

MEETING SUMMARY | November 17, 2016

Glenn Sustainable Groundwater Management Act (SGMA) – Governance Workgroup Meeting #6

MEETING RECAP

- The Workgroup discussed general updates regarding the County's staff level coordination in the West Butte Subbasin, and updates on activities in Colusa, Butte, and Tehama Counties.
- The group discussed the funding effort to have a work plan and risk assessment completed for the Glenn County area. Participants provided an update on their respective agencies' process to consider the funding request.
- The participants reviewed the recommendations of the Governance Subcommittee and agreed on the concept of a single multi-agency GSA.
- The group discussed Colusa County's draft Memorandum of Understanding and Consolidated Comments on the Draft District Principles.

MEETING SUMMARY

Introduction

Dave Ceppos (Facilitator) with the Center for Collaborative Policy reviewed the agenda, meeting materials, and expectations for the meeting. He explained and referenced the direction Colusa has taken with the Memorandum of Understanding (MOU), Colusa County Principles, and Surface Water Diverter Principles that can potentially be used as a template for Glenn County. The facilitator then invited participants to introduce themselves.

General Updates

Glenn County PPAC-The Glenn County Private Pumper Advisory Committee (PPAC) members were selected November 15 to advise the County regarding the "white areas." The PPAC is composed of seven members and is subject to the Brown Act. The County is in the process of coordinating the first meeting. The meeting intends to address goals and the role of the advisory committee.

Staff-level coordination meeting with Glenn, Colusa, and Butte Counties for the West Butte Basin- The facilitator explained that the facilitators (CCP and Kearns & West) working directly with the agencies within the West Butte Subbasin are working to plan a staff level coordination meeting to discuss coordination options specifically for the West Butte subbasin.

Report on Colusa County Governance Workgroup Meetings-Colusa County sent out a "Final Letter to GSA-Eligible Agencies" that addresses potential GSAs with the intent to find out who is participating, not participating, or unsure about participation level. This was an effort set forth by Colusa County to determine the status of other potential GSAs. If the County does not receive a response, it will assume responsibility for the service area.

A draft MOU has been developed for Colusa County. The next step is to revise the MOU based on feedback and to include a funding mechanism component to the MOU. The Colusa group also plans to move forward to complete an initial water balance to help answer technical questions.

Question: Has there been any talk of moving the MOU to a JPA in Colusa County? Response: Yes.

The facilitator mentioned that the Colusa trajectory regarding the MOU is a shared trajectory with Glenn County. The goal is for Glenn County to develop a similar MOU that is representative and reflective of the wishes and principles of Glenn County stakeholders and that integrates with Colusa County's MOU agreement.

Question: Will the water balance be completed by Grant Davids? Response: It has not yet been determined who will complete the water balance project.

Question: Can you provide clarification regarding the multi-agency GSA? Will this cover the entire County or just the Colusa Subbasin? Response: The Supervisors have indicated they would like it to be a multi-agency GSA for the entire County, but we are still in the process of discussing that. The Draft MOU is Colusa subbasin specific.

Update on Butte SGMA implementation-Butte County has formed a Groundwater Pumper Advisory Committee (GPAC) composed of nine members which will be subject to the Brown Act. Butte County has had five GSA eligible meetings focused on eliminating overlap in the Butte County areas and to have GSAs established prior to 6/30/2017. It is estimated there are about 30 GSAs in Butte County. A draft partnership MOU has been developed for the Vina Subbasin to eliminate overlap and commit to working together. The agencies within the Vina Subbasin are taking the draft MOU to their Boards for review. Similar processes are occurring in other areas of Butte County. Grant Davids completed a risk analysis for the Butte County area. Butte County also received funding to put together a technical collaborators group to evaluate available models in the region.

Update on Tehama SGMA implementation-Tehama County formed a Groundwater Commission, which held its first meeting recently. It is Tehama County's intent to have one GSP for all the basins within the County's boundaries; DWR will provide a determination as to the feasibility of this idea in the near future. Tehama is also concerned about financing and fee assessments.

Question: Is Tehama County a single GSA? Response: Yes. The Tehama County Flood Control and Water Conservation District has been designated the exclusive GSA for Tehama County basins/subbasins.

Funding for Davids Engineering Sustainability Risk Assessment and Work Plan-Glenn County contacted Davids Engineering and requested a proposal for the Risk Assessment and Work Plan projects that have been discussed at previous workgroup meetings. A request was sent by Glenn County to potential GSAs within the County to consider financially supporting these

projects. If all agencies participate, the equally divided cost to each agency would be approximately \$2,200. The cost will increase per agency if not all agencies participate. Agencies are working through the process of presenting the proposal to their respective Boards for consideration. The total number of willing participants has not yet been determined.

Other items- The facilitator referenced the surface water-groundwater interaction sustainability indicator. It will be necessary for GSAs to show the status of this indicator. As an example, the Sacramento River is a boundary for many basins/subbasins. GSAs need to consider if this surface water-groundwater interface will be characterized as desirable or undesirable. The Nature Conservancy (TNC) has worked with other agencies to develop a tool to help characterize Groundwater Dependent Ecosystems (GDEs). The Department of Fish and Wildlife representative mentioned that TNC has created a database to delineate potential groundwater dependent ecosystems. The database uses spatial data to help characterize the basins. Imagery and land use may be out of date. The intention of the database is to provide a good starting point for characterization, but the results need to be verified by the local agencies. There is also a guidance framework document to help agencies work through this process.

Recommendations from Governance Subcommittee

At the first Governance Subcommittee meeting there was a lengthy conversation about roles and responsibilities of GSAs, specifically, which roles and responsibilities make sense at a local level and/or a shared level. One example was an overarching fee at a shared level; localized fees on a local level. The overarching fee could be an extraction fee, while special projects could be delegated to the localized level. No governance structure was recommended after the first meeting.

The second Governance Subcommittee meeting included discussion on Management Areas (MAs). The subcommittee felt that MAs will be important, and the group conceptually supports and expects that Glenn County may need MAs. However, the subcommittee feels that characterization of the subbasin should come prior to the development of MAs. The facilitator encouraged the group to consider MAs based on hydrogeologic conditions rather than solely geopolitical conditions. He encouraged the workgroup to continue to work toward funding characterization of the subbasins and develop potential MAs from there.

The facilitator conjectured that Glenn County will most likely rescind its overlap when MOUs are in place that protect the interests of those involved and create trust between the agencies. It is important to the County that all constituents are protected. It is the County's responsibility to look out for all constituents in the County. It is likely that the MOU will lead to the creation of a JPA for a multi-agency GSA. It makes sense conceptually that there would be one overarching agency (single multi-agency GSA) with localized levels of implementation.

Comment: The County is responsible for land use. The County should not rescind the overlap due to their responsibility over land use decisions. Response: The County will not give up land use authority.

Question: Will Glenn County be sending a letter to all GSAs to come to the table and declare their intent? Response: Glenn County is in the process of approving a draft letter of intent to other GSAs similar to Colusa's "Final Letter to GSA-Eligible Agencies."

The facilitator mentioned that by June 30, 2017 there can be no overlap and no unmanaged spaces. There is a nuance to overlap part that you can have physical overlap but that there must be an articulated mutual understanding of who's responsible for what, but for all intents and purposes that is still saying we are not going to have overlap. The County is not going to waive land use authority but needs to coordinate so that by June 30th we can meet the no overlap, no unmanaged area regulations. He encouraged the group to consider going further than the minimum and also creating governance so the group is ready to move forward with making decisions.

Comment: Districts also want to protect their landowners. It is necessary to create an agreement that everyone can live with. Ideally, that would be one central agency, and then work within the boundaries of your specific area.

The facilitator noted the possibility of a per-acre flat fee and funding structure models being discussed in other areas. SGMA does not rescind the precedent of overlying rights. Therefore, if you are in a groundwater basin, by definition you have overlying rights and should be paying for the sustainability of that basin whether you are exercising your right or not because you may exercise your right in the future. Possible extraction fees: 1) Per acres (overlying right) fee 2) Significant extraction fee 3) Well registration fee.

Comment: A per acre fee is a logical place to start.

Comment: Rather than ask the County to rescind its GSA authority, the City of Orland may be interested in rescinding its own notice with the stipulation that there is a legally enforceable document considering the City's interests such as: well location, groundwater extractions, and the ability to continue to provide reliable drinking water. The participant supported a larger, single multi-agency GSA.

Comment: The Glenn Ground Water District stakeholders came to general consensus that they are willing to work with other agencies and maintain local control as much as possible.

Comment: Regarding the 2 acre-feet or less per year rule relating to de minimis users, is it cumulative as a group or city? This should be more clearly defined or clarified by DWR.

Response: The definition is 2 acre-feet or less per year annually for domestic use. There are some undefined terms in SGMA regarding this issue under specific circumstances which makes it difficult to assess when and how the 2 acre-feet per year annually rule is applied. As an example, if you are using a domestic well for both agricultural and domestic purposes. Another example is a well cluster; if there are different parcels with different wells but one landowner

etc. Does the 2 acre-foot rule apply to the parcel or the land owner? Clarifications are needed on the definition.

Comment: Water is fluid and it doesn't just belong to me. Water is commonly shared. Whether groundwater users are considered de minimis or not, we have a responsibility and a part in this. Though it is unfortunate and people won't like it, we should have to pay a fee like everyone else.

The Facilitator noted that if you do not have sustainable groundwater, so goes your economic livelihood and culture. The facilitator then asked how the group anticipates working with mutual water companies and other agencies that do not meet the local agency definition under SGMA.

Comment: Cal Water has an interest similar to the City of Orland. -They want to protect the interests of the people in the City of Willows and Hamilton City. -They would like to be invited to be a part of the process. -Geoff Fulks, Willows Cal Water Manager, was selected to be a member of the Glenn County PPAC.

Comment: The surface water districts' principles need to be recognized. If that occurs, he can support the possibility of a GSA with multiple agencies. Surface water districts bring a lot of surface water into the basin and try to help with conjunctive use. The districts represent their landowners and want to protect their interests also. Private wells are not district wells. The landowners have a right to a proportional share of the natural recharge. Colusa County workgroup meetings have taken a big step forward and he has a positive outlook.

The facilitator noted that all eligible agencies have the same responsibilities. While the law does not alter water rights, it does have the ability to place limitations. All rights come with limitations.

Questions: Regarding ecological areas, is Fish and Game going to be able to impose rules on GSAs? What role do they play to mandate rules? Response: Defining surface water/groundwater dependency helps to create an accurate water balance/budget. Tribes and Federal agencies are sovereign. They have the choice to work with GSAs, but are not required to participate. It would be helpful if they do participate in order to make an accurate water budget. The State agencies are subject to SGMA.

Comment: The California Department of Fish and Wildlife representative noted that the Department wants to participate to protect public trust resources and is potentially a willing partner in sharing groundwater use data. She also wanted to clarify that SGMA does not authorize any additional authorities to State agencies.

Comment: The Resource Conservation District has technical expertise that could be a useful contribution, such as access to landowners that could be used in a positive manner and are

willing to help the County as needed. Response: Not every GSA will have the same role; each entity will have unique skills sets to contribute.

The facilitator invited participants to share their thoughts on the possibility of a per acre fee.

Comment: I like it.

Comment: People have skin in the game. If the group decides on a single GSA, it would be easy to put a per acre foot charge on the County tax rolls.

Comment: The Proposition 218 process is expensive and difficult. It could be beneficial if the County could lead the effort and reimburse the local agencies.

Comment: The MOU seems to be Colusa County driven. Is this the document the subcommittee discussed? Response: No.

The facilitator asked if anyone was opposed to try to move toward a single multi-agency GSA. There were no objections raised.

Draft Memorandum of Understanding (MOU)

The facilitator indicated that the overarching purpose of the MOU is to take steps to build trust and protect the unique interests of each agency. In Colusa County the draft MOU addresses the principles developed by the surface water diverters, Colusa County, and the Colusa PPAC. The draft MOU will be revised to incorporate comments received. Colusa County's draft MOU will be used as a starting point for Glenn County's version of a draft MOU.

The facilitator reviewed the draft MOU and consolidated comments (see Appendix). Highlighted in the document are areas that remain points of concern to many participants. Mary Fahey, Colusa County, recapped the discussion that took place at a recent Colusa Workgroup Meeting. One point discussed was the districts are not the only contributors to recharge; private pumpers along the river arguably contribute as well. A question remains about how to quantify the recharge? The Colusa County water balance will help in the assessment of contributions to recharge. Parties want to have the option to call on groundwater when necessary.

Comment: Meeting demands that are required, some agencies may need to pump some groundwater, but it is not a significant amount compared to the amount of surface water that is brought in. The sooner the water balance can be completed, the better.

Comment: It was mentioned at the Colusa meeting that the districts expect that they would not receive all historical credits from recharging groundwater. Response: The wording in the draft MOU needs to be revised to address concerns and clarify the intentions.

Comment: While I agree with what you are saying, just please don't pull all the water from one concentrated area. That's what makes me nervous. Response: We recognize that, and we try not to impact an area negatively. If it appears to be impacting an area, we try to move somewhere else.

Comment: Farmers can say that they recharge and have the right to that water also. Banking of water may need to be accounted for, but there are still many unknowns. An understanding of how and where recharge is occurring and where it goes still needs to be determined. How did we get through tough years? SGMA is about groundwater protection, not about helping surface water. I would like to see that we avoid allowing surface water diverters the rights to pump groundwater and transfer water out of the County.

Comment: It seems that the State Water Resources Control Board will always try to fix the Delta and SGMA is also coming into play. Some big cutbacks are probably the result. The section in the MOU about "the districts reserve the right to manage and use the water," does that exempt them from SGMA? What are the implications for the Delta during times of drought when there are restrictions on groundwater pumping for surface water districts? Response: During drought, my district has gotten water from other districts, settlement contractors in particular. We also have district wells to help fill the gap. What we don't have control over is landowner wells, which they use to make up the difference in short years. Hydrographs show the increase in groundwater levels when surface water deliveries began. We are now back to the original groundwater levels. Surface water deliveries are important to the overall picture.

The facilitator posed the question to the group: Particularly with the hardening demand, do you think that you can find a way to be sustainable without fallowing?

Comment: In Western Canal, the majority of the acreage is in rice. We do not anticipate seeing a large shift in cropping due to soil type. Within the district there are private wells, but no district wells. The district does not have pumping programs. My expectation is that our area will remain sustainable, unless there is a major shortage in surface water.

Comment: Glenn County is responsible for sustainability in Glenn County. Colusa County is responsible for sustainability in Colusa County. Are we all responsible for sustainability for the entire basin? Response: The whole basin needs to be sustainable. If any part of the basin is unsustainable regardless of county lines the whole basin is out of compliance. We have to work together with adjacent counties in order to be sustainable basin wide.

Comment: There is a lot of work to be done to prove if we are sustainable. There are areas of concern that need to be assessed within our County in order to be sustainable.

Facilitator: Do you think you can be sustainable overall? We are still in a drought. The groundwater has not fully recharged. If you think you can be sustainable, then you have answered your question about how this will work. If yes, then you can make this work.

Response: In general the response is yes. With coordinating agreements we will reach sustainability and have to.

Question: Is the 2 acre-feet per acre per well an annual amount? Response: For de minimis users, the stated 2 acre-feet per year is for domestic use; the language is unclear as to how that gets implemented. The State is trying to provide some clarity, but it is likely that the State will look to the locals to further define and manage de minimis users.

Next Steps

The facilitator closed the meeting by reviewing the next steps. The County will follow-up with the letter that was sent out regarding funding for the risk assessment and work plan. There is a continued commitment towards the concept of a multi-agency GSA. The facilitator will work with Colusa County to revise the Colusa version of the MOU. Once complete, the revised version will be used as a beginning point for the Glenn MOU. Participants will review and provide feedback on the revised Colusa draft MOU. Glenn County will develop County specific Principles. The group will need to begin discussing their envisioned role of mutuals and private pumpers. It was clarified that Cal Water owns the infrastructure in the Willows and is not working for the City. They are a beneficial user, but would need to be invited to the table to participate in a greater capacity. The facilitation team will develop a long range critical path work plan to outline the activities necessary to meet the June 30, 2017 deadline. There are two county specific GSAs (Colusa and Glenn) moving towards integration, but still stand-alone. The West Butte Subbasin specific meeting will be scheduled to help determine next steps for that basin. The MOU ratification process will set the stage for development of a JPA.

Meeting Participants

- Sharla Stockton Glenn County
- Mary Randall Department of Water Resources
- Erin Smith Department of Water Resources
- Bill Vanderwaal Glenn Ground Water District/Provost and Pritchard
- Ron Stilwell Private Pumper
- Greg Johnson Western Canal Water District
- Marcie Skelton Glenn County Agricultural Commissioner
- Sharron Ellis Private Pumper
- Geoff Fulks Cal Water
- Vickie Newlin Butte County
- Bruce Roundy City of Orland Mayor/ Resource Conservation District Director
- John Viegas Glenn County Board of Supervisors
- Lance Boyd Provident/Princeton-Codora-Glenn Irrigation Districts
- Pete Carr City of Orland
- Emil Cavagnolo Orland Artois Water District
- Mary Fahey Colusa County
- Trish Saint Evens Orland
- Mardy Thomas Glenn County Planning & Public Works
- Kristal Davis Fadtko California Department of Fish and Wildlife

- Alicia Eklund Glenn County Counsel
- Mark Lohse Private Pumper
- Vince Minto Glenn County Board of Supervisors

Staff

- Lisa Hunter Glenn County Water Resources Coordinator
- Dave Ceppos Center for Collaborative Policy

APPENDICES

- Draft Colusa Memorandum of Understanding Defining Colusa Subbasin Groundwater Sustainability Interests
- Consolidated Comments of Draft District Principles

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Memorandum of Understanding
Defining Colusa Subbasin Groundwater Sustainability Interests

This Memorandum of Understanding (MOU) is made and entered into by and among the (names of parties) which are referred to herein individually as a “Party” and collectively as “Parties,” for the purposes of potentially forming a joint powers agency to serve as the Groundwater Sustainability Agency in the Colusa County portion of the Colusa Subbasin in support of Senate Bills 1168, 1319 and 13, and Assembly Bill 1739, known collectively as the Sustainable Groundwater Management Act (the Act. This MOU shall hereinafter be known as the Colusa County Groundwater Sustainability Agency MOU.

Recitals

WHEREAS, on September 16, 2014 Governor Jerry Brown signed the Act into law; and

WHEREAS, the Act went into effect on January 1, 2015; and

WHEREAS, the Act was amended on January 1, 2016; and

WHEREAS, the Act seeks to provide sustainable management of groundwater basins, enhance local management of groundwater, establish minimum standards for sustainable groundwater management, and provide local groundwater agencies with the authority and the technical and financial assistance necessary to sustainably manage groundwater; and

WHEREAS, section 10720.7 of the Act requires all basins designated as high-or-medium priority basins designated in Bulletin 118 be managed under a Groundwater Sustainability Plan or coordinated Groundwater Sustainability Plans pursuant to the Act; and

WHEREAS, the Colusa Subbasin within the Sacramento Valley Basin is a Bulletin 118 designated medium priority basin; and

WHEREAS, a local public agency is defined in Section 10721 of the Act as a having water supply, water management, or land use responsibilities within a groundwater basin; and

WHEREAS any local public agency is an eligible Groundwater Sustainability Agency; and

WHEREAS, each of the Parties to this MOU is a local public agency within the jurisdictional footprint of the County of Colusa; and

WHEREAS, groundwater extractors in the County portion of the Colusa Subbasin also include private individuals and corporations unaffiliated with local public agencies within the County; and

WHEREAS, the Parties, acting through this MOU intend to work cooperatively with other Groundwater Sustainability Agencies operating in the Colusa Subbasin to manage the subbasin in a sustainable manner pursuant to the requirements set forth in the Act.

NOW, THEREFORE, in consideration of the promises, terms, conditions, and covenants contained herein, the Parties hereby agree as follows.

Section 1. Definitions

As used in this MOU, unless context requires otherwise, the meanings of the terms set forth below shall be as follows:

1. "Act" refers to the Sustainable Groundwater Management Act.
2. "Agency" means the Colusa County Groundwater Sustainability Agency.
3. "Beneficial Use and Users" is defined in Section 10723.2 of the Act as holders of overlying groundwater rights, including: Agricultural users, Domestic well owners, Municipal well operators, Public water systems, Local land use planning agencies, Environmental users of groundwater, Surface water users, if there is a hydrologic connection between surface and groundwater bodies, the federal government, including, but not limited to, the military and managers of federal lands, California Native American tribes, Disadvantaged communities, including, but not limited to, those served by private domestic wells or small community water systems, Entities listed in Section 10927 of the Act that are monitoring and reporting groundwater elevations in all or a part of a groundwater basin managed by the groundwater sustainability agency.
4. "Committee" shall mean any committee established pursuant to this MOU
5. "County" shall mean the County of Colusa in its role as a local public agency (as defined in the Act) and as a governing jurisdiction.
6. "Effective Date" means the date on which the last Party executes this MOU.
7. "Fiscal Year" means July 1 through June 30.
8. "Governing Board" means the governing body of the Agency.
9. "Member's Governing Body" means the Board of Directors or other voting body that controls the individual local public agencies that are signatory to this MOU.
10. "Party" and "Parties" shall mean all organizations, individual and collective that are signatories to this MOU.
11. "Plan" refers to one or more Groundwater Sustainability Plans
12. "State" means the State of California
13. "Subbasin" means the Colusa Subbasin as defined in State of California Bulletin 118.

Section 2. Purpose

1. The purpose of this MOU is to define general and specific principles that reflect mutual understanding by the Parties about commitments and requirements associated with implementing the Act and creating a multi-party Agency.
2. This MOU also defines mutually understood tasks and associated potential costs of tasks that may be encountered as the Parties implement the Act through a multi-party Agency. (TBD)

Section 3. Term

1. This MOU shall become effective upon execution by each of the Parties and shall continue in full force and effect until terminated pursuant to the provisions of a subsequent joint powers agreement (JPA) (as per California Government Code Section 6500).

Section 4. General Principles of Understanding

1. A partnered approach should be fostered for groundwater management that: supports the Act; achieves sustainable conditions in the Subbasin; reflects mutual respect for each Party's discretion, governmental authority, expertise, knowledge of groundwater conditions, demands and concerns; and ensures a balanced representation of private pumper interests.

2. Local control of groundwater must be ensured and State intervention to implement the Act must be avoided.
3. Locally controlled compliance with the Act must be ensured.
4. Implementation of the Act will be expensive and all beneficial users need to contribute to implementation.
5. A partnered approach to groundwater management and implementation of the Act is in the best interest of County beneficial users because it will maximize efficiencies, keep costs at a minimum and capitalize on skills and strengths of various partners provided such partnership also creates and maintains collegial relationships and flexible implementation of the Act.
6. As allowed for in Section 10723.6 (5) of the Act, the Parties support formation of, and participation in, one (1), multi-agency GSA covering the portions of the Subbasin that lies within Colusa County.
7. All beneficial users of groundwater will be required to cooperate with the Agency and abide by the guidelines put forth in the Plan(s) for Colusa County and the Subbasin.
8. Being a Party to this MOU is not a condition to participate in Plan development. All beneficial users have an equal opportunity to participate in Plan development.
9. No Party's land use or other authority is limited by this MOU.
10. Sustainable groundwater conditions must support, preserve, and enhance the economic viability and social well-being of all beneficial uses and users
11. Large, deep wells may threaten the groundwater resources of well owners with smaller, shallow wells and such impacts must be avoided and/or mitigated.
12. Domestic wells, community wells, and industrial use wells can be threatened by unsustainable management of groundwater resources.
13. The economic and cultural future of agriculture in Colusa County can be threatened by the lack of available groundwater and surface water resources.
14. Threats to the natural resources of Colusa County resulting from impacts to groundwater resources must be avoided.
15. All beneficial users must have an open, transparent, timely opportunity to be engaged with the Agency and provide their input on Plan development and implementation of the Act. Extensive landowner outreach shall be a priority of all Agency Parties to inform and update all beneficial users about SGMA implementation and potential impacts, and to ensure beneficial users are involved in the SGMA process where applicable

16. Implementation and enforcement of the Plan should take place at the most local level possible and should allow each Party to approve its Plan chapter or section, and to preserve the Party's respective authority to manage the water resources available to their constituents or customers as long as said conditions are consistent with sustainability requirements of the Act and Plan.
17. All overlying landowners in the Colusa Subbasin have a right to share the Subbasin's natural recharge for beneficial use on their overlying land.
18. The County supports formation of, and participation in, one multi-agency GSA covering the portions of the basins that lie within county boundaries (Water Code §10723.6) (5)
19. Act implementation is new for all County beneficial users and there are many unknowns. Willingness by all participants to adapt and adjust during Agency formation and Plan development and implementation is crucial to success.
20. Achieving and maintaining groundwater sustainability for the good of all groundwater users in the County should be the Agency's first priority and main focus, especially in the early stages of Act implementation while all beneficial users work together and strive to alleviate any existing fear and distrust.

Section 5. Specific Principles of Understanding

Governance and Implementation of the Act

1. The County will represent the common and unique interests of groundwater users located in the unmanaged areas of the County's portion of the Subbasin as per Section 10724 of the Act
2. The Act affects all citizens of the County. The County will implement the Act in a manner that optimizes the Act's beneficial opportunities to achieve sustainable groundwater conditions to support our vital agricultural economy, other industry, and domestic and public water uses.
3. The Agency Board will reflect diverse representation of beneficial users and will include all local public agencies willing to serve, mutual water companies as invited by the conveners of the Agency, and private groundwater pumpers that are unaffiliated with any other organization and as appointed by the County.
4. The County will preserve and exercise all existing authorities necessary to protect its citizens while working cooperatively with other agencies.
5. The County will pursue financial and infrastructure solutions and beneficial partnerships with other Parties to provide sustainable water supplies for all constituents.
6. Implementation of the Act should preserve local public agency discretion to determine whether to be an Agency individually, join in a Agency created by another agency that is a Party to this MOU, or where a separate JPA is created, to have the JPA serve as the Agency for the local agency's area (and, if desired, to include the member on the JPA's governing board).

7. Governance and implementation must avoid duplicative or conflicting governmental authorities. Each Party will have the right to approve the provisions of the Plan governing Act implementation within its own boundaries and to implement the Act within its boundaries. Subject to those limitations, each Party retains and preserves any police powers or other authority it has to regulate groundwater use within its boundaries in order to achieve sustainability.

Sustainability

1. Data collection and groundwater studies are essential to increase knowledge and to support groundwater management decisions. Funding and implementing such studies is a priority and a shared responsibility among all Agency Parties and Subbasin beneficial users.
2. Groundwater impacts throughout the County and Subbasin are not equal. Conditions will vary by location and water year type. While all beneficial users will share the burden to achieve sustainability, solutions will need to reflect these differences.
3. The County requires a permit to extract groundwater for transfer purposes outside of the county. (County Ordinance No. 770, Chapter 43).
4. Surface water supplies should be used conjunctively with groundwater. Surface water diverters and landowners should be incentivized to utilize surface water to its full extent as feasible and groundwater should be available for use during dry periods when surface water is not readily available.
5. All Parties recognize the interconnectedness of groundwater and surface water resources, and the contributions to the system from surface water applications.
6. Importers of surface water have a right to use the recharge attributable to leakage of surface water from canals and distribution and drainage systems, and the deep percolation of applied surface water for crop irrigation.
7. All beneficial users, whether using surface water or groundwater in the basin, have an obligation to use water consistent with their respective rights, which may include an obligation to mitigate impacts on waterways, creeks, streams and rivers.

Water District and Irrigation District (District)-Specific Principles (applicable to all Districts and their members / constituents overlying the groundwater basin)

1. Landowners within Districts are overlying landowners and have the same overlying rights to groundwater as overlying landowners in the unrepresented areas.

2. Districts act on behalf of and serve as trustee for all landowners within their service area to ensure collective compliance with the Act. Districts will cooperate with their landowners to manage and optimize their share of the natural recharge to the Subbasin.
3. Districts recharge the groundwater basin with surface water through leakage from canals and distribution and drainage systems and deep percolation of applied crop water. If cutbacks to surface water supplies occur to the extent that Districts must supplement their supplies with groundwater, Districts reserve the right to manage and use the water attributable to such recharge. Districts will provide professional studies to quantify availability of such recharge, and provisions will be in place, such as targeted monitoring programs, to ensure that no harm will come to adjacent landowners
4. To the extent that additional groundwater pumping is needed within Districts to offset dedication of surface water to environmental requirements in reservoirs, rivers, or the Bay-Delta, or for other purposes, the additional groundwater pumping, although pumped within the Districts, is a shared obligation of the entire Subbasin and must be borne by all groundwater users in the Subbasin.
5. Districts will use surface water and groundwater for in-basin transfers to meet local demands. When the subbasin is considered sustainable per the Act, following transfers will also occur both in and outside of the groundwater subbasin, with transfer quantities based on avoided consumptive use.
6. Surface water transfers will potentially serve as a tool to settle disputes over environmental obligations or to mitigate impacts during drought periods.
7. Where local actions are necessary to address falling groundwater levels and subsidence caused by localized groundwater extraction in excess of sustainable yield, Districts will attempt to contribute to solutions, but all beneficial users will be required to contribute.

Agency Financing and Support

1. Provisions are included for Party contributions of capital and operating funds, personnel, services, equipment or property to convening the Agency and Plan development.
2. Recognizing that there will be costs for the development, implementation and administration of the Plan, the Parties must agree on governance that maximizes the potential for State funding, and to allocate the local share of these costs by one or more mutually agreeable and equitable formulas (to be determined)

Future Modifications to this Memorandum

1. Maximum flexibility will be provided to adapt to changes in Agency membership, funding, planning oversight, et cetera, as the parties build their relationships and mutual trust.

Consolidated Comments on Draft District Principles

The following provides verbatim excerpts from commenters on the current Draft Principles prepared by Surface Water Districts in Glenn and Colusa Counties. Comments were provided by the following: 2 individuals that are private pumpers only, 2 individuals that are private pumpers and members of a district, 1 City, 1 County, one advocacy organization outside of the Colusa Subbasin, and an emerging water district.

Commenter 1

A couple of comments on surface water district's proposed principles relate to: 1) pumping groundwater without being able to demonstrate that any claimed recharge will, in fact, recharge aquifers from which water is being drawn (e.g. gcid's Hamilton city "test" wells pumping water from relatively deep aquifers for some use at least 15-20 miles south of the wells) and 2) total lack of concern for protection of interests of groundwater users within the boundaries of surface water districts (how about a "private pumpers' advisory group of well-owners in the districts?")

A couple of comments on "management areas" principles will relate to : 1) using groundwater on only the acreage from which the water is pumped (directly pumping into a canal next to the parcel from which water is pumped does not count as use on the parcel); 2) not having the "zone of depression" of a well extend beyond the property lines where the well is located; and 3) having a permitting process in place which identifies future use of the new pumped ground water, the potential future environmental impacts of said well on other environmental considerations, and, in fact is, a meaningful permitting process that goes through a serious, multifaceted review before the well is even drilled.

Commenter 2

After reading through the material, quite frankly, it sounds pretty good. After attending many meetings, it seems our biggest stumbling blocks are the private pumpers not feeling that are adequately represented to protect themselves against their perceived fear of what the Districts may do. There is a lack of trust, and they have to sit down with the County, and agree to whatever assurances the group can agree to. The elephant in the room is getting a plan that ALL the private pumpers feel comfortable with.

Commenter 3

These proposals of governing principals and District- Specific Principles, show a lack of understanding of the main principals of SGMA. Many of the stated proposals are suggesting their rights to leverage control of Groundwater to makeup for surface water cutbacks, or to be able to use groundwater transfers to pay for implementation of plans or increasing surface water costs.

In Governing Principals, bullet 2 states "Importers of surface water have a right to use the recharge attributable to leakage of surface water from canals.....etc. How is this "historical banking" of groundwater proved and calculated? What are they saying by this? Because we've contributed to these many ways of recharge, we reserve the right to pump groundwater?"

Bullet number 6, is questionable, “preserving the members respective authority to manage the water resources available to their constituents or customers.” Could be abused, seen as a taking or power to use stakeholders wells, groundwater.

Bullet #7, last sentence “each member agency retains and preserves any police powers or other authority it has to regulate groundwater use within its boundaries in order to achieve sustainability.” I just question police powers, and authority to regulate. This power should be only with the County, after all, the coordination and implementation has to be the same for the whole county.

District-Specific Principles

Bullet 2. “ WD’s/ID’s act as trustee for all landowners in their service area. Will help landowners manage and optimize their share of the natural recharge to the Basin. This needs to be explained.

Bullet #3. Again as in other section bullet 2, How is this calculated and determined?

Bullet#4. To the extent that additional Groundwater pumping is needed within WD’s/ID’s to offset dedication of surface water to environmental requirements.....shared obligation of the entire basin and must be borne by all groundwater users in the basin. Very opposed to this. We are responsible to the sustainability of our Groundwater in our County, and protecting the interest of our neighbors. Surface Water Districts with water rights to the Sacramento River, they own those issues. It is not realistic to expect us to manage our Counties’ sustainability and at the same time meet the needs of the Delta and beyond. And, “or for other purposes”. The Districts need to define this better.

Bullet#5. Here is discussed surface and groundwater for local “in-county” use and demand. Following transfers both in and outside of the groundwater basin, and revenue from transfers (in-county or out-of county?) to fund WD’s many costs. All of this needs clarification. Many of these actions happen only in extreme years.

Commenter 4

[Comments were only editorial in nature and were hand written on a copy of the original and then sent as a pdf scan to CCP]

Commenter 5

[Comments were embedded as track changes straight into the digital version of the DistrictPrinciples and were incorporated in the DRAFT MOU distributed on 11/14.]

Commenter 6

We prefer that when surface WD’s are supplementing their water deliveries with groundwater, the groundwater is drawn from a dispersed area in order to avoid local impacts or draw-downs that might happen if it’s drawn from a concentrated area.

Commenter 7

The one principle I had a problem with was the irrigation district principle of the right to use the recharge attributed to their surface water use. I am of the opinion all beneficial water users have the right to extract groundwater regardless of whether they have the benefit of a surface water right or not. I do support the position that surface water does contribute to groundwater recharge, but I don't think it grants a surface water right holder a "special right" to groundwater extraction apart from any other groundwater user. I did not include anything about water transfers. I wasn't sure this topic is necessary for the common principles. If the irrigation districts want that included, that is fine. It might be better to avoid that topic for now, to proceed forward.

NOTE: The following comments are presented verbatim as provided by an advocacy representative located outside of the Colusa Subbasin. These comments are provided for public review but were not incorporated into the suggested revisions and compilation of principles that make up the DRAFT MOU.

Commenter 8

These comments were drafted 09/30/2016 and shared via a presentation during a poorly attended, public working group meeting 10/11/2016. Does a list of the SW districts who met 09/29/2016 exist? Why is this list not included? The title of this draft document indicates it was produced by surface water districts, but midway through there exists a shift to use of more inclusive terms (Water/Irrigation Districts). Do the original authors believe that other ELA's, not signatory to these principles as of date of adoption, willingly accept these guidelines as they stand? Which districts have signed off on these principles? Have these principles been vetted by the entire board of each respective district (SW, WD, ID)? Why is a list of board members not part of this publication? Where are the voices of those district representatives that supported the need for both private pumper representation and a voice in this process?

It would be helpful if this document was consistent in use of terms.

- 1) Private Pumpers, overlying landowners, and groundwater users are all used at least once. Are these terms representative of one category of stakeholder? Please define each if meaning is different.
- 2) Does "groundwater user" also apply to habitat and streams reliant on groundwater?
- 3) Why the use of the term "white areas" in the varying contexts found in this draft?
- 4) How is "natural recharge" defined in the context of this document?

The SGMA and corresponding regulations will affect water resource management, land use decision making, municipal and agricultural water use, and many other aspects of California life. We need to embrace these facts now and begin working cooperatively to form the appropriate *County* entities for governance that is equitable for all stakeholders.

The following comments reflect the structure of the "Draft Joint Proposal" and cover only those sections addressing principles.

Background

B1: The underlying principles for groundwater sustainability found in the SGMA negate surface water districts from becoming a GSA for any area where groundwater dependent citizens live.

B2: The overlap issue is very specific to jurisdictional authorities of land use and groundwater management and the associated police powers granted only to cities and counties.

B3: The SGMA requires that ELAs form to govern the entire B-118 subbasin. Local agencies are expected to collaborate and coordinate the GSA(s) on a basin-wide scale to sustainably manage groundwater at a local level. Multiple-agency governance places a considerable burden on the Counties to manage and maintain coordination agreements and limits their ability as an equitable voice in the management of the commons for the whole.

Primary Themes

Surface water and groundwater are considered “common pool.” Groundwater usage is based upon correlative rights that cannot be overturned by implementation of the SGMA.

Top-down methodologies invoke images of protecting and improving the resource as a whole; whereby, each member agency works for the betterment of the “common pool” resource for all, not just agency membership.

Bottom-up methodologies invoke images of team work and decision-making by all stakeholders. Any GSA structure must implement the best of both methodologies.

An interesting application of the term “white areas” to private pumpers. Use of the term appears to demand jurisdictional rights not previously afforded surface water districts and comes across antithetical of stated aversion to a top-down methodology. How do the districts propose to ensure balanced representation for private pumpers outside of district boundaries? The use of “balanced” and not “equitable” also speaks volumes to the economic interests and intent of the surface water districts.

As a community dependent for life on a regionally-shared resource, it is inconceivable that we would allow surface water districts to establish sustainability thresholds for water quality and groundwater elevations.

Governing Principles

B1: All overlying landowners have a correlative right to groundwater for beneficial use on their overlying land and duty to sustainably maintain that supply for all beneficial users. All private pumpers must be recognized as holding senior priority water rights to those previously dependent on surface water.

B2: Recharge must be reasonably calculated based on a publicly vetted water balance. Water leaving district distribution networks will have to be measured for a substantive and quantitative water balance assessment. If shallow percolation is shown to occur that is attributable to leakage of surface water from canals, distribution, drainage systems and applied surface water for crop irrigation then a thorough analysis will have to be developed that shows how that percolation moves laterally to supply water for recovery in production locations (where pumping occurs) and vertically for

recharge calculations. And further analysis must be completed that clearly quantifies and qualifies deep percolation to aquifer production zones. Flux and flow calculations across service area boundaries will also have to be developed.

Recognition that groundwater users also contribute to deep percolation and their net groundwater use must be based on same calculations used for surface water use and presence.

B4-B8: Surface water districts were formed to provide water for agricultural purposes only. SGMA loosely provides a mechanism to manage water as a common pool resource and provide local governance (with associated police powers) for broad social welfare. Collegial implies a shared responsibility for the good of the whole. A member cannot decide in a vacuum to pull out of a cooperative, collaborative system.

The Counties have and maintain the only authority and policy power over groundwater resources. They alone hold land use and well permitting authority. The districts' never had authority over domestic use of groundwater and should not. Districts cannot gain authority over individual landowners any more than their willingness to give up discretion or authority to the Counties.

District-Specific Principles:

B1: It should be argued that landowners with rights to surface water do not hold the same first in time, first in right priorities of landowners fully dependent on groundwater.

B2: Objection to this 'principle' has been stated above.

B3: Arguments to this 'principle' have stated above.

B4: This 'principle' should be recognized as a violation of Article X, Section 2 of the CA Constitution.

B5-B6: These are bold statements in light of other stated principles throughout this document. What would groundwater users be expected to "contribute?"