

# MEETING SUMMARY

## Kern Subbasin Public Workshop #1

October 24, 2016 | 5:30 pm | 3300 East Belle Terrace, Bakersfield, CA

*Prepared by the Center for Collaborative Policy (CCP), CSU Sacramento*

### A. Background

In September 2014, Governor Brown signed the Sustainable Groundwater Management Act (SGMA), marking a fundamental shift in the management of water resources in California. Under the legislation local agencies are charged with the responsibility to form groundwater sustainability agencies (GSA) to create and implement groundwater sustainability plans (GSP) leading to sustainable groundwater basins. The ultimate goal is to create a GSA(s) and GSP(s) that is responsive to the interests of beneficial users and groundwater users while simultaneously protecting the long term reliability of the resource.

To assist with this effort in the Kern Subbasin, the Department of Water Resources (DWR) has provided professional facilitators from the California State University Sacramento's Center for Collaborative Policy (Center) to conduct a series of public workshops and stakeholder interviews to assess stakeholder interests, concerns and goals for GSA formation.

This is the first of an anticipated series of six workshops to occur before December 31, 2016. The feedback received will help all parties understand the range of perspectives, areas of agreement and disagreement, and issues that must be resolved in the GSA formation process and subsequent GSP development. Success will ultimately depend on the commitment and participation of a large number of people and organizations throughout the development and implementation process.

### B. Meeting Objectives

The purpose and goals for this workshop were to:

- Provide an overview of the Sustainable Groundwater Management Act (SGMA)
- Discuss roles of various organizations in SGMA including Kern Groundwater Authority (KGA) as the workshop series convener
- Describe early implementation steps in Kern County including a stakeholder assessment and the workshop series
- Receive public input to identify critical issues that must be addressed through the development and implementation of groundwater sustainability plans that are compliant with SGMA

## C. Opening

Stephanie Lucero, Center for Collaborative Policy (CCP) facilitator, opened the meeting and reviewed the agenda. She provided an informational PowerPoint presentation that highlighted 1) Kern SGMA Stakeholder Assessment Approach, 2) SGMA Overview and Requirements, including Groundwater Sustainability Agency (GSA) and Groundwater Sustainability Plan (GSP) development, and 3) Stakeholder Assessment Updates.

Workshop information, including the PowerPoint presentation can be accessed via the KGA website: <http://www.kerngwa.com/information>.

Interested parties may sign up for the KGA Stakeholder Mailing List to receive information about future workshops and the GSA development process at <http://www.kerngwa.com/kga-stakeholder-mailing-list>.

## D. Stakeholder Open Discussion and Comment Session

*Unless otherwise noted, responses were provided by CCP Staff.*

- With regard to Tribal participation, is the application of SGMA law uniform within California, and applied equally?
  - Yes, however the State cannot regulate federal lands or water.
- How does the law consider a small municipality operating within a larger agricultural area that relies on groundwater as its primary water supply? Will they be given prioritization of extraction based on existing law, or developed law? How will those water supplies be fairly allocated?
  - KGS Representative Response: this is an example of an issue a GSA(s) must consider within the parameters of regulations, certain drinking water laws, etc. How these decisions are made will be a responsibility of the GSA, which is in part affected by the actual composition of the GSA. Therefore, it is critical to ensure the GSA representatives are aware of their constituents' concerns.
- How will "undesirable results" be quantified, particularly as related to water storage? Who will be responsible for making these decisions, taking into consideration overdraft, etc.?
  - These types of decisions will be the responsibility of the GSA/GSAs, and will be components of their coordination agreements as well as the basin's GSP(s).
- Will the GSPs be working from baseline water data collected in 2015?
  - KGS Representative Response: 2015 data collection does not have a disproportionate influence in determining a groundwater supply threshold, or similar. Many other data sets and data years will be reviewed and considered by

the GSAs. The entire basin will be required to come to a decision on GSP planning collectively and collaboratively in order to be in compliance with State law.

- Concerns were expressed that attempts at collaborative planning now will later disintegrate, and result in lawsuits lasting an indefinite period of time.
  - Audience Comment: Filing a lawsuit does not exempt one from SGMA compliance. One may take a case to court, and request the court to establish water rights, though SGMA implementation will remain an ultimate requirement, by law, at the timeline currently delineated in the law itself. The State's desired intent with SGMA is for sustainable groundwater management to be solved at local level.
  - Non-compliance with SGMA means that the State Water Resources Control Board can step in and implement its authority to address SGMA implementation. This includes levying fees, which have been increased recently.
  
- Historically, water districts have recognized that there is a connection between surface water and groundwater. In this area, there are water districts that have severed their surface water contracts and use only groundwater. What would happen if their groundwater supply became depleted, and historically they have owned water rights to X number of acre feet of water?
  - KGS Representative Response: SGMA does not attempt to redistribute water rights. Nor does it provide prescriptive measures on how a basin should allocate or manage its water supply (surface or ground). The GSA(s) will need to determine how to quantify/qualify water supplies with consideration to current and historical contracts, and with consideration to native water supply.
  
- Broadly, it seems that regulations have been dictated on an "all lands are created equal" sentiment, though in reality there are *very* diverse subbasins across the State. Therefore, a scientific solution to determining local groundwater management is preferable.
  - The development of GSPs are required to be based on science, per the legislation. This will come into discussion during the GSP formation phase.
  
- Have "unusable water" areas of the basin been defined? In one opinion, it is not appropriate for water allocation to apply to areas where "unusable water" exists.
  - If this comment is in reference to the hydrogeologic boundaries of the Kern subbasin, the next DWR re-designation phase for Bulletin 118 boundaries will occur in 2018 (after the GSA formation process has been completed).
  - Otherwise, a designation of unusable water areas would fall under the GSP development process.

- Has the State come up with a “worst case scenario” for the Kern subbasin? If folks were presented with this (e.g. in a worst case situation, one could purchase X amount of water at Y price), some people may be more motivated to work together.
  - The State has not described “worst case scenarios” for different basins, it has only determined the overdraft levels (high, med, low priority) of the basins across the State. The GSAs will need to work collectively to determine the balance of groundwater availability and extraction, sub-surface water flows between GSA and district boundaries, etc. to develop a GSP for the basin.
  - Audience member: Note that one issue to consider is that actual/physical groundwater levels may not be accurate with water district monitoring data currently on record.
  
- What is considered a “groundwater right”?
  - KGA Representative Response: While surface water rights are preserved under SGMA, SGMA commands GSAs to determine what, if any, local groundwater rights there are. This will have to be negotiated and managed locally through the GSA/GSP process.
  
- Concerns were expressed the subbasin will not be in compliance with SGMA by 2017.
  - This concern emphasizes the point that stakeholders will need to work collaboratively to cross the proverbial finish line collectively by 2017.
  
- Perhaps an adaptation of the “Australian model” for water management can be considered for this area. Tulare County may be implementing something similar, as an example to draw from.
  
- Would water shares be tradable within the districts, and/or across entire basin?
  - This would need to be coordinated by the GSP(s).
  
- How will surface water and channel losses be determined/considered in the local SGMA processes?
  - KGA Representative Response: There is not a definitive answer to provide. Certain folks are looking into how similar situations have been handled in other districts/subbasins. E.g. have the courts weighed in? Is there science to support water loss? Etc.
  
- The GSP should address/describe how well meters vs. satellite evaporation data will be implemented in water budget calculations and overall groundwater management planning.
  
- Sustaining what remains of wetlands in Tulare Lake basin for migrating waterfowl, ducks and geese is critical; bird migration is very much dependent on groundwater and costs must be kept as low as possible to continue to manage the wetlands.

- Will the details of the workshops and stakeholder interviews be publicized on the KGA website so people can gain more knowledge and have their questions answered there?
  - The major issues identified at the public meetings will be published on the website, however the interviews are confidential.
  - KGA Representative Response: A desire from the public workshops and stakeholder interviews is to gather the best data on (1) science, (2) legal, and (3) policy issues, and use this information to inform the GSAs in collaboratively negotiating solutions for basin-wide sustainable groundwater management.

### **Summary of General Stakeholder Input**

- **Clarity:** Most stakeholders need more clarity on the issues at hand.
- **Worst Case Scenario:** Many stakeholders have strong opinions and concerns as to the “worst case scenarios” applied to *them* and their circumstances as related to groundwater availability and use.
- **Decision Making Process:** Most stakeholders would like to gain a greater understanding regarding how decisions are going to be made in this process moving forward. Specifically, stakeholders want to know *how and when* decisions will be made.
- **GSA Structure:** There is a need to better understand how GSAs may/may not work together, what this potential GSA structure could look like, how to coordinate public meetings such that GSA representatives address broader stakeholder concerns.

The next Public Workshop is scheduled for November 1, 2016.