

GSAG Meeting Notes

September 27, 2016 | Vacaville, CA



OVERVIEW

GSA Advisory Group Participants

Jack Caldwell, Cal Water

Ping Cheng, Sacramento County

(alternate for Darrel Eck, non-voting)

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

David Melilli, City of Rio Vista

Peter Miljanich, Solano County

(alternate for Misty Kaltreider, non-voting)

Tim O'Halloran, Yolo County Water & Flood Control

Felix Riesenber, City of Fairfield

Chris Rose, Solano RCD

Roland Sanford, Solano County Water Agency

(alternate for Chris Lee, non-voting)

Kristen Sicke, Yolo County Water & Flood Control

(alternate for Tim O'Halloran, non-voting)

**Brooking Gatewood, Ag Innovations, Facilitator*

**Joseph McIntyre, Ag Innovations, Facilitator*

**Tessa Opalach, Ag Innovations, Notes*

Not in attendance: Jim Allen, Ag Advisory Committee; Jim Christensen, Travis Air Force Base; Darrell Eck, Sacramento County; Ryan Mahoney, Maine Prairie Water District, Erik Ringelberg, Northern Delta GSA

Meeting Goals

- Discuss and refine GSA finance recommendations.
- Discuss final governance recommendations and vote as of today.
- Refine principles recommendations.

Featured Resources

1. [September 13, 2016 Meeting Notes](#)
2. [GSAG Recommendations Summary](#)
3. Finance Working Group Powerpoint

Meeting Summary

1. **INTROS.** Members introduced themselves.
2. **FINANCE GROUP PRESENTATION AND GSA FINANCING DISCUSSION.** The finance working group presented their ideas regarding the timeframe for funding and possible revenue sources. The group discussed the revenue sources and requested the funding working group produce a more refined estimate for start-up costs.
3. **GOVERNANCE STRUCTURE DISCUSSION.** The group took straw polls on four different governance structure options. The only option that did not receive any blocking votes is a 16 member board that is inclusive of every interested eligible agency, plus two public at-large seats.
4. **PRINCIPLES DISCUSSION.** The group discussed two additions to the principles that were revised during the September 13 meeting. The group agreed to proceed with 11 of the 12 principles. The group shared additional edits to the principles via email and the new agreed upon draft is available in the above-linked Recommendations Summary.

Next Steps

1. **Funding working group.** The funding working group will meet again to come up with a more fine-tuned and accurate estimate of start up costs. Start up costs are considered the necessary funds to work with from JPA formation to GSP implementation (~2 years).
2. **Principles.** Members will provide feedback on the principles document, particularly #11 which the group did not come to a consensus about.
3. **Board input.** Each member will approach his or her respective board with the 16 member board structure and principles document for input both formally and informally and as soon as possible, with the understanding that some boards will not meet until November. Ag Innovations will provide language and documentation for members to use when discussing the governance structure and principles with their boards and electeds.
4. **Public Input Meetings.** Ag Innovations and key ag community leaders will work together to plan another series of public input meetings, likely to take place in mid-November.
5. **Other GSA JPA Review:** Ag Innovations will find and distribute examples of other JPA language highlighting the member agency 'exit strategy' approached that Yolo County is taking.

DETAILED MEETING NOTES

Welcome and Agenda Review

- Joseph welcomed the group and reviewed the meeting's agenda and goals. There are important decisions this group needs to make to the best of its abilities. The goal today is to come out with some answers about governance, the principles, and to understand more deeply the financial implications.
- 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.
- We agreed to vote in this meeting on where the group is at regarding the appropriate governance structure to recommend for board and public review, and will use our 6 point decision-making protocol laid out in our GSA Advisory Group [Charter](#).
- Members and guests introduced themselves briefly by name and organization.

Finance Working Group Input and Discussion

Joe Leach presented findings on behalf of the finance working group. Their objective was to establish an understanding of when funding will be needed, in what capacity funding will be needed, and which revenues are realistic and equitable options for funding the GSA and GSP. They determined it would be best for this group to focus on the start up costs, and let the GSA make decisions about long term funding, with recommendations from this group. The working group utilized the matrix Chris Lee, Cary Keaton and Royce Cunningham produced, basin data Misty Kaltreider compiled and discussion between subcommittee members regarding the order of magnitude for fees¹. Key estimate for this discussion was an \$8-10,000 annual membership fee for GSA members. Additional details are being refined and will be shared publicly at a later date.

Discussion

- The group identified four phases of funding: (1) Start up, (2) GSP planning, (3) GSP implementation, and (4) ongoing costs of the GSA.
- Many members urged the group to focus this discussion on start up costs and membership fees, which are intended to cover the costs of JPA formation and administration until GSP development. Several people indicated that while this group can identify rate structure and project cost options, the decision-making discussion about rate structures and project costs should be had after the JPA is formed and during the process of writing the GSP.

¹ The basin data Misty Kaltreider compiled is sourced from the 2015 Solano County Inventory, which provided data on the number of wells and total acreage within the subbasin. The numbers may change in the future and the data is part of a countywide study conducted by Solano County, so was shared for internal use of the GSA Advisory Group at this time.

The group discussed the need and potential sources for start up costs:

- Many members expressed the need for agencies to front some money for start up costs. Due to the varying economic situations of the different agencies, the group was unsure about how much to charge each agency, and if the charges should be flat or tiered. This concern was echoed during the membership fee conversation (see below).
- The group discussed the possibility of utilizing money from the County, SCWA and the Solano Project.
 - There is a County tax that assesses Solano County and funds SCWA. However, if SCWA is removed from the GSA board structure, they may be hesitant to contribute to the funding.
 - The Solano Project fund is unrestricted, so some of the money could be used towards the process of administering the JPA. This possibility needs further exploration.

The group discussed the three types of proposed charges: acreage, fixed meter, and volume:

The finance working group proposed the three types of charges as options for the JPA to discuss and determine best practices. Fees that go down to the end user have to be adopted by the JPA because this group is not in a position to impose water fees on users in the County. Some members made comments or raised concerns about the charges.

- Some landowners are currently extracting and some are not. Those who are currently pumping may pay a higher proportionate share of the costs than those people who are not extracting.
- Some members raised the concern that agencies will pass on their membership fee to their customers, but their customers will also be paying an acreage/fixed meter/volume charge so some individuals will feel twice the burden if they are within a district.
- Some members raised concern about people who are not currently pumping being asked to pay the same rates for those who are and are not extracting. The group raised these concerns to be considered by the JPA.
- One approach may be to implement the acreage charge without the fixed meter and volume charges.
- Some members stressed the importance of having a flexible system to adapt to future changes in crop patterns, land use and water use.
- One member did not think collecting fees through a Prop 218 process would be difficult because the fees are necessary to protecting groundwater resources. The increased cost is the cost of doing business to deliver service to the customers.
- When the GSA is formed, the JPA may free some of the districts from dealing with the complexity of fee structures. However, the GSA will still have to adhere to Prop 218.

The group discussed the annual member fee per GSA JPA Board member:

- Some members expressed that their agencies would pass on the cost to their customers. For example, a city has a defined customer base and can add a surcharge that will equal to the amount of the membership fee. However, agencies that rely on fee for service models may have to justify the increase through an assessment, which requires an affirmative vote (Prop 218).
 - Some of the agencies overlap, which creates another layer of complexity if the GSA bills agencies and the agencies in turn bill their customers.
- Due to the variation between agency situations and ability to pay, some members felt those agencies who are able to pay immediately may need to frontload the membership payment process in the first few years.

Other comments:

- Some of the money will be grant eligible. However, obtaining grants will be a competitive process because other groups around the state are also interested in those funds.
- One member raised a concern about development projects that will negatively impact the subbasin and suggested the possibility of charging developers extra fees. However, other members indicated that the requirements of Prop 218 illegalize charging customers different amounts at different times. Furthermore, many cities have standing contracts with developers that cannot be altered.

- One member suggested that perhaps GSA member agencies who are paying for inspections could get some relief from the state for the cost of the inspections. That member has spoken with state representatives, who thought it was an interesting idea, but were unaware of any existing or potential relief program.
- The Board of Supervisors wants to make sure that the entities that form the GSA are able to contribute money, staff and resources to run the GSA.

Questions

- Do the 2,100 wells include all ag residents in the subbasin, or only ag residents who pump enough groundwater to trigger SGMA implementation?
 - The wells are from DWR database and County permitting database - the wells are for ag use only, but do include those pumpers who pump less than 2 ac/yr.
- What is the preliminary gross revenue based on the well and acreage charges?
 - The estimate is \$1,387,220 to \$6,319,100, depending on the rates charged and membership fees collected.
- Is the proposal based on the assumption that we will get grants?
 - This draft proposal does not assume or rely on funding from grants.
- Will the four types of charges (annual membership fee, acreage charge, fixed meter charge and volume charge) be put into place simultaneously, or would some of the charges phase in with the GSP?
 - The implementation of fees and charges will be determined by need and the legal process. Some members thought that the group can't adopt charges without having a report to justify fees.
- How will the City of Vacaville contribute to the GSA?
 - The City of Vacaville would pass the cost on to the customer, not through a parcel tax but through the water rates. The money can't come out of the general fund.

To close the conversation, Joseph asked the group, *Does anyone have any input or requests for the finance working group?*

The group indicated they would like to see a more fine tuned estimate of the start up cost. That information will allow the group to discuss how much seed money each agency will need to contribute.

Governance Structure & Voting Options Discussion

Brooking provided a reminder about the history of the group's process regarding governance structure discussions.

- A working group put together a proposal for what a nimble, but representative GSA membership structure might look like with an 11 member board: 2 County, 2 public ag, 3 cities, 3 agencies, and 1 shared RCD seat. Feedback from that proposal revealed that the County wanted a 3rd seat which led the group to reconsidering the proposal.
- A second proposal emerged with a 17 member board: The Separate RCD seats, and inclusion of North Delta, Fairfield, Cal Water, RNVWD and 3rd County seat.
- In addition, we have learned that Cal Water would like a seat in this or any board structure, which puts the number at 12 even without the third county seat.

Brooking urged the group to consider a few topics:

- What is the core interest behind each board structure option?
- What constitutes a structure that effectively represents the ag community?
- What voting rules can be implemented to make the board structure options more palatable?
 - For example, supermajority or unanimous votes could be required for certain decisions.

Tim O'Halloran from Yolo County Flood Control stated that Yolo County is in a similar point in their process, and recently decided to take a flexible approach. They made a decision to build a framework for the GSA with as much detail as possible, but also with the understanding that they will not be able to agree on all of the details at this point in time. After the GSA is formed, each agency has the option to leave if they don't like the final agreement. Yolo County is pursuing this method for the sake of efficiency and to keep the group together for as long as possible. Yolo County is anticipating lower costs and using Water Resources Agency staff hours to administer the GSA.

The group discussed the details of this exit agreement approach:

- The exit agreement may allow the group to make a recommendation, while balancing interests of the agencies.
- The exit agreement would not necessarily provide more time to form the JPA, but it would allow agencies that aren't pleased with the JPA to leave without punishment.
- There are other groups around California that are utilizing exit agreements.
 - **Action item:** Ag Innovations will find and distribute JPAs with exit strategies.

Questions & Additional Discussion Notes:

- If an agency does back out, will DWR accept their new and separate GSA?
 - **Action item:** Ag Innovations will contact DWR about implications for subsequent applications for entities to become their own GSA after July 1, 2017 if they choose to leave the larger GSA through an exit agreement.
 - Initial responses are included in [Appendix A](#).
- Tim O'Halloran from Yolo County also shared that in the Yolo County GSA each eligible entity will retain their own jurisdiction and authority in the subbasin unless they fail to comply with subbasin sustainability measures. The GSA will not have the power to make the entity do anything, unless the entity fails to comply with sustainability measures.

The group discussed the criteria and selection process for the at-large public seats:

- The group discussed the following criteria: the person who fills this seat must be an active farmer, farming within the subbasin, and a groundwater user.
 - They will need technical support: from either the Farm Bureau, the Ag Advisory Committee, or the RCDs.
 - One member suggested adding the primary income from agriculture as a criterion, but other members felt income was fairly subjective and inappropriate for a criterion.
- Some members felt the at-large seats should be determined by either an election by GSA board members, a public election process (which may be expensive and unwieldy), or an election by the Farm Bureau and Ag Advisory Committee.
- Some members felt the at-large seats should be nominated by the Farm Bureau and Ag Advisory Board, and then elected/appointed by GSA board members.
- Some members felt that the process should be broadened beyond a nomination approach to allow any interested and eligible (active farmer, farming in the subbasin, and a groundwater user) individual to submit an application to the GSA.
- One member suggested one of the at-large seats be nominated by the Farm Bureau and the other at-large seat be selected through an open application process.
- Some members felt concerned that the election process is not entirely transparent if the Farm Bureau or Ag Advisory Committee is nominating individuals.
- However, some members felt the need for an entity to be responsible for filling the seat and providing support, and for that reason favored the nomination process.
- One member suggested the Farm Bureau/Ag Advisory Committee could present two or more individuals and the GSA could choose between the two or more nominees.
- One member felt that the flexibility shown to member agency should also be reflected in the public seat. For example, the City of Vacaville does not necessarily need to be represented by the mayor, and for that reason the at-large public seats should also have some flexibility.

Decision: The group agreed to the process in which the Farm Bureau and Ag Advisory Committee nominate more than one candidate (the number will be determined at a later time) and the GSA board will select 2 of the candidates based on a supermajority vote.

The group discussed the 3rd County seat and the balance of agricultural representation:

- Some members felt that two County seats and two public seats is imbalanced towards agricultural representation.
- However, one member indicated the County doesn't view the 3rd County at-large seat as a way to have more power on the GSA. The County at-large process would be independent from the Board of Supervisors.
- Some members felt that the County seats are ag seats while some members felt that County seats are not just ag seats, but encompassing of all perspectives (ex: industrial).
- Some members felt the Farm Bureau and Ag Advisory Committee should have nominating power for the public at-large seats because they represent a large proportion of groundwater users who are not represented by an agency.
- One member suggested that if members are concerned about the at-large public vote being dominated by County or ag or urban positions on the GSA board, the selection of the at-large seats could be by unanimous or supermajority vote of the GSA board.
- One member raised a concern about agency representatives having the ability to block agricultural representatives, while agricultural representatives do not have the ability to block agency representatives.
- In addition, it was pointed out that agencies that may currently be favorable to ag community interests may not be in the future - board membership is a political election process and the ag community cannot count on County Supervisor support or agency board indefinitely into the future. For this reason, designated seats for ag-elected representatives was named as essential.

The group voted in straw polls on 4 different governance structure options. Each poll was followed by discussion.

Poll #1: 12 member board that reflected the working group proposal, (with a combined Dixon RCD and Solano RCD seat) and an additional seat for Cal Water. S

- One member blocked the option because that member felt the two at-large public ag seats needed to be combined into a single position that is open to applications from anyone who is an active farmer in the subbasin who utilizes groundwater.
- A desire for Rural North Vacaville Water District to have a seat was also raised, and this led to additional blocks on a revised vote.
- One member did not want to vote on an even-numbered board.

Poll #2: 17 member board that includes all interested parties, and does not combine the Dixon RCD and Solano RCD.

- One member blocked the option wanting to understand why Fairfield would be included. Fairfield is included because Fairfield is in the subbasin, and wants to protect water that the city has paid for historically.
- One member blocked the option because of the 3rd County at-large seat.

Poll #3: 15 member board that includes all interested parties, except the 3rd County seat and City of Fairfield.

- No blocking votes
- City of Fairfield however acknowledged they will likely want their seat because they are representing Travis Air Force Base, and they do not have the bandwidth to participate themselves.

Poll #4: 16 member board that includes all interested parties, except the 3rd County seat.

- No blocking votes
- The group agreed to take the below proposal to their boards and electeds for input.

Discussion

- Some members suggested some agencies share votes, for example Dixon RCD and Solano RCD.
 - Neither Cal Water nor the City of Dixon are willing to share a vote.

- Some members raised concern about not all interested parties being present. For example, Erik Ringelberg of the NDGSA was not present. If the group makes an exclusive decision today, NDGSA should have the option to join. (The same applies to North Delta Water Agency). Furthermore, if the group makes an inclusive decision today, RNVWD should have the option to decline membership.
- Several members suggested that agencies should have the option to decline membership due to the fees or staff constraints. One member suggested that if an agency leaves the GSA that agency gives up any rights that were maintained in that agreement.
 - *We are awaiting input from DWR on this point.*
- Members expressed interest in a mechanism for an agency to be added to the GSA in the future. For example, if the City of Fairfield starts pumping groundwater at some time in the future, they may be more interested in having a seat at that time.
- Some members felt that the 3rd County seat is important to address the white space that is not covered by any other agency. Others noted that with so many agencies on the board, white spaces are actually fewer.
- The question of whether County would membership fees pay per seat or per agency came up, with no decision.

Decision: No one blocked the 16 member board including all representatives of eligible agencies in the subbasin, plus two representatives of agricultural production nominated by the Farm Bureau (1) and the Agricultural Advisory Committee (2) who meet specific criteria as individuals, who will be selected by the GSA based on the nominations. If an agency signs on to the GSA and later decides to exit, that agency is free to do so. There will also be an entrance option for agencies to join in the future if they choose not to do so at this time. While the vote passed, there were two “5” votes, which means the agency would not block progress but did not support the decisions. The main points of division on these votes had to do with the number of seats appointed to the County (3 as opposed to 2) , and the number of public ag seats (2 as opposed to 1).

Principles Discussion

Joseph reviewed the principles progress the group made at the September 13th meeting. A few more comments were submitted by SID after the September 13 meeting for group review in the room at the September 27th meeting. The group objective is to adopt the principles document as a guidance document for GSA board members and the JPA drafting team. The group discussed the SID additions to the principles.

Changes to Principle #1:

- One member felt that fair is a value judgement, and should be replaced with *reasonable*, which is a legal term in CA water

Changes to principle #2:

- One member suggested using the phrase “reasonable and beneficial” instead, which aligns with standard language used in SGMA and other water legislation.

The group discussed the additional principle #3 submitted by SID:

The principle: *Should groundwater allocations be part of future GSA actions, then allocations in the same groundwater management area having access to groundwater shall be based on a proportional share of the overall groundwater being allocated. For example, if Property A is 100 acres and receives an allocation of “X” ac-ft per acre then, all 100 acre properties in the same groundwater management area having access to groundwater shall receive the same allocation.*

- The intent of the principle is to insure that if there are allocations in the future, that the allocations are the same across the board and ensure properties receive their proportion.
- The group has experienced difficulty over multiple meetings finding a way to phrase a principle that guarantees access to water while also giving the GSA the ability to ensure a sustainable subbasin.
- Some members felt that this principle is too detailed and should be included in the GSP, not the principles. Other members, however, felt that specific principles are a way to ensure rights are protected before the GSP is written.

- Some members raised concern that groundwater does not align with property lines and management area boundaries. Properties within the same management area may have different aquifer conditions. If only one property has a sustainability problem, both properties should not have to adhere to the same pumping allocations. These members were not comfortable with lumping properties together even if they are in the same management area.
- One member suggested changing the principle to read *If it becomes necessary to allocate water in the subbasin, then we agree all properties should have an allocation of water proportional to their size.*
- One member suggested that the allocation may depend on the type of crop that is grown on a property. However, several members agreed that allocation should not differ depending on crop type.
- Some members expressed that they felt uncomfortable with the term 'allocation', and preferred to use the phrase 'sustainable yield'.
- One member suggested changing the principle to read *Every property owner has equal access to the sustainable yield of the groundwater aquifer beneath their property.* The group agreed to move forward with that rephrasing of the principle.

The group discussed the addition to principle #11 submitted by SID:

The original principle: *We agree to maximize the groundwater recharge capacity of the subbasin through the actions we promote within the GSA and to credit rechargers for their actions to improve groundwater resources.*

SID offers the following additional sentences: *Further, should groundwater allocations be part of future GSA actions, then a property importing surface water that is not utilized through evapotranspiration but, rather, percolates into the ground to be stored and subsequently recharges the groundwater has the right to reclaim the water through pumping. Said stored water is in addition to the property's proportionate share of groundwater.*

- The group previously agreed that rechargers should be credited, as long as the crediting is within the context of safe, sustainable yield.
- Some members expressed the need to scientifically support claims about the benefits of recharge with technical data regarding the acre feet per year saved or other information.
- Some members raised concern that even within a single groundwater management area differences in hydrologic conditions can exist that aren't attributable to surface water.
- Some members wanted to ensure that surface water users everywhere who percolate water into the ground for the benefit of the groundwater would be able to access that groundwater.
- Sustainable yield varies across the subbasin, even between several miles. A study will need to be conducted to determine what the sustainable yield is in each part of the subbasin.
 - For example, Vacaville has two well fields that are each pumped for different acres of water, One well was over-pumped in 1983 and it took 3 years for the aquifer to recover.
- Suggestions for language modifications of principle #11 included:
 - This may include the ability to utilize stored or conserved groundwater in addition to a property's proportional share, within safe and sustainable yield.
 - If there is stored water underneath the district that we claim to be conserved water, it is held for the landowners as a whole, not a particular property.
- The group agreed with the concept of the recharge principle, but was unable to come to an agreement about the language of principle #11 as the meeting time came to an end.
 - **Action item:** Members were asked to send their suggestions and input to Ag Innovations immediately regarding this principle.

Other comments

- RD 2068 has had a management plan, but is 100% surface water dependent. If the portioning of early financing does not bear some resemblance to current dependency on groundwater, their agency may have to bow out if they find the payment agreements unfair.
- Throughout the principles, the term *improve* should mean both quality and quantity because the quality of water in the subbasin is important.

Next steps are captured at the top of this document.

APPENDIX A

DWR RESPONSES REGARDING POST-JUNE 2017 GSA MEMBERSHIP SHIFTS

Broadly, DWR is interested in sustainable management of the entire subbasin with less regulation around individual actions of GSA-eligible agencies.

SGMA allows withdrawal from managing a basin by GSA:

10723.8. NOTIFICATION OF DEPARTMENT AND POSTING BY DEPARTMENT

(c) A groundwater sustainability agency may withdraw from managing a basin by notifying the department in writing of its intent to withdraw.

Coordination with other GSAs and County is important to make sure coverage of the entire basin by GSAs without any “white area”:

10735.2. DESIGNATION OF PROBATIONARY BASINS BY STATE WATER BOARD

(a) The board, after notice and a public hearing, may designate a basin as a probationary basin, if the board finds one or more of the following applies to the basin:

(1) After June 30, 2017, none of the following have occurred:

(A) A local agency has elected to be a groundwater sustainability agency that intends to develop a groundwater sustainability plan for the entire basin.

(B) A collection of local agencies has formed a groundwater sustainability agency or prepared agreements to develop one or more groundwater sustainability plans that will collectively serve as a groundwater sustainability plan for the entire basin.

(C) A local agency has submitted an alternative that has been approved or is pending approval pursuant to Section 10733.6. If the department disapproves an alternative pursuant to Section 10733.6, the board shall not act under this paragraph until at least 180 days after the department disapproved the alternative.

DWR only reviews the completeness of the GSA notification. Governance is to be developed by the local agencies. However, DWR will evaluate GSP. Specifically, there are 10 criteria listed in Article 6 for substantial compliance evaluation. One of the criteria is the GSA’s legal authority and financial resources.

§ 355.4. Criteria for Plan Evaluation

(9) Whether the Agency has the legal authority and financial resources necessary to implement the Plan.

In addition, here is some additional information from DWR’s [GSA FAQs](#):

12. Can GSAs in a basin change or restructure after June 30, 2017?

Yes. While this scenario is not specifically addressed in SGMA, there is no reason why a basin’s governance structure cannot adapt to either changing conditions or changing roles and responsibilities when developing and implementing a GSP. A clear and legally-concise explanation of a basin’s GSA governance structure will be required as part of the GSP in order to determine if the basin’s sustainability goal can be reached and its groundwater sustainability program can be implemented. If the governance structure in a basin needs to be modified, then a GSA would need to withdraw from managing its portion of a basin by notifying DWR in writing. As part of the annual reporting requirements for GSAs, the modified GSA governance structure would need to be explained and the legal agreement that coordinates GSAs in a basin would need to be updated, if necessary. In high-and medium-priority basins, if an exclusive GSA opted out of its management role and no other local agency was able to take its place following the GSA formation process, the basin could be subject to intervention by the State Board. *Water Code References: §10723 et seq., §10728, §10728.2, §10733 et seq., §10735.2*

APPENDIX B
LETTER FROM DWR REGARDING WITHDRAWAL FROM A GSA BY AN AGENCY

STATE OF CALIFORNIA – CALIFORNIA NATURAL RESOURCES AGENCY

EDMUND G. BROWN JR., Governor

DEPARTMENT OF WATER RESOURCES

1416 NINTH STREET, P.O. BOX 942836
SACRAMENTO, CA 94236-0001
(916) 653-5791



September 8, 2016

Mr. Eric Averett
Kern Groundwater Authority
P.O. Box 20820
Bakersfield, California 93390

Dear Mr. Averett,

This letter is in response to the following request for information contained in your August 1, 2016, letter regarding Groundwater Sustainability Agency (GSA) formation:

“Specifically, the Authority is requesting written confirmation that in the event the Authority files as a GSA on behalf of its membership and one or more members elect to withdraw subsequent to the June 30, 2017, deadline, will DWR accept the withdrawing member filing as a GSA within its boundaries?”

Yes, the Department of Water Resources (DWR) can accept the filing of a member GSA within its boundaries after June 30, 2017 based on the scenarios as described below.

In order for a new GSA (for example, a member agency of the Authority) to form within the area of an exclusive GSA (for example, the Authority) the Authority may need to formally withdraw from managing a basin as a GSA by notifying DWR in writing as specified in Water Code section §10723(e). However, the effect of the withdrawal of one or more member agencies from a GSA would be a matter for the GSA to determine. Depending upon the legal structure of the GSA, the departure (or addition) of member agencies might not change the ability of the GSA to develop and implement an adequate Groundwater Sustainability Plan (Plan). But if the GSA determined that a change in agency membership fundamentally altered the nature of the GSA and its ability to function as intended, the GSA may need to withdraw, form a new GSA with new boundaries, and submit a notice of the new area to DWR.

If the GSA withdraws from managing the basin, the remaining members may form a new GSA and submit a new notice to DWR, and the disjoined member may submit its own notice to form a GSA for that basin, as well.

As a general note, for purposes of implementing the Sustainable Groundwater Management Act (SGMA), DWR deals with each GSA as an entity, and does not have direct dealings regarding the organization structure of the GSA with individual members. If a member agency of a GSA withdraws from the GSA, DWR would not necessarily change the status of the GSA until and unless advised by the GSA to do so.

Mr. Eric Averett
September 8, 2016
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In regards to Plan implementation, although DWR does not inquire into the GSA organization structure, DWR will consider whether the GSA has the legal authority to implement its Plan. If the departure of a member agency puts that authority in jeopardy, DWR urges the GSA to withdraw and resubmit a new GSA consistent with its existing authority.

If you have any further question or concerns regarding this subject please do not hesitate to contact me at 916-651-9218.

Regards,

A handwritten signature in blue ink, appearing to read "Trevor Joseph", is written over a horizontal line.

Trevor Joseph, PG, CHG
Supervising Engineering Geologist
Sustainable Groundwater Management Branch

cc: David Gutierrez, Department of Water Resources
Erik Ekdahl, State Water Resources Control Board