**Upper Ventura River SGMA | FINAL MEETING SUMMARY**

**GSA Formation Committee Meeting**

April 12, 2016

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**The next meeting of the Formation Committee will be on May 10, 2016, from 2:00 to 7:00 PM at Casitas Municipal Water District.**

# AGREEMENTS & ACTION ITEMS

**AGREEMENT:**

Each Formation Committee (FC) member will review with his/her agency the proposal to make decisions as follows: (1) aim for consensus first, (2) if consensus cannot be reached, most decisions will be made using a simple majority, and (3) major decisions (to be further defined) will require a supermajority of 6 votes

**ACTION ITEMS**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **#** | **DUE** | **RESPONSIBLE** | **ACTION ITEM** | **STATUS** |
| 1 | Ongoing | Bert Rapp | Upload comments on the Basin Boundary Modification Request to DWR’s website as they are received  | ONGOING |
| 2 | Prior to 5/10 | Russ McGlothlinJena ShoafJordan Kear | Provide Bert with a written description of extra work performed on the Basin Boundary Modification and associated costs | PENDING |
| 3 | Upon receipt of call from Daniel Worth | Shana Epstein | Shana is expecting a phone call from Daniel Worth at the State Water Board regarding the California Water Action Plan. When she speaks with him, she will ask him about setting up a meeting with the entire UVR FC | PENDING |
| 4 | Prior to 5/10 | Each FC member | Each FC member will review with his/her agency the proposal to make decisions as follows: (1) aim for consensus first and (2) if consensus cannot be reached, most decisions will be made using a simple majority; major decisions (to be further defined) will require a supermajority of 6 votes | PENDING |
| 5 | Prior to 5/10 | Mindy Meyer | Consult with Russ/Jena regarding super majority voting procedures in the event of absent or disqualified (in case of conflict of interest) members and stakeholder directors | PENDING |
| 6 | Prior to 5/4 | GSP Preparation Work Group | Meet and provide meeting notes to Mindy | PENDING |
| 7 | Prior to 4/20 | Stakeholder Director Selection Criteria Work Group | Select a meeting date and email date to Mindy | DONE |
| 8 | 4/22 | Stakeholder Director Selection Criteria Work Group | Send Mindy the notes from Work Group meeting | DONE |
| 9 | Prior to 5/10 | Each FC member | Review liability language distributed by Shana with agency counsels | PENDING |

# 1. WELCOME & OPENING REMARKS

## Agenda Review and Ground Rules

Mindy Meyer, facilitator from the Center for Collaborative Policy (CCP) opened the meeting, reviewed the meeting agenda, and noted the addition of a new ground rule:

1. **Build consensus with accountability.** Any Committee member who disagrees with a decision must provide an alternative that attempts to meet his/her agency’s/constituency’s interests while also meeting the interests of other Committee members.

The group agreed to this new ground rule.

## Meeting Summary Review and Edits

The summary from the prior meeting has not yet been completed.

## Updates

Basin Boundary Modification Request, Comments, and Costs

Ms. Meyer congratulated the group on completion of the Basin Boundary Modification Request. Bruce Kuebler, Ventura River Water District, asked how people are being notified. Bert Rapp, Ventura River Water District, responded that he plans to send letters (by 4/13/16) to agencies and others who have requested to be kept up to date.

Ms. Meyer reminded the group to sign up for notifications on the FC’s UVR GSA website. The website provides a link to the California Department of Water Resources (DWR) website, and specifically the webpage that provides the Basin Boundary Modification Request. This webpage provides a place where people can make comments. There currently are no comments on our application on the DWR website.

Shana Epstein, Ventura Water, asked if the FC is responsible for uploading comments that it receives onto the DWR website. Mr. Rapp does not believe that we are obligated to but we can.

The FC decided it would be beneficial to upload comments. **ACTION ITEM:** Mr. Rapp will upload comments on the Basin Boundary Modification Request to DWR’s website as they are received.

Mr. Rapp informed the FC that Russ McGlothlin, Brownstein Hyatt Farber Schreck, LLP, Jena Acos, Brownstein Hyatt Farber Schreck, LLP, and Jordan Kear, Kear Consulting, did more work on the Basin Boundary Modification than originally expected. **ACTION ITEM:** Prior to the next meeting, they each need to provide Mr. Rapp with a written description of extra work performed and associated costs for distribution to the FC.

Relationship of Groundwater Sustainability Plan (GSP) Preparation to California Instream Flow Study

Given that the California Water Action Plan (WAP) Instream Flow Study will provide necessary data for the GSP, Ms. Meyer asked the FC if it might be useful to wait until this study is completed before preparing the GSP. The purpose of this discussion was to get initial thoughts about this issue; it will be further discussed in May after the GSP Work Group has met and presented its recommendations to the FC.

Mr. Kuebler noted that under SGMA the GSP shall address surface/groundwater interaction where it affects water uses, this is specifically critical in the Upper Ventura River Basin to steelhead habitat. There are two aspects relative to steelhead: (1) what flow regime is necessary to protect steelhead habitat, and (2) how do we get the water necessary to provide this habitat. The Instream Flow Study will address the first aspect and is being done now. He was not sure if the GSA would be allowed to participate in this study. Ms. Epstein said that she has spoken with Daniel Worth at the State Water Resources Control Board (State Water Board) and that the GSA will be included in this effort. Mr. Worth would like to have a phone call and a visit. State Water Board staff would like to have and share as much information as possible. They are making three models for the river but are waiting for the California Department of Fish and Wildlife to give them a flow requirement. They expect to have that in 2017 and will complete their models in 2018. Once these are completed they will give us a flow requirement. The Regional Board requested that they also address subterranean flow but they are not addressing that now.

Ms. Epstein suggested that it is in the FC’s best interest to provide data and collaborate on the study. She is expecting a phone call from Daniel Worth. **ACTION ITEM:** When she speaks with him, she will ask him about setting up a meeting with the entire FC.

Further discussion regarding the coordination of data collection as the first phase of the GSP preparation will occur after this meeting.

# 2. REVIEW AND EDIT ARTICLES 8, 12, AND 13 OF JPA

The draft JPA was projected onto a screen to enable live edits as agreed to by the FC.

* Article 8.1 was edited to specify that the initial Board of Directors meeting shall occur within 60 days of the effective date of the JPA.
* Article 12 was accepted as drafted.
* Article 13.2 was modified to set forth a fiscal year beginning July 1st and ending June 30th.
* Article 13.3 was amended to indicate that the Treasurer and Auditor may be appointed or retained.
* Article 14.1 was edited to specify that the initial budget shall be adopted within 120 days. It was previously written as 90 days

# 3. DISCUSSION ON DECISION MAKING AND BUDGET (ARTICLES 9 AND 14)

Article 14.1 was amended to allow for preparation of a budget within 120 days after the first meeting of the Board of Directors.

With regard to Article 9 Member Voting, Ms. Meyer facilitated a discussion to provide context for the decision making process, assist the FC in its consideration of various voting approaches, and to arrive at a mutually agreeable direction for moving forward on this issue. The discussion included:

* Questions from the group on concepts provided in the collaborative decision making document Ms. Meyer had circulated prior to the meeting,
* A framework for consideration of various voting methods,
* Identification and consideration of the individual and collective contributions and interests of each GSA agency and stakeholder member,
* Characterization of the potential range of cost implications associated with the decisions on which the GSA would be voting,
* Brainstorm of potential voting options
* Each agency selected options that best fulfilled the identified criteria (see below) and
* Dialogue in which each member shared the rationale behind their choice(s).

As described further below, this discussion resulted in the identification of a voting scheme that all members felt had potential, pending consideration by each of their respective agencies. Upon approval of this approach by all members, direct edits to the text of Article 9 will be considered at the next meeting.

## A. Collaborative Decision Making Approach Document

Ms. Meyer explained that this document is a set of collaborative, consensus-seeking decision-making procedures that can be integrated into the GSA’s formational agreements (bylaws and JPA). Recommendations include:

* The Board shall seek consensus on any first vote,
	+ Consensus means each member of the Board does not reject the proposal
	+ If consensus cannot be achieved an alternative voting mechanism is triggered
	+ Step down process to be further defined
* Provision to address dispute resolution

This collaborative process will provide for a better GSA with more defensible decisions. As the GSA plans to include two stakeholder director seats, one representing the Agricultural Community and the other representing the Environmental Community, this collaborative decision making approach makes a concerted effort to satisfy the interests of many key constituencies in the basin. This document was developed by Brownstein Hyatt Farber Schreck, LLP and the California State University Sacramento, Center for Collaborative Policy. It was provided to the group as a concept for this meeting; however comments on specific language in the document and its inclusion in the bylaws and/or JPA will require further discussion. This will occur at the May meeting. Overall, the FC was favorable to the concepts presented in this approach.

## B. Framework for Selecting a Voting Procedure

Ms. Meyer presented a framework for the FC’s discussion and decision making imperative to optimal voting procedures. The selected voting procedure must balance and manage three factors:

* Satisfaction of every member’s interests,
* Maintained participation and contribution (tangible and intangible) of every member, and
* Contained and sustainable costs for each member.

## C. Contributions of GSA Members

The contributions of each GSA member were identified primarily with input from other members (e.g., the list of the City of Ventura’s contributions was compiled primarily with input from members other than the City of Ventura)

City of Ventura

* Obligated to use water appropriate to land uses,
* Has special knowledge of Foster Park area of the basin,
* Controls water sewage treatment plant, a potential resource for providing flow requirements,
* Has access to a variety of water supply sources,
* Stewards of the river mouth,
* Has resources to perform scientific studies within the river (contracts with knowledgeable consultants and staff expertise),
* Has power to minimize legal costs – may help with Channel Keeper lawsuit,
* Is collaborative in looking after the watershed, setting priorities, and looking at issues within watershed,
* Uses innovative approaches to solving resources problems,
* Has a gutsy general manager who is a person of vision,
* Is an MS4 (storm water) co-permitee,
* Has a council that is willing to fund large capital programs, and
* Provides a big picture perspective.

Meiners Oaks Water District

* Has a good watershed perspective, including an ecosystem perspective and knowledge of what is happening and the roles people/groups play,
* Has surface water/groundwater documentation, i.e., valuable hydrologic data,
* Has an innovative program to measure the leading edge of the river, which helps to figure out recharge rates,
* Has diverse customers, agricultural in addition to municipal and industrial,
* Has a cost conscious Board of Directors,
* Has a good rapport with the community,
* Developed an innovative drought plan, which had good public support,
* Takes a no nonsense approach,
* Has a long term view of sustaining services,
* In its history, it chose to become a public company (rather than mutual company) in order to sustain the basin,
* Built a good rapport with other agencies and partners,
* Self reliant, and
* Provides a big picture perspective.

County of Ventura

* Holds MS4 storm water permit (principal permitee) from RWQCB,
* Keeps the data set,
* Versatile,
* Cooperative,
* Provides overarching representation,
* Has land use control over unincorporated areas,
* Has contracts with experts and staff with a breadth of expertise,
* Supports Watershed Protection Council and Integrated Regional Water Management (IRWM), providing grant management and application services – funnels state money to local projects,
* Has a flood warning system,
* Is a State Water Project contractor,
* Provides flood plain management,
* Conducts ecosystem restoration, and
* Provides a big picture perspective.

Ventura River Water District

* Leaders in the GSA formation process,
* Forward thinking,
* Has knowledge of the river,
* Has watershed vision,
* Has detailed groundwater data in their area,
* Innovative,
* Energetic,
* Thorough,
* Committed,
* Has communities committed to sustainability, which helps the agency do a better job managing their resources,
* Has participated on a high level in watershed and water resource management,
* Cost conscious, and
* Provides a big picture perspective.

Casitas Municipal Water District

* Has expertise on steelhead and other biological and ecological resources,
* Manages state water contract for this area,
* Manages resources that allow us to not be solely dependent on the river (manmade storm water lake),
* Provides back-up emergency supply,
* Has a long history of basin-wide responsibility,
* Keeps data,
* Well respected in the community,
* Has a diverse Board of Directors that represents the community,
* Collaborative, and
* Provides a big picture perspective.

Environmental Community

* Has hydrologic and biological resource data (including data pertaining to steelhead),
* Has a high level of motivation and dedication,
* Skilled at ecosystem restoration, public outreach, storm water capture, and landscaping,
* Has credibility with a segment of the community,
* Diversifies access to funding and political leaders,
* Influential,
* Allies of no-growth community and regulators,
* May offer a different perspective,
* Is willing to participate, and
* Provides a focused perspective.

Agricultural Community

* Provides a focused perspective,
* Is an economic driver and economically driven,
* Provides an open land use,
* Has organized representation,
* Widely distributed – present in all water purveyors’ jurisdictions,
* Many agricultural operations have a long history,
* Statewide perspective as their business model depends on national or statewide trends and market influences,
* Knowledgeable about water use data,
* Can help with water budget,
* Can be effective public advocates,
* Has diverse water uses, which provides opportunities to shift water use within, agricultural uses, i.e., flexibility, and
* Cost conscious.

## Interests of GSA Members

Each member identified his/her agency’s interests. Ms. Meyer noted that individual agencies’ interests are also the collective interests of the group. In addition to the interests listed below, collective interests include:

* Local control of basin management,
* Water quality, and
* Sustainable groundwater supplies.

Casitas Municipal Water District

* Water balance – groundwater maintained along with surface water,
* To provide a backup to drought-stricken water supplies for communities,
* Good groundwater management, which helps Lake Casitas and vice versa,
* Reasonable and defensible costs,
* Capacity to be accountable,
* Minimizing impacts on surface water supply, and
* Maintaining local control and management of resources.

County of Ventura

* Sustainable groundwater basin,
* Protecting the interests of beneficial users of groundwater (quantity and quality of groundwater) outside the jurisdiction of other agencies (e.g., domestic pumpers),
* Protection of health and safety,
* Water quality,
* Maintenance of well standards,
* Groundwater recharge, and
* Storm water recharge.

City of Ventura

* To provide a trusted life source for generations, and
* Reliable high quality water for present and future.

Meiners Oaks Water District

* Accountability for what it pumps and uses,
* Accountability to the lake,
* Sustainability of water source,
* Dedication to serve customers in perpetuity,
* Water quality,
* Maintain affordability, and
* Health and safety.

Ventura River Water District

* Lowest cost reliable water consistent with water system reliability and environmental responsibility (infrastructure maintenance and replacement),
* Beneficiaries should pay for their cost, and
* Beneficiaries of steelhead are inside and outside of the basin, a bigger population should contribute to associated costs.

Cost Factors

The purpose of this discussion was to obtain an approximate range of potential costs facing the GSA as the magnitude of the costs each agency may assume could inform the group’s deliberations regarding voting procedures. Three categories of cost were identified as follows.

* + Annual operating costs such as administrative, consultants (technical experts), legal, rent, and data monitoring and management. The range of potential costs was estimated at $125,000 to $150,000 per year.
	+ Long term planning, including GSP preparation. Estimated costs ranged from $250,000 to $4 million over 4-5 years.

The issue of data collection and modeling was a major factor in the consideration of these potential costs. It is not clear whether data collection and/or modeling would be required given the data collection that has already been done and the modeling that has been or will be done by others.

Potential cost saving opportunities were mentioned, including:

* + - Using the Ojai Basin Groundwater Management Agency’s (OBGMA) models,
		- Using the California Instream Flow Study
		- Obtaining grant funding
		- Contracting with the City of Ventura to provide staffing
	+ GSP Implementation including special projects, which may include water introduction for steelhead, storm water collection/infiltration, and perhaps land acquisition. These costs were estimated at $14 million per year.

## Decision-Making Options and Straw Poll

The following options were considered. These options are not mutually exclusive and each member voted for as many options as they supported.

* Special vote. Call for a vote that deviates from simple majority at any time. This vote could require unanimity, super majority, or double majority. This option received four votes during the straw poll.
* Double majority. This would require a majority vote within two subgroups - pumpers and non-pumpers:
	+ Pumpers: agricultural community, City of Ventura, Ventura River Water District, and Meiners Oaks
	+ Non pumpers – Casitas Municipal Water District, environmental community, County of Ventura

This option received two votes during the straw poll.

* 1 Seat 1 Vote (i.e., no weighting of votes). This option received two votes during the straw poll.
* Super majority (a majority of either five or six out of seven votes). The five-vote super majority option received two votes and the six-vote option received three votes during the straw poll.
* Unanimity on key decisions. This would be used for major decisions such as capital expenditures exceeding $100,000, the annual budget, approval of the GSP and any amendments, any stipulation to resolve groundwater rights or management, and minimum thresholds and measurable objectives for the GSP. This option received one vote during the straw poll.

## Deliberations and Conclusion

The group members discussed their reasons for supporting or not supporting the various voting options. The discussion focused on the following options and considerations.

Most of the group expressed concerns regarding unanimity because it could effectively result in veto power by a single group and cause paralysis in making decisions. Additionally, if a member is not able to build agreement with one other member of the Board on rejecting an item, that should indicate there is not a sufficient basis for rejecting the item.

Double majority was seen as a simple way to address all concerns of common interests and avoiding veto power inherent in unanimity. However, it also has the potential to divide the Board or marginalize certain members.

The super majority was viewed as a solution that would avoid the potential issues of the above options and allow agencies to assure fiscal responsibility on major decisions. With regard to the choice between a super majority of five or six, concern was raised about whether or not six votes would be achievable. The group was more comfortable with this option as long as the member agencies may amend the JPA should the GSA find that six votes are not reasonably achievable. It was noted that the JPA does allow for amendments with a requirement of unanimity among all five member agencies.

There was discussion as to whether the super majority should be used in pre-defined cases or by a call for special vote. One of the concerns expressed for pre-defining cases is the inability to predict all future situations. Conversely, concerns were expressed for allowing a vote to be called at any time as this has the potential to be used to influence the outcome of a particular vote.

* **ACTION ITEM:** After deliberating and considering the view points and reasoning expressed during their discussion, the FC agreed that they would take the following approach to their respective agencies for further consideration:

In its decision-making, the GSA will: (1) aim for consensus first and (2) if consensus cannot be reached, most decisions will be made using a simple majority; major decisions (to be further defined) will require a supermajority of six votes.

Ms. Epstein noted that she will take the above super majority proposal back to the City, but expressed concern because the City would be incurring the greatest expense. Her concerns also include the potential selection of projects that may be less costly but may not be cost-effective in the City’s opinion. Other members of group noted that although the City’s total cost may be the highest, because costs would be recouped though pumping fees, the proportional cost increases to all agencies’ groundwater users would be the same. It was also noted that a shared interest among all agencies is the most efficient, cost effective use of resources – not only is there a deep interest in picking options that are cost effective but also best at addressing the need.

**ACTION ITEM:** Ms. Meyer will consult with Mr. McGlothlin and Ms Shoaf regarding super majority voting procedures in the event of absent or disqualified (in case of conflict of interest) members and stakeholder directors.

* During the above conversation, Mr. Rapp asked if the GSA was to try to fund a project through a benefit assessment district, what would be the boundaries of the district? The group suggested possible answers including one of the agencies’ boundaries, boundaries determined by engineering studies that demonstrated the area of benefit, or project specific criteria.

# 4. PUBLIC COMMENT

* One member of the public was present. She referenced a letter sent out to well owners that stated the GSA might make decisions that would affect residents’ water or land use. She asked for further information regarding these effects.
* The group explained what SGMA is and that the GSA needs to determine how much water there is, how it will be distributed to people, if there is a sufficient supply, how to look at alternative supplies, will this impact anyone, and how to pay for it.
* It was noted that currently private owners who pump less than 2 acre-feet per year are considered de minimis users and as such they are not required to report their use. When the GSP is complete, there is a possibility these users may have to pay for their groundwater use. She was informed that additional letters will be sent during the GSP process. She was also referred to the UVR GSA website, where she could sign up to receive notifications.

# 5. ARTICLE 16 WITHDRAWAL OF MEMBERS, AND ARTICLE 18 MISCELLANEOUS PROVISIONS

This item was held over for the next meeting.

# 6. PUBLIC COMMENT

No members of the public were present during this public comment period.

# 7. NEXT STEPS

**ACTION ITEM:** The GSP Preparation Work Group will meet and provide notes to Ms. Meyer before the May meeting.

**ACTION ITEM:** The Stakeholder Director Selection Criteria Work Group will select a meeting date and email the date to Ms. Meyer.

**ACTION ITEM:** The Stakeholder Director Selection Criteria Work Group will meet and send meeting notes to Ms. Meyer.

**ACTION ITEM:** Each FC member will review the liability language distributed by Ms. Epstein with their respective agency counsels prior to the May meeting.

**The next meeting of the Formation Committee will be on May 10, 2016, from 2:00 to 7:00 PM at Casitas Municipal Water District.**

# 8. ATTENDANCE

* Bert Rapp, Ventura River Water District
* Bruce Kuebler, Ventura River Water District
* Ed Lee, Ventura River Water District
* Mike Hollebrands, Meiners Oaks Water District
* Mike Krumpschmidt, Meiners Oaks Water District
* Shana Epstein, Ventura Water
* Steve Wickstrum, Casitas Municipal Water District
* Mary Bergen, Casitas Municipal Water District
* Tully Clifford, County of Ventura
* Zoe Carlson, County of Ventura
* Mindy Meyer, Center for Collaborative Policy
* Lisa Ballin, Center for Collaborative Policy