and use of special management areas, but does not support the voting structure. SID recommends that this group postpone voting on a GSA structure until a charter has been developed. The charter is necessary to protect property rights.
- **Don Holdner:** Maine Prairie Water District does not have a lot of groundwater that they pump or sell, but they want to protect what we have for future use. They have a few questions about what this process is going to cost and how we as a subbasin will protect our groundwater.
- **Mike Hardesty:** This group is a bit ahead of ourselves in trying to define a governance structure without complete knowledge on what resources we have and what we think we need to manage.
- **Steve Mello:** RD 563 and the North Delta Water Agency have decided against creating their own GSA and are interested in listening to the GSAG process today.
- **Royce Cunningham:** Meeting monthly with Vacaville city manager and mayor, and waiting for approval from the mayor before presenting to city council.
- **Felix Reisenberg:** Will present to Fairfield council once consensus is reached in this group. There is no active groundwater usage in Fairfield, so they will not be weighing in too strongly.
- **Erik Ringleberg:** Shares concerns with John and Cary and agrees that this group is getting ahead of ourselves. Erik wants to have a better understanding of the management part.
- **Brooking Gatewood:** The Sacramento process is unclear right now. There are a flurry of groups that are interested in becoming the GSA. There are currently 3 GSA proposals that have been submitted without much coordination or collaboration. According to communications with DWR and the state facilitation team this week, DWR will not penalize a subbasin for lack of collaboration with a neighboring subbasin that isn't ready to collaborate. This situation is arising in other Subbasins. The expectation is that if Sacramento does not make the deadline, our process in Solano will not be negatively impacted. Our GSA can submit and forecast a coordinating agreement with Sacramento, regardless of if Sacramento has formed a GSA by the deadline.
- Question: Is it possible that North Delta GSA will join the Sacramento process?
  - Answer: Most likely not, due to the uncovered white areas.

## Proposed Governance Structure Review & Discussion

Chris Lee discussed the [current proposal](#) on behalf of the governance working group, which has met twice to discuss the top two structures that came out of the June GSAG meeting. Their proposal, diagrammed below, suggests a board of 10 voting members. The special management areas (SMAs) are intended to deal with hydrological, jurisdictional and crop pattern differences across the subbasin and could be defined by land use type, water supply, or by monitoring density, geology, or other management variables. The majority of the working group is on board with this proposal, but there are some outstanding issues to discuss:

- How many special management areas? The proposal suggests either 3, 4 or 5.
- How to ensure that landowners have enough representation, but that they are not overrepresented?



## Discussion

The question facing us today is figuring out what is an effective body for tackling the questions we have about the plan, recharge scenarios, and other intricacies of SGMA implementation. The group had a long dialogue on how we might refine this proposal to move toward consensus. Key elements of discussion as well as conclusions for each topic are listed below.

### Background on Special Management Areas (SMAs)

- The 5 SMA model is similar to the 5 ag areas in the [General Plan](#). It is also similar to the six recharge regions captured by a [UC Davis study on recharge](#).
- The 4 SMA model is based on the different hydrologic regions in the subbasin.
- The 3 SMA model is a simpler option that is also based on the different hydrologic regions in the subbasin. The model was suggested for individuals who are wary about the financial costs and perhaps unnecessary complexity of having 4 or 5 SMAs.
- Each option can be defended for hydrologic and other reasons to DWR.
- Jurisdictional boundaries should be implemented as part of SMA boundary decision making; for example, Maine Prairie Water District shouldn't be stretched across multiple SMAs and be obligated to participate in multiple meetings and processes
- More SMAs will generate more difficult logistics and higher costs.
- It was suggested that we consider the relationship between surface water and groundwater in each of the SMAs.

**Conclusion:** We should be flexible about the SMA boundaries at this time; we should agree to create a structure that allows for management areas, but not try to define those boundaries without further information on financing and without considering overall sustainability.

### On Voting Representation:

- As per [their circulated memo](#), SID feels that the GSA structure needs to ensure the protection of property owner rights and the representation of those rights.
  - One way to support this would be for each entity to have only one vote.
  - It is not appropriate to give votes to business associations on a board that determines government issues associated with groundwater because there is not a public process to elect business association members.

- A public member could be appointed by other Board members or through the public process; should be a resident who uses groundwater.
- A charter that is tied to state law is crucial because property rights need to be maintained and those rights can't be overridden by the GSA
- Broadly the group agreed that voting and representation should be balanced between ag interests and municipal interests; some cities are reliant on State Water Project resources and surface water from Berryessa, while some cities use groundwater.
- Dixon RCD and Solano RCD can share one vote collectively, and have Irrigated Lands program information.
- Solano County reminded the group that it doesn't sell water, but does protect land use and property rights which demands looking at everything all together; thus the reason that the County should have at least 2 votes. They play a unique role to take a holistic view when looking at subbasin management.
- A board of 9 or 11 is preferable to a board of 10 in the event of tied voting.
- Our ag reps suggested that if ag does not have at least 2 votes, plus the RCD vote, ag will not have enough representation; and the process will devolve into litigation without ag support.
  - Farm Bureau and Ag Advisory Committee are both business organizations that are representative of ag, and both make independent decisions from the supervisors; committee members come from different parts of the county and are familiar with different commodities
  - People who are not water purveyors are water users, and the majority of people regulated under SGMA are not represented by reclamation districts or other agencies. People who are not covered by any water purveyors need meaningful and clear representation, and they are depending on groundwater because they are not covered by water purveyors.
  - The Farm Bureau represents more than 370 farms in Solano County. The Farm Bureau doesn't necessarily need a seat on the GSA board, but does need to ensure ag that doesn't have alternative representation is represented, perhaps by a public water user.
  - SID is an ag voice and has support from big growers; other agencies are ag voices as well.
- 3 'at large' ag seats on the GSA board could be as follows:
  - 1) Farm Bureau
  - 2) Ag Advisory Committee
  - 3) Dixon RCD and Solano RCD
  - This would create an 11 member board.
  - Each seat could be filled by a board member or a community member that can contribute to the elected body and be a fully vested member of the Board, willing to commit time, and supported by one of those three entities with staff, data and research.
  - This at-large concept could be applied to the entire board. That is, agencies need not send elected board members, but could elect a representative from within their larger staff.
  - The members could be elected or approved by the rest of the GSA Board rather than appointed to better match the model by which agency representatives are elected. This would be more similar to the [LAFCO model](#) of including publicly elected members who apply for the role.

*Conclusion:* Most members felt comfortable with an 11 member board structure, with 3 'at large' seats of public ag representatives who apply for the role, to be voted on by other GSA members.

#### Property Rights and Water Rights Discussion

- SGMA law requires us to honor existing groundwater rights that we have.
- The fear isn't that water rights will be taken away, but that aquifers will be depleted, that board will have power to reduce the amount of water they extract. Not taking the right to water, but taking the right to control how much water is extracted. That's a common fear in this process.
- The SGMA facilitation team is working on a fact sheet on the existing groundwater law complexity that we will share when it is available. Misunderstanding of the relationship between SGMA and water law is common in the local processes around the state.

*Conclusion:* We need more clear information and legal council to take this conversation further. These concerns will be incorporated into the development of a proposed GSA Charter.

#### Charter –

*We discussed what the core elements of a charter should be and why we would need it. Thoughts included:*

- The charter should articulate which legislative powers that the GSA is aiming to use; some of those authorities overlap County authorities

- The charter should describe what SGMA requires, and the overlap between counties and cities.
- The charter should not include what the GSA cannot do, as conditions and needs will change in the future.
- The charter should confirm the intent for a 'no harm to your neighbor' approach: everyone will retain their current groundwater rights and not be asked to give those up to an area/individual in a less fortuitous situation
- The charter should protect future groundwater pumping rights, especially in areas that are not currently pumping heavily.
- The charter should ensure equitable use of groundwater and reasonable access to groundwater; sustainable yield commitment for the GSA and SMAs.
- One goal of the charter will be to calm fears around SGMA implementation.
- The charter should consider water depletion and quality.
- Clarification: If the charter potentially protects rights that are already protected by state of California, why do we need the charter?
  - SGMA gives GSA Board lots of power, and that power should be confined by state law;
  - The charter allows folks to have a neutral understanding of rules of the game.
- Guiding principles can help guide the charter – we may not be able to commit what authorities we will and will not use, but we can commit to intentions and principles to govern by.
  - The process will be iterative
  - We will look for win-win synergies with other legislation
  - The GSA will be legally clear in scope
  - GSA will attempt to use minimal authority that is needed to execute.
  - What sustainable groundwater use means to us...

*Conclusion:* A charter should be formed before decisions about governance and board structure are determined. The purpose of the charter is to outline overarching principles of how we would like to have the GSA managed and working in the future. It will outline the legal parameters of how the GSA will operate, which requires legal advice, and will hopefully calm some potential fears of the public during the outreach phase. In the first step to form a charter, GSAG members will come up with a list of guiding principles, and we will work with legal council to draft the charter and JPA or MOU in the coming months.

#### Other Comments

- Water quality standards need to be met as well; failing to meet these standards can also trigger actions by the GSA. This has been less discussed.
- There are outstanding questions about sequencing and the charter, but general agreement that the board needs to be balanced with adequate representation and ability to support responsibilities
- The GSA is not a purveyor of water, it's a regulator of overdraft that does not have allocation authority unless there is an issue. Issues need to be addressed locally, not by the larger GSA; to do otherwise would be to rewrite groundwater rules.
- Authorities of GSA provide a monumental change in the ability of a single agency to control water use
- What would protect groundwater and allow maximum economic development?
  - Charter and balance of representation so interests are protected, and the public representative should come from public rather than business association
- Surface water and groundwater are connected and have to be managed together; we should consider the question of how we can structure a GSA to navigate the hydrological connection between groundwater and surface water.

### JPA vs MOA Discussion

Brooking briefly discussed the differences between MOAs and JPAs and the research provided by County Council to support our discussion. This information was provided informally for GSA Advisory Group members and not intended as formal legal council on this matter. Key points of interest included:

- Memoranda of Understanding are less legally binding agreements between parties and a bit simpler to implement. Their boards are not subject to the Brown Act.
- With an MOA, it is not possible to have a formal voting role for non-agency groups such as the Ag Advisory Committee, the Farm Bureau, or Cal Water.
- Joint Powers Agreements/Authorities can create separate a legal entity (though they do not have to).
- Groups around the state are choosing JPAs because they do not require LAFCO approval, and they allow voting to be formalized for non-agency members.

- Implementing what we've been discussing is more possible with a Joint Powers Authority model.
- Some members felt strongly that the governing board needs to be subject to the Brown Act.

Members were asked to respond with thumbs up, thumbs sideways or thumbs down in regards to their feelings about the MOA, the JPA without new legal authority, and the JPA with new authority. There were no votes for MOAs, but variance in voting between the two JPA options and a call for further information to make a more informed decision.

*Conclusion:* More information, and perhaps Peter or other legal council expertise, will be needed before the group can have meaningful discussion and recommendations on this point.

## Financing the GSA

Around the state in other Subbasin processes, views about representation and roles are shifting as people encounter the realities of the costs. The goal for today is to gather some information to inform our governance decisions and set up a working group to advance our cost estimation drafts for our Subbasin.

To kick off the conversation, the group was given a [handout](#) reviewing the four primary options for financing the GSA:

- 1) Prop 1 Funding
- 2) State and Federal Loans and Grants
- 3) Agency Membership fees
- 4) User Fees/Taxes

### Tim O'Halloran: Yolo County Cost Estimation ([available here](#))

Yolo County drafted a cost estimation matrix, which breaks the costs of GSA/GSP into four categories. The table focuses on tasks rather than dollar amounts and uses a ranking system (1-3) to indicate relative cost. Yolo County is anticipating minimal startup costs because groundwater models and monitoring systems are already in place throughout much of the county. The Farm Bureau and Water Resources Board are both currently paying, and they expect costs for starting the GSA to be around \$250,000. They have identified some unknowns, including:

- If SMAs aren't sustainable and will have to become sustainable, there will be additional project implementation costs that are hard to predict.
- Determining which tasks can be completed by staff and which tasks require consultants will impact the budget.
- Yolo is currently struggling with the question of the relationship between SMA and umbrella GSA: if an SMA fails to perform. who is the hammer? The SMA? The GSA? DWR?

### Discussion: Funding Options in Solano Subbasin

#### Fees

- There are various types of fees commonly used: base fees, operations and maintenance fees, and fees charged to agencies based on the amount of water they use.
- There are different kinds of costs as well: formation costs, operation costs, development of the GSP, and implementation costs.
- We need to look beyond County and state funding – we need to look beyond membership fees.
- We need a combination of 'pay to play' and 'pay your proportional share' – i.e., pay for what you use, or for how much you want to reserve.
- Agencies will have to step up and fund it. It might be easier for cities to fund it via a zone/assessment or other form of charge.
- SID's rate-payers pay to fund SID operation – it may not be fair to also charge them for groundwater use.
  - Fees that are charged should be proportional to true cost of the service
- Groundwater pumpers pay property tax that is partially based on property improvements, such as wells, and groundwater pumpers pay for the permit to drill the wells.
- Everyone should pay for start up, but benefactors shouldn't pay for operational costs – they shouldn't have to pay for a project they are not responsible for.
- DWR allows a pay to play model – many other GSAs are using membership fees to fund the GSA and this consideration is impacting the make-up of voting roles in other Subbasins.

*Conclusion:* Membership fees (pay to play or equitable fees based on use) and a zone/assessment charge for groundwater users were discussed most, however no decisions regarding a fee structure were made.

### Metering

- County-wide, we have meters on wells to manage water efficiently and monitor pumps; and we are currently putting in more meters.
- The County is considered changing the well ordinance to include methods for monitoring, but at this time the Board does not want to go down that path; the updated permitting process is to include horsepower, pumping rates, etc. to help identify groundwater use across the subbasin.
- We are going to have to put together a groundwater model: this will mean we need to collect data, meters on wells. We need to know how water is extracted and recharged to prove to the state the aquifer is being managed sustainably.
- Costs of monitoring/metering:
  - When water users pump water, they are charged to use that water; assessments for water use will be crucial.
  - Rather than force people to use a meter, there are other mechanisms for monitoring; Rio Vista is already mandated to give monitoring data to the state.
  - Groundwater pumpers need to know what type of well meters to invest in now – which will be used and accepted by the GSA in years to come?

*Conclusion:* Ensuring sustainability will require monitoring and metering. Some properties and organizations already use meters and some properties and organizations will need to install meters or other methods for collecting data. Collecting information on current use may help us implement a more cost-effective and hassle-free system for end-users.

### In-Kind Contributions

- In-kind contributions can supplement the financial contributions.
  - What can each agency or player contribute? Every player should have to contribute something whether it's financial, staff, data, or other resources. Players should compensate the agency that is delivering the information.
  - For example: some landowners may have monitoring systems that County doesn't currently have access to or money for. We might credit them for sharing data in some way.
- SCWA does CASGEM reporting, other agencies do other groundwater monitoring reports. This frees up resources if GSA takes over those monitoring responsibilities.

*Conclusion:* Some agencies can offer in-kind support in the form of technical assistance, data collection, etc., perhaps in place of or in addition to monetary contributions.

### Other Comments

- Grants and loans require a sponsoring agency; could be a member agency like SCWA or could be the GSA.
- It is currently undecided if the GSA is subject to Prop 218; The Supreme Court will hear the case in the coming year.
- We want our GSP to be as compatible as possible with other existing programs and requirements; it is frustrating to produce and have to comply with multiple and conflicting reports for both agencies and landowners.
- The Yolo matrix looks similar to what could be used in Solano; SMAs will need to be tiered off from the table to be dealt with individually.
- Paying for the plan should be equitable and proportional to each agency's contribution.

The meeting ended with a review of our discussions and conclusions, and of next steps. The group agreed to contribute charter principle ideas as well as input to the financing model template that Yolo created to customize it for the Solano Subbasin.

Next steps are captured at the top of this document.