

To: Cosumnes Subbasin SGMA Working Group Members
From: CBI and Water Forum Staff
Date: July 24, 2017
Re: Draft Framework Agreement

Attached is a proposed final Framework Agreement intended to guide near-term Cosumnes Subbasin SGMA Working Group deliberations. The latest version has been updated to reflect Working Group recommended edits based on its July 19, 2017, meeting. Additionally, you will note a handful of track changes edits on pages 1 and 3. These edits were discussed in general at our July 19th meeting and have since been proposed by Herb Garms.

Working Group members are asked to forward this proposed final Framework Agreement to their respective governing bodies for consideration and endorsement **no later than August 31, 2017**. Given the extensive efforts undertaken by all GSAs to develop a Framework Agreement that strives to integrate ideas across all the GSAs, we ask Working Group members' to recommend adoption by their respective governing bodies.

As discussed at the July 19 Working Group meeting, a few other quick points to note:

1. It is important we get a written endorsement of the Framework Agreement from each governing body. Please feel free to use the sample resolution if that is helpful. Of course, each GSA may well wish to customize the language to meet its specific protocols,
2. Please let the Water Forum and the other GSAs when your respective boards will be discussing and acting on the Framework Agreement. We encourage GSAs representatives to attend each other's board meetings as that is an effective way to underscore the collaborative effort and ensure Working Group members are on hand to answer any questions that might arise.
3. Please let the Water Forum know if you would like them to attend and/or present when your respective boards will be discussing and acting on the Framework Agreement.

We believe this proposed Framework Agreement represents a true integration of the many perspectives and concerns put forward by all the GSAs over the past five months and represents a truly collaborative effort. Most importantly, we believe this Framework Agreement offers a solid platform for guiding deliberations over the next 6-12 months.

**Cosumnes Subbasin SGMA Working Group
Proposed Framework Agreement to
Guide Near-Term Working Group Deliberations**

Purpose

The purpose of this Framework Agreement is to outline and confirm the interim process the parties (outlined in the following section) will use to work collaboratively to begin developing a SGMA-compliant Groundwater Sustainability Plan for the Cosumnes Subbasin.

This non-binding agreement is intended to guide the parties' deliberations over the next 6-12 months. This agreement can be extended beyond the 12-month period only with unanimous agreement by all parties. Prior to 2022, this agreement is to be replaced by an MOU, MOA, JPA or other vehicle intended to more formally codify governance, funding, outreach and implementation approaches.

This agreement is not effective until endorsed by all parties. The intention is to have a final draft of this framework agreement adopted by all parties' governing bodies prior to or as close to July 1, 2017, as possible.

This agreement may be amended or revised with the agreement of all parties. Parties also have the right to withdraw from this agreement. If any party is considering withdrawing from the agreement, the party is asked to disclose its intent and rationale as soon as possible to the Working Group. Formal intention of withdrawal shall be given with not less than a 30-day advance notice. Financial obligations outlined in the approved budget and incurred prior to the notice to withdrawal, if any, are to be honored.

Overarching Approach

Under California law, SGMA requires the Cosumnes Subbasin to form a groundwater sustainability agency or agencies (GSAs) by June 30, 2017, and have a groundwater sustainability plan (GSP) in place by 2022.

The following agencies (referred to as the parties in this agreement) have filed with the state to form a GSA within the Cosumnes Subbasin: Omochumne-Hartnell Water District; Sloughouse Resource Conservation District; Galt Irrigation District; Clay Irrigation District; City of Galt; Amador County (Groundwater Management Authority); and Sacramento County. Parties to the agreement may change based on pending governance decisions for the currently unmanaged areas within the subbasin.

These parties commit to working cooperatively with the current goal of developing a single, integrated, SGMA-compliant GSP¹ to foster plan effectiveness, coordination and efficiencies.

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However, nothing in this Framework Agreement precludes the GSAs from making a decision to pursue coordinated GSPs (as opposed to a single integrated GSP) to facilitate implementation.

Parties recognize that the GSP may include distinct management areas to foster implementation and monitoring; these zones may or may not track fully with each GSA's respective jurisdiction. Parties further recognize that GSAs have the authority under SGMA to include distinct management areas. The intent is to give each GSA governing body the maximum flexibility to manage groundwater usage within their respective jurisdictions. The exact structure of any management areas will be determined as the GSP is developed. Parties also recognize that the development of a comprehensive GSP for the defined subbasin (i.e., plan area) will require analysis of information and data from a broader geographic study area.

Parties further recognize the importance of engaging stakeholders and the broader public in discussions related to GSP development and implementation and commit to putting in place a transparent and inclusive process to foster the consideration of the beneficial uses and users of groundwater in the basin.

Finally, parties will work to identify an entity to take the lead on administrative aspects related to near-term GSP development.

Guiding Principles

Parties agree to the following principles to inform and guide Working Group deliberations, foster constructive discussions, promote a clear and shared set of expectations, and encourage collaboration.

- ***Craft a GSP that respects local jurisdictions while building subbasin-wide approach.*** Parties are committed to working together to develop an integrated and effective GSP, while respecting each GSA's interest and expertise to oversee implementation within its unique jurisdiction or distinct planning areas.
- ***Recognize mutual interdependence.*** Parties recognize the value of all sectors in supporting a vibrant region and will work to foster dialogues that acknowledge and build on this interdependence. This includes building on past work while maintaining a forward-looking dialogue.
- ***Commitment to collaborate.*** All parties agree to work together in a constructive manner to meet SGMA requirements based on a locally driven approach. No one is to benefit at the expense of others, and all parties agree to negotiate in good faith – communicating their interests, honoring commitments and acting consistently across different forums.
- ***Strive for consensus.*** SGMA demands close collaboration and coordination among the GSAs if the subbasin is to develop a credible and effective GSP. To ensure broad support, parties recognize the imperative to reach broad agreement among all parties and will strive for consensus throughout the process.

- **Rely on credible process.** To foster effective dialogues, parties agree to mutually support a transparent and inclusive process where parties: (1) have a voice through balanced representation and effective meeting protocols; (2) commit to rely on credible data and clear criteria to inform decision-making; (3) draw on the advice of a technical advisor(s) selected by the Working Group to support its development of a GSP; and (4) commit to resolve differences but include mechanisms to avoid impasse. Additionally, the convening/facilitation team is to work in service of all parties.
- **Build progress through incremental agreements.** Participants will use preliminary agreements on issues as the basis for progress towards final agreement. The Working Group will revisit preliminary agreements when new information emerges and again when finalizing overall recommendations.
- **Support effective and efficient processes.** Parties are committed to building off existing structures and past work, where practicable, to leverage past investments and make the best use of everyone's time and resources.
- **Accommodate uncertainties.** Parties recognize that actions both within and outside the sub-region may impact GSP development and even affect basin boundaries. Parties agree to work adaptively to track and accommodate for such uncertainties.

Collaborative Protocols

The facilitator/convening team will work with participants to create a problem-solving environment through the following collaborative protocols:

- **Broad participation**
 - Strive to attend meetings consistently; we need everyone at the table
 - Contribute your thoughts, but share time so everyone can participate
 - Seek opportunities to share your perspectives and understand the perspectives of others
 - Listen hard to what others are saying; we need to figure out together what are the better ways forward
- **Honest but respectful engagement**
 - Be as honest, fair and candid as possible (we need to understand what each other is thinking), but engage professionally
 - Respect ideas offered by others; all ideas and points of view have value
 - If you hear something you do not understand, ask questions to clarify
 - If you hear something you do not agree with, help people understand your concerns
 - Avoid personal comments; refrain from characterizing other's remarks
- **Forward-looking dialogue**
 - Creative thinking and problem-solving are essential to success; try to think about problems in a new way
 - Seek to integrate ideas across participants; marry a concern with a solution
 - Focus on issues, not personalities

Near-Term Collaboration Structure

To support effective deliberations that foster informed dialogue and broadly supported actions and ensure constituents are fairly represented, the parties agree to the following near-term collaboration structure:

- The parties will establish a Working Group to guide near-term, collaborative development of the subbasin's GSP. The Working Group will consist of up to 2 representatives from each GSA to foster equal participation among the parties.
- Consistent with the Guiding Principles outlined above, the parties will strive to reach full consensus on all actions under discussion. To that end, each GSA commits to make a genuine effort to achieve consensus. Consensus is the preferred method for reaching agreement; voting is a last resort.
- No action will be taken at any Working Group meeting unless at least 5 of the 7 GSAs are present.
- When full consensus is not possible, fiscal decisions will require a super-majority of the GSAs (at least 5 out of 7) to balance the need for broad support among the parties, fair representation and timely action. Fiscal decisions expected in the next 6-12 months are summarized in the attached document.
- When full consensus is not possible, non-fiscal decisions will require a simple majority of the GSAs (at least 4 out of 7). Non-fiscal decisions expected in the next 6-12 months are summarized in the attached document.
- GSA representatives unable to attend a meeting may vote by proxy; they are, however, encouraged to provide an alternate.
- If and when votes are needed, each GSA will have one vote only to ensure equal voice among the parties.

This agreement is not intended to cover decisions related to GSP implementation (e.g., pumping fees, etc.) as those will not be considered by the Working Group within the 6-12 month horizon of this framework agreement. Rather, those issues are expected to be covered by whatever governance vehicle the GSAs choose to replace this Framework Agreement.

Technical Support

To support well informed decisions, the parties will establish a Technical Advisory Committee (TAC) to provide input and recommendations to the Working Group on technical aspects of groundwater sustainability plan development and, later on, implementation. The TAC works in service of the Cosumnes Subbasin SGMA Working Group. A separate Terms of Reference has been developed for the TAC.

The parties also intend to secure outside technical advisor(s) to support GSP development. Other support (e.g., legal advisors) will be considered and secured, as needed, by the Working Group.

Near-Term Cost Share

The parties to this agreement are developing a near-term budget through December 2017 (see attached) to cover costs associated with developing a grant proposal, hiring a technical advisor and launching initial tasks needed to begin characterizing the subbasin. The Water Forum and Sacramento County collectively anticipate covering these near-term costs. It is the intention of the parties to recognize this contribution as part of the total GSP preparation cost.

Longer-term costs will be identified and approved as part of the GSA's annual budgeting process. It is expected that Proposition 1 grant funding will cover 50% of the total longer-term costs related to plan development. It is anticipated that the Water Forum and Sacramento County will collectively cover at least 40% of these total longer-term costs; Sacramento County staff will recommend to the Board of Supervisors that it pay its share of the 40%. Sacramento County contributions will be made via Zone 13 funds; the precise contribution is to be determined by the Board of Supervisors. It is anticipated that the remaining costs will be split across the other GSAs by a formula to be mutually determined and agreed to. Contributions are both cash and in-kind.

GSP Development

Development of the GSP is beyond the scope of this current Framework Agreement. It is expected that the GSAs will develop a subsequent agreement within the next 6-12 months that will cover the terms of GSP production.

In the near term, GSAs will work together to define the scope of studies or data collection needed to inform GSP development. To the extent practicable, GSAs will include data collection and studies identified by each GSA as necessary to inform GSP development. If there is disagreement on the GSP scope, definition of studies, or data collection that is necessary or possible, the Working Group will seek input from the Independent Technical Advisor to inform its decision-making.

Nothing in this agreement precludes an individual GSA from pursuing its own individual studies at its own cost. The Working Group, with the advice of the Independent Technical Advisor, will jointly determine the extent to which such individual studies are to be used to inform the GSP.

Nothing in the agreement precludes an individual GSA from preparing its own GSP. If a GSA chooses to produce a separate GSP, a Coordination Agreement, per SGMA statute and DWR regulations, shall be developed between the preparers of the separate GSP and the Working Group.

Stakeholder Outreach and Engagement

To foster the consideration of the beneficial uses and users of groundwater in the subbasin, the parties agree to the following:

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- Parties are committed to an inclusive and transparent process that proactively seeks the engagement and input of potentially impacted parties as identified in SGMA. Parties will work to develop protocols for public engagement, both at public workshops and during regular Working Group meetings.
- Parties will work collectively to develop an agreed-upon outreach plan, but each GSA is responsible for guiding efforts within their respective jurisdictions.
- Parties recognize the value in developing shared messages to ensure consistency; joint participation in outreach efforts is encouraged to foster consistency in message and concretely demonstrate the parties' coordinated effort.
- Parties recognize the need to conduct outreach in the near-term to better understand additional representation needs (e.g., environmental, tribal, riparian water users, overlying water users, etc.) beyond the signatories to this agreement. Parties commit to revisit the near-term collaboration structure, as necessary, to account for public feedback.

Media Contacts

Working Group members are encouraged to forward any media inquiries to the Water Forum. When talking to the press, Working Group members are asked to represent their own views only. Water Forum staff will coordinate with the Working Group to develop any needed "talking points" for media and other interested parties.

Attachment 1 - Near-Term Fiscal and Non-Fiscal Decisions

Below is a listing of the possible near-term fiscal and non-fiscal decisions to be made over the next 6 to 12 months. This list has been developed in consultation with the Working Group and is current as of June 2017. This list will be revisited and updated, as needed,

Fiscal Decisions Expected in the Next 6-12 Months

- Consultant hiring/scope
- 2017 budget (July-December 2017)
- 2018 budget (January-June 2018)
- Prop 1 proposal development
- GSA cost-share arrangements
- Grant applicant/administrator selection

Non-Fiscal Decisions Expected in the Next 6-12 Months

- Outreach efforts/stakeholder involvement
- Basin boundary adjustments
- Basin spokesperson

Long-term governance decisions are not expected within the next 6-12 months. To the extent it should prove timely to make long-term governance decisions within the next 6-12 months, the Working Group will strive for consensus.

Attachment 2 – Near-Term Cost Estimate

| Near-Term Cost Estimate | | | | | |
|------------------------------------|---------------------------|---------------------|------------------------|-----------------|-----------------|
| Task | Staff / Contractor | Funding Type | July - Dec 2017 | | |
| | | | Funder | \$/month | Total \$ |
| Independent technical advisor | TBD | Contract | WF | 8,000 | 48,000 |
| Facilitation support | CBI | Contract | WF | 10,000 | 60,000 |
| Technical and logistical support | WF staff | In-kind | WF | 4,000 | 24,000 |
| Grant writing | WF staff | In-kind | WF | 4,000 | 20,000 |
| Technical resource | GEI/HDR | Contract | Sac. Co. | 1,000 | 6,000 |
| Outreach / Stakeholder Engagement | CBI & Other | Contract | WF | 2,000 | 12,000 |
| Local data collection and analysis | GSA staff | In-kind | GSA's | 1,000 | 6,000 |
| Total | | | | | 176,000 |

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