

Upper Ventura River SGMA | DRAFT MEETING SUMMARY
GSA Formation Committee Meeting
February 16, 2016

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AGREEMENTS & ACTION ITEMS

AGREEMENT: The Formation Committee agreed to the changes to the draft Letter to Well Owners as described within the meeting summary.

AGREEMENT: The voting members of the Formation Committee unanimously agreed to move forward with the process for submitting a basin boundary modification request by the March 17th date, with the caveat that there is proactive and robust outreach to stakeholders to provide information on this modification and ample opportunities for them to share their feedback prior to packet submission. In this way the Formation Committee upholds its aim to ensure an open and inclusive GSA formation process.

ACTION ITEMS

#	DUE	RESPONSIBLE	ACTION ITEM	STATUS
1	03/01/16	Tully Clifford Zoe Carlson	Distribute finalized letter to small well owners.	DONE
2	03/01/16	Tully Clifford Zoe Carlson	Provide Ms. Walter updated profile information for the County of Ventura for use on appropriate webpage.	DONE
3	02/24/16	All members	Carefully read through draft website content and inform Ms. Walter of any edits, misstatements, content to be added, etc.	DONE
4	Ongoing	All members	Send Ms. Walter photos to use on website.	DONE
5	02/22/16	Bert Rapp	Circulate Ms. Walter’s detailed cost estimates for newsletter preparation and MailChimp management to the group. The Committee will then decide over email on moving forward with this proposal.	DONE
6	02/22/16 03/10/16	Bruce Kuebler Bert Rapp	Prepare a <i>draft</i> list of affected parties for basin boundary modification submission package by Monday February 22 nd for Committee review. This list is to be finalized no later than March 10 th . It can further be reviewed	DONE

			at the April public meeting, and any missing parties can be added at that time.	
7	02/24/16	Bruce Kuebler Bert Rapp	Contact Mutual Water Companies and inform them of the Basin Boundary Modification process/effort.	DONE
8	02/29/16	Mindy Meyer Zoe Carlson Bruce Kuebler	Work collaboratively to ensure the Committee is connecting with constituents.	ONGOING
9	03/12/16	All members Bruce Kuebler Bert Rapp	Forward any contacts/ correspondence/ comments received to date to Mr. Kuebler and Mr. Rapp for compilation and inclusion in the boundary modification request proposal.	DONE
10	03/01/16	Jena Acos Russ McGlothlin	Prepare both red-line and clean versions of revisions made to Articles discussed at this meeting.	DONE

1. WELCOME & OPENING REMARKS

Bruce Kuebler, Ventura River Water District, opened the meeting of the Upper Ventura River Groundwater Sustainability Agency (GSA) Formation Committee. Mindy Meyer, facilitator from the Center for Collaborative Policy (CCP), reviewed the meeting agenda, ground rules, and the following meeting goals:

- Debrief January 28, 2016 Stakeholder Workshop
- Review and approve revised work plan
- Review and adopt agreed upon edits to Articles 1 – 7 (except 5.2, 6.1.2 and 6.3.6)
- Review and adopt agreed upon edits to Article 15 Liabilities
- Review and confirm next steps of active work groups

Updates on several items of interest to the Formation Committee were next presented by various committee members:

- **Personal Accomplishments:** Bert Rapp was recently recognized as General Manager of the year by the Ventura County Special Districts Association. Jena Acos was recently married, and thus has a new email address. Congratulations to both Bert and Jena!

- **Draft Letter to Well Owners Regarding the GSA Formation:** Mr. Kuebler distributed a printed draft of this recently revised letter which incorporated suggestions from the Committee members in the third paragraph. Tully Clifford and Zoe Carlson, Ventura County Watershed Protection District, collaborated on additional edits. As only one hard copy of their edits were available, they were provided to Mr. Kuebler directly then read out loud to the group. The group agreed to the suggested changes, and also requested the following changes:
 - The contact email listed should be updated to contactus@uvrgroundwater.org, as listed on the new website.
 - The date should be added to the top of the letter.
 - The next public meeting date should be added to the letter.
- **AGREEMENT:** The Formation Committee agreed the changes to the draft Letter to Well Owners as described above.
- Mr. Clifford and Ms. Carlson are developing a list of owners of small active wells. About 40-60 of these wells meet the de minimis acreage.
- **ACTION ITEM:** Tully Clifford and Zoe Carlson to distributed finalized letter to those well owners.

- **Proposed Purchase of Additional Well Data Loggers:** Noting that the Upper Ventura River Groundwater Basin is at record low levels, and heavy rains are anticipated in the coming months due to El Nino, Mr. Kuebler suggested it would be beneficial to increase the number of data loggers in wells that the County employs. This would allow for the collection of daily data on groundwater levels and a more accurate understanding of the basin's ability for rapid recharge due to runoff. As the County does not have additional data loggers available for use, more could be purchased of the same brand and type such that the data could easily be incorporated into their system.
 - Costs estimates are \$600 for a basic logger that reads water levels and temperature, and an additional \$400-500 for a direct read cable.
 - One suggestion was made for an agreement (between Meiners Oaks, Ventura River and Ventura County) to be established for the five key wells in the region to coordinate on weekly readings. The County may support staff time to take more frequent readings if permission is granted to access the wells and loggers.
 - Several Committee members commented that while this data would be useful, collectively purchasing data loggers and coordinating data as an entity is not a suitable action for the Formation Committee to take. Such as action is more appropriate for the GSA, once formed. The data can then be standardized as per written in the forthcoming GSP.
 - The County will work with other interested parties in coordinating individual collection efforts.

2. DEBRIEF 2ND STAKEHOLDER FORUM

The Stakeholder Forum held on January 28, 2016 was successful, and many Committee members received positive feedback. Note that due to staff shortages, the meeting summary and *question-and-answer* document are expected to be completed in 1.5 weeks. Several members provided their thoughts on elements of the public stakeholder meeting that went well, or could be improved for future meetings:

- Point persons could be assigned to contact different news publications and share upcoming meeting information. Alternatively, a work group could be developed for stakeholder outreach.
- Mr. Clifford’s presentation utilized purposeful common language/terminology that was well received. The audience understood what a GSA is, and the process of establishing the GSA.
- Materials and the meeting agenda were well organized, which spoke to the credibility of the Committee’s efforts.
- Overall feeling that the workshop was very open; community members were comfortable share their thoughts, questions and concerns. The desire for inclusiveness was noticeable.
- Helpful to provide scenarios for attendees to consider and respond to. This generated conversation among participants.
- At a future meeting, will need to address the legality of pumping groundwater within the basin boundaries and then shipping it outside of the boundaries.
- Smaller well owners were not well informed of the meeting. The letter will assist in the outreach efforts.
 - Depending on the response received from this letter, it may be necessary to set up a focus group for small well owners.
- Conversations about funding options may need to continue in June or August. There is nothing in the JPA that prohibits funding mechanisms set out in SGMA.
 - A funding work group was proposed, possibly commencing in 30-45 days.

3. WEBSITE UPDATES

Lorraine Walter, Walter Consulting and Grant Writing, provided an overview of the draft uvrgroundwater.org website. The website is responsive, designed to work on a computer, tablet or phone. Ms. Walter reviewed the content on all pages, with special attention drawn to the blog/news feed, GSA formation page, basin boundary modification page, and the public meetings page. The public meetings page may later contain a sub-page of resource categories (e.g. reporting forms, meeting summaries, etc.).

Additional content/updates Ms. Walter will make include: an explanation of *who* this process applies to; adding web links to the member agency listing; and adding member agency logos.

ACTION ITEM: Tully Clifford and Zoe Carlson to send Ms. Walter updated profile information on the County of Ventura for appropriate webpage.

ACTION ITEM: All members to carefully read through draft website content and inform Ms. Walter of an edits, misstatements, content to be added, etc. no later than February 24th.

ACTION ITEM: All members to send Ms. Walter photos to use on website.

It was suggested to develop a brief survey that would be initiated when someone visits the website for the first time. Questions may ask about funding the GSA/GSP or how to select directors. Committee members are open to exploring this idea further.

Mr. Rapp expressed interest in having Ms. Walter manage the stakeholder contact list and to develop the first GSA newsletter using MailChimp. This is an estimated \$1,500 in additional costs. Ms. Walter could also attend future meetings and prepare future newsletters. **ACTION ITEM:** Bert Rapp to circulate Ms. Walter’s detailed cost estimates for newsletter preparation and MailChimp management to the group. The Committee will then decide over email on moving forward with this proposal.

4. BASIN BOUNDARY MODIFICATION DISCUSSION

A. Feedback from Watershed Council

At the February 4 Watershed Council meeting, there was in depth conversation about the proposed basin boundary modifications. Participants were interested to know “why now,” and expressed concerns regarding not yet understood management implications of boundary modifications. Another key question was regarding what occurs if an individual requests to drill a well in and/or export water to an area outside of the proposed basin boundary.

Jordan Kear, Kear Groundwater, was in attendance at this meeting and provided a PowerPoint presentation similar to the one given at the Stakeholder Workshop. Slides explained why certain recommendations were being made for the various boundary adjustments, including utilizing technical information and geologic maps updated from the 1966 maps used in the Bulletin 118 boundary definitions.

There are approximately 15 wells in the current Bulletin 118 boundary that are not included in the proposed modified boundary, as the geology indicates these wells are extracting water from low capacity bed rock and not alluvium. For this reason, these wells are more than likely de minimis users.

Shirley Birosik, Los Angeles Regional Water Quality Control Board, also attended and raised the question, if subsurface flow is not regulated by the State, and these flow areas are excluded

from the basin boundary, who will take on management of this water/these areas? This alludes to the possible production of water that may later decrease the flow of San Antonio Creek, thereby affecting water management for fish and wildlife.

Regarding Ms. Birošik's comments, it was noted that SGMA ties together General Plans with Groundwater Basin Sustainability Plans. However, it is beyond the GSA's scope to regulate surface water through groundwater management legislation. It could be written into the GSP that coordination with the State Water Resources Control Board (and/or other entities) on surface water flow is required. It is also possible to change the boundaries again at a future date.

Note also that the boundaries for the area the GSA may regulate are the same as the physical basin boundaries. Some members remain skeptical that narrowing the boundaries may not be in the GSA's best geopolitical and management interests. As a hypothetical example, if an area of land becomes excluded from GSA regulation authority, a person may go upstream and dam a creek so the water no longer flows down into the groundwater basin area.

Mr. McGlothlin and Mr. Kear both encouraged the Committee to follow the science when making boundary modifications, and reminded members that not all issues will be solved with a GSA/GSP; coordination with other entities will be necessary to manage all water of the area holistically.

B. Legal Update

Jena Acos and Russ McGlothlin, Brownstein Hyatt Farber Schreck, LLP, recently received correspondence from a party interested in a modification to a basin boundary line that currently transects a parcel of land per the geology of the area. The underlying concern is if the future GSA will allow for export of water from the portion of parcel that falls within the proposed boundary to an area outside of the basin to irrigate established agricultural lands.

Mr. McGlothlin and Ms. Acos continue to recommend the basin boundaries keep to the updated scientific rationale, and that rationale be shared as widely as possible once the UVRB basin boundary modification memorandum is complete. There are no related legal risks to this situation (i.e. no risk of disenfranchisement), as SGMA does not change common law water rights. Therefore, this situation need not be of immediate concern to the Formation Committee. Additionally, this situation is not unique to this particular parcel of land. One option for future consideration is to allow for the grandfathering in of existing uses of groundwater supply in the GSP.

Mr. Kear shared a graphic depicting an east to west cross section of the basin's geology on a digital elevation profile, demonstrating areas of undifferentiated alluvium and bedrock. Locations of wells currently in operation were also denoted. Note, this is one of four cross sections Mr. Kear is preparing.

C. Review of Process

Refer to handout: Regulatory Checklist: Basin Boundary Modification Request.

From the perspective of DWR, the GSA and GSP development processes are different. Therefore Ms. Meyer must have very limited involvement in the tasks related to the boundary modification request. Mr. Kuebler will serve as responsible party in lieu of Ms. Meyer for tasks indicated on this checklist.

Ms. Acos next reviewed the individual tasks listed in this spreadsheet and associated deadlines. It is the preference of Ms. Acos and Mr. McGlothlin to have all materials finalized and ready for upload to the DWR website by March 17th, in order to allow for a few days' flex time in the event there are any errors or adjustments that need to be made to the paperwork submission (recall the DWR firm deadline for submission is March 31st). The entity responsible for filing the completed proposal is the Ventura River Water District.

The County, Ventura Water and Meiners Oak reminded the Committee they cannot issue letters of formal support for the boundary modifications until the technical memorandum is available for review. However, they are supportive of the process the Formation Committee is undergoing in this regard. Formal support by all Committee members, while preferable, is not a requirement to submit a scientific boundary modification proposal to DWR by the March 31st deadline; these letters are not required by DWR and can be submitted at any time during the review period.

List of Affected Parties (344.4(a)): **ACTION ITEM: Bruce Kuebler and Bert Rapp** to prepare a *draft* list of affected parties by Monday February 22nd for Committee review. This list is to be finalized no later than March 10th. It can further be reviewed at the April public meeting, and any missing parties can be added at that time. **ACTION ITEM: Bruce Kuebler and Bert Rapp** to contact Mutual Water Companies and inform them of this process/effort. **ACTION ITEM: Mindy Meyer** to work with Zoe Carlson to ensure the Committee is connecting with all of the listed constituents. Note this may require an increased effort, such as making personal phone calls or setting up individual meetings.

Summary of Public Meetings (344.4(d)): Meeting minutes from all Formation Committee public meetings can be used for this purpose. Agendas from Watershed Council meetings can also be included. The table utilized on the website may serve as a useful template for organizing this information.

Comments (344.4(e)): **ACTION ITEM: All members** to forward any contacts/ correspondence/ comments received to date to Mr. Kuebler and Mr. Rapp for compilation and inclusion in the boundary modification request proposal.

Regarding **public outreach and communication efforts**, it is imperative to make explicitly clear that proposed boundary modifications are being made on a strictly scientific basis. The

technical rationale should be made available to the public as early as possible to encourage transparency, understanding and inclusivity. Furthermore, the process and timeline for providing feedback and comments should be clearly outlined (i.e. comments can be submitted to the DWR website once DWR reviews the packet for completeness, which may be as soon as five days following the posting of the proposal), and it be noted that changes can be made to basin boundaries every two years through the DWR process.

Related **website updates**: Only an Executive Summary of the technical bases for boundary modification requests should be posted to the UVR GSA webpage. The complete package should be accessed through DWR. The webpage should also clearly state all Formation Committee members are still considering the technical information, and revisions may be necessary. Note: It is possible for the Ventura River Water District to withdraw an application for a boundary change even after it is submitted. If multiple agencies/entities disagree with the technical review, that could provide a basis for withdrawal.

The process timeline for preparing the modification request package was updated as follows:

- **Friday, February 19th**: Mr. Kear will share a working draft of the technical memorandum for basin boundary modification.
- **Monday, February 29th**: Comments on the draft from members due to Mr. Kear.
 - Note: Ms. Epstein may need additional time to submit her comments.
 - Mr. Kear will work during this time to address and incorporate comments.
- **Thursday, March 10th**: Revised technical memorandum and other supporting materials outlined in requirements due.
- **Thursday, March 17th**: Final package ready for submission to DWR.

AGREEMENT: The voting members of the Formation Committee unanimously agreed to move forward with the process for submitting a basin boundary modification request by the March 17th date, with the caveat that there is proactive and robust outreach to stakeholders to provide information on this modification and ample opportunities for them to share their feedback prior to packet submission. In this way the Formation Committee upholds its aim to ensure an open and inclusive GSA formation process.

D. Public Comment Period

Santa Barbara Channelkeeper: It was unclear at the January 28th Stakeholder Workshop if the revised boundaries were being drawn exactly where the alluvium and bedrock meet, and therefore rationale for boundary adjustments appeared contradictory in some cases. Also, there is no clear description of de minimis groundwater users or what will occur if persons falling in this category decide to increase their water use in the future. Lastly, the regulation of subsurface stream flow is ambiguous, and Channelkeeper is concerned about the consequent management of San Antonio Creek if there is a resulting gap in regulation authority due to

boundary adjustments. Santa Barbara Channelkeeper will not issue a formal position on the proposed basin boundary modifications until they review the technical information.

- **Mr. Kear:** The bedrock-alluvium contact determines about 80% of the modified basin boundary. This is based on updating mapping published by USGS. Fault lines account for approximately 15% of the basin boundary, and the remaining 5% is determined by the groundwater divide and bedrock highs on the east side and adjacency of fine grain sand in other areas. There are also four surface water input or output points that must be considered. And, there is a portion of the basin boundary that will not change from Bulletin 118 delineations.

5. REVIEW OF OUTSTANDING LEGAL QUESTIONS & ARTICLES OF JPA

A. Review of Legal Questions from November

Ms. Acos reviewed responses the four legal questions identified during the November Formation Committee meeting. **ACTION ITEM:** Jena Acos to distribute a confidential memo with detailed responses to legal questions to the Ventura Water District, as their client. **Ventura Water District** will then share the memo with the group, and it is requested that this memo is not circulated outside of the Formation Committee.

Question 1: Who has financial authority to impose fees?

- Financial authority is triggered by the GSA formation, and may be determined by the GSA. There are “pre-GSP” and “post-GSP” fee authorities. **Pre-plan fees** are issued in the same manner as municipal ad valorem taxes. In order to impose **post-plan fees**, the GSA must host a public meeting and make available all data on which fees would be based at least ten days in advance of this meeting. SGMA only identifies post-plan financial authority as being subject to Proposition 218.

Question 2: Are bylaws approved by ordinance or resolution?

- While there is no statutory requirement to approve bylaws via a particular procedure, it is recommended to adopt them as an ordinance. The Joint Powers Agreement (JPA) can include specific procedures for adopting bylaws.

Question 3: Can Mutual Water Companies force themselves onto a GSA?

- This related to the SB 13 SGMA reform bill, which is intended to prevent local GSAs from excluding PUC regulated utilities. The answer to this question is not yet clear. The current view is such that all public agencies must consent and enter into an agreement that is the basis for the GSA. Mutual Water Companies may participate in a GSA pursuant to a Memorandum of Agreement or other legal agreement, and Government Code 6525 allows Mutuals to become members of JPAs. However, the GSA only is allowed police powers as designated in SGMA, and it does not designate any *new* powers to a Mutual.

Question 4: What determines a “Special Project”?

- A special project is a project carried out in the JPA’s name, but funded by and liabilities assumed by some subset of the JPA. As a special project might emerge with this group, this language will be added to the draft JPA.

Question 5: Is there a different process for adopting a new Notice of Intent (NOI)?

- The process remains the same. Note, however, that an agency as an individual is not the GSA. The GSA does not exist until parties sign the JPA. Once a GSA is formed, a single NOI hearing can be held.

Ms. Acos is also developing a *question-and-answer* resource document that can be shared with a broader audience in the future.

B. Review of Articles 1-7 and 15 of JPA

Articles were projected onto a screen to enable live edits to be made by the collective group.

- Global revision: change terminology of the GSA from “Authority” to “Agency”
- Global revision: remove word “basin” in name. Change to: Upper Ventura River Groundwater Agency
- **ARTICLE 1**
 - 1.4: Update definition per comments above
 - Add language regarding Special Projects
 - 1.8: Revise to read appointed by member *or members*
 - 1.15: Requested to discuss use of term “officers” later in Section 7.1
- **ARTICLE 2**
 - 2.2: Include additional language extracted from example 3 more clearly defining common powers.
- **ARTICLE 3**
 - No changes
- **ARTICLE 4**
 - 4.15: There was a related to question to if the GPA has water rights. It was explained that 4.20 gives the Agency rights to acquire property including water rights.
 - If both the City and County withdraw from the GSA, the agreement must be amended.
- **ARTICLE 5**
 - No changes
- **ARTICLE 6**
 - 6.1 and 6.5: Members discussed the possibility of requiring one Director to be an Elected Official. This suggestion was made due to the fact that Directors will be

- voting in fees, etc. and it may not be appropriate for appointed staff persons to make such decisions.
- Concerns were raised about the ability of electeds to attend meetings with regularity and the feasibility of the County Supervisors capacity to staff the high number of GSAs in Ventura County. Furthermore, if alternates were appointed, then the alternate would also need to be an elected official.
 - It was suggested to require an elected position only for the first five years of the GSA's existence. If this is what the Committee agrees to, the JPA should simply be amended in five years to eliminate the requirement.
 - Another alternative was suggested to have two readings before a certain actions made, allowing time for input to be received by the Director.
 - **Section 6.5 will be discussed further at the next Formation committee meeting.**
- 6.4: Members discussed the appointment of alternate directors. Concerns were raised that alternates may not always be adequately prepared for meetings. Furthermore, alternates may make a decision opposite of what the Director may make.
- Several members were strongly in support of appointing alternates.
 - It is possible to write in requirements of how an alternate must be prepared for meeting, though the mechanism for enforcing a stated degree of preparation is not determined. It may be such that if the alternate is not adequately prepared for discussion, they cannot vote.
 - As currently written, only Director seats can appoint alternates. The attendees agreed the other two stakeholder director seats will not have alternates.
 - The group agreed to keep Section 6.4 as long as the qualifier “may appoint alternates” remains in the language.
 - One member would like to include a rule for reconsideration if an alternate serves on a vote.
 - **Section 6.4 will be discussed further at the next Formation committee meeting.**

Discussion of the remaining listed articles for discussion in Section 6, 7 and 15 were tabled for next meeting due to time constraints.

ACTION ITEM: Jena Acos and Russ McGlothlin to prepare both red-line and clean versions of revisions made to Articles discussed at this meeting.

6. NEXT STEPS

Ms. Meyer requested members' availability through August 2016, and will work to solidify all upcoming meeting dates as soon as possible. She noted the duration of the meetings will be dependent upon the fullness of the agenda, and all meetings will be held in the afternoon.

ACTION ITEM: Mindy Meyer to update work plan with new meeting dates and discussion topics.

The next meeting of the Formation Committee will be on March 8, 2016, beginning at 1:00 pm. It will be hosted again at Casitas Municipal Water District.

7. ATTENDANCE

- Bert Rapp, Ventura River Water District
- Bruce Kuebler, Ventura River Water District
- Debra Martinez, Ventura Water
- Jena Acos, Brownstein Hyatt Farber Schreck, LLP
- Jordan Kear, Kear Consulting
- Lorraine Walter, Water Consulting and Grant Writing
- Meagan Wylie, Center for Collaborative Policy
- Mike Hollebrands, Meiners Oaks Water District
- Mike Krumpschmidt, Meiners Oaks Water District
- Mindy Meyer, Center for Collaborative Policy
- Russ McGlothlin, Brownstein Hyatt Farber Schreck, LLP
- Shana Epstein, Ventura Water
- Steve Wickstrum, Casitas Municipal Water District
- Sylvia Lopez, City of Ventura
- Tully Clifford, Ventura County Public Works Agency
- Zoe Carlson, County of Ventura

Public Members

- Ben Pitterle, Santa Barbara Channelkeeper