

Cosumnes Long-Term Governance Committee Meeting Notes

Tuesday, August 18, 2020

Meeting Overview

The Long-Term Governance Committee, consisting of Working Group members representing their respective GSAs, held its first meeting and discussed topics including:

- Purpose of the Long-Term Governance Committee (LT Gov Committee)
- Proposed process approach
- Potential Key Threshold Questions
- Initial Thoughts on Criteria

Given the tight timeframe for the GSP development, this group will meet monthly.

Next Meeting: **September [Date and time TBD]**

Key Outcomes

- Frequently mentioned criteria:
Fair | Effective | Flexible | Credible
- Need to better understand the different GSP implementation functions to have informed discussion on appropriate governance structure and responsibilities (All GSAs vs. one GSA vs. some GSAs).
- Understanding what other GSAs have done may help governance considerations.
- Holding off on seeking legal counsel insight on governance legal authority. Committee will begin to draft questions in the meantime.

ACTION ITEMS

Topic	Who	What
Criteria	LT Gov	By Aug 28 – Send CBI additional thoughts on governance criteria
GSP Implementation	CBI/WF	Draft initial list of governance functions.
Governance Structures	CBI	Follow up with Stantec on the status and timing of its governance research efforts.
Legal Authority	LT Gov	Research and draft potential questions to pose to a legal counsel. Members are encouraged to share useful resources/findings as they research these legal authority issues.

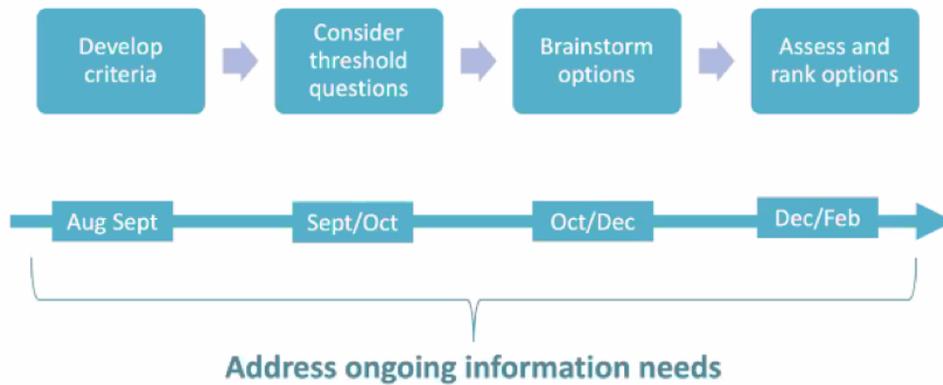
MEETING NOTES

Purpose of the LT Gov Committee? - What's the problem we're trying to solve?

- Need an agreed-upon way to make decisions on funding, tracking/monitoring, and guiding/adapting GSP implementation; and done in a way that is inclusive, thoughtful, and credible, and bolsters the legitimacy of the process.

Approach – What's the pathway for developing long-term governance?

- Expecting to meet monthly through February 2021. It will be a very tight timeframe for this committee to discuss and make recommendations for the full Working Group's considerations and decisions; we can't "kick the can down the road" anymore about governance in order to develop the GSP in time.



Key Questions

(Note: This discussion was meant to generate initial thoughts and is not meant to be a "final" list of key threshold questions.) The group identified key threshold questions intended to help set up a framework for decision-making for the Working Group:

Key Threshold Questions Summary Table (Underlined indicates input added per group discussion)	
Organizational Structure	<ul style="list-style-type: none"> ▪ One or multiple organizations? ▪ Formal (e.g., JPA) or associations?
<u>Legal Authority</u>	<ul style="list-style-type: none"> ▪ <u>What are the authority sideboards (e.g., who has the right to representation)?</u>
Cost	<ul style="list-style-type: none"> ▪ Equal or pro-rated costs? If pro-rated, on what basis?
Decision Making	<ul style="list-style-type: none"> ▪ Issues to be decided? ▪ Equal or weighted voting process? ▪ If weighted, on what basis?
<u>Responsibilities and Tasks</u>	<ul style="list-style-type: none"> ▪ <u>Consistent administrative tasks vs. projects?</u> ▪ <u>At the GSA-level or at the basin-level? If both, under what conditions?</u>
<u>Adaptability</u>	<ul style="list-style-type: none"> ▪ <u>How to build in flexibility without compromising successful implementation?</u>

Key Threshold Questions | Discussion

- Several committee members stated that decision-making and contributions should differ depending on factors such as projects vs. administrative tasks. Multiple members indicated that a certain level of base support is warranted for the ongoing administrative tasks (e.g., annual reporting and “keeping the lights on”).
- Committee members conveyed that they *conceptually* saw value in all GSAs contributing to activities that benefited the entire basin; however, members cited concerns related to finding an appropriate balance between equity and effectiveness, such as:
 - Should all GSAs contribute equally if not all GSAs equally or at least substantially benefit?
 - What would be considered equitable, particularly given that the capacity varies across the GSAs?
 - If GSAs contribute based solely on whether there are direct benefits, does that risk the basin’s ability to achieve groundwater sustainability?
- If there was more of a singular structure, would that singular entity handle all projects, or “sublet” to individual GSAs? Several members suggested that a GSA should be responsible for its own project (and partner/share responsibilities with other GSAs as applicable). However, the issues of divvying up costs remain in question.
- Multiple committee members indicated they felt the GSAs have the authority to implement fees, pumping restrictions, etc. and not the GSP (i.e., a single entity implementing the GSP); otherwise the group would have chosen to establish a single GSA from the start. The GSP established the GSAs’ agreement on common goals, but the GSAs have the authority and responsibility to implement and find a way to achieve those goals.
- Remember to consider how these expenses will be financed. Even the base administration expenses might be higher than we expect (based on the budget estimates in other GSPs).
- The group also discussed whether there are legal sideboards to authority (e.g., do those with overlying water rights have a right to representation in the decision-making process) that may warrant seeking a legal opinion. A committee member suggested seeking an external, neutral legal opinion. Multiple committee members emphasized that, regardless of whether there is clear legal right to representation, it is essential to engage these landowners to ensure they feel the GSAs have listened to them and adequately represent their interests; otherwise the risk of undesired litigation and adjudication only increases.

Criteria

(Note: This discussion was meant to generate initial thoughts and is not meant to be a “final” list of criteria for assessing governance options.) The group reviewed and updated criteria for assessing governance options that the Working Group identified in previous discussions:

Criteria Summary Table (Underlined indicates input added per group discussion)	
Related to Governance	Related to Cost-Sharing
<ul style="list-style-type: none"> ▪ Simple ▪ Legal/legally binding ▪ Maintain balance between large/small entities ▪ Fairness/equity ▪ Sufficient data to support any approach ▪ Avoids veto power by any one GSA ▪ Fosters consensus/integration ▪ Distinguishes between major/minor decisions 	<ul style="list-style-type: none"> ▪ Benefits received ▪ Ability to make case to constituents ▪ Commensurate w/ responsibility/autonomy ▪ Ability to pay (<u>balanced with baseline responsibilities, aka “paying fair share”</u>)
Other Criteria	
<ul style="list-style-type: none"> ▪ <u>Financing – effective, fair, and flexible</u> ▪ <u>Adaptable – automatic evaluation (e.g., every 3 years) and modified as appropriate</u> ▪ <u>Implementable – Doable and credible</u> ▪ <u>What’s worked in other areas that may relate to Cosumnes?</u> 	

Criteria | Discussion

Committee members underscored several of the previously identified criteria, particularly criteria related to legal authority, balanced contribution responsibilities given varied GSAs’ capacities, each GSA paying there “fair share,” and consideration for those impacted (e.g., landowners needing to pay more or reduce pumping).

Additional input on criteria included:

- Ability to pay needs to be equitable (e.g., considers that the agencies have varying resources and capacities), while also ensuring GSAs contribute “their fair share.” Each GSA has legal authorities and other responsibilities to implement SGMA and need to find a way to finance GSP implementation.
- There could be different categories or proportions for financing contributions for a project that has wide benefits that still considers equity and “fair share” – for instance, the GSAs could evenly contribute to the basic establishment and maintenance of a project; but are not required to contribute in the instance that one or more GSAs want to do more (e.g., more monitoring).
- Whatever the Working Group decides must be implementable and credible to convince each GSAs’ Boards that the governance, cost-sharing, financing structure and processes are viable.
- “Fair share” should consider a suite of factors such as land use, water use, population, etc.
- Remember to consider benefits received avoid imparting unnecessary burdens. For instance, it seems unfair for well owners to pay exorbitant pumping fees that go to projects or management actions that do not substantially benefit them.
- Build in an automatic evaluation and adaptation checkpoint (e.g., 3-year review) to analyze the effectiveness of the governance model and adjust as needed.

Criteria | Next Steps

- **By August 28** – LT Gov Committee members to send CBI additional thoughts on governance criteria.

Information Needs

The group identified what additional information the committee may need for future deliberations.

Info Needs | Discussion

- **List of functions** – which governance functions apply to the group of GSAs, an individual GSA, or a handful of GSAs.
- **What are other GSAs doing?**
 - Stantec is working on governance research as part of supporting other individual GSAs’ long-term governance considerations.
 - Consider packaging up this information for the next meeting’s discussion (e.g., revised brief summary table).
- **Legal authority** – potentially seek legal counsel on some of these governance questions to better understand the GSAs’ sideboards and authorities.
 - Consider lower cost options for seeking legal counsel (e.g., paralegals or interns).
 - The group decided to wait on seeking legal counsel in the near future. In the meantime, committee members would research and develop potential questions for legal counsel to share at a future committee meeting.

Info Needs | Next Steps

- CBI and Water Forum to draft initial list of governance functions.
- CBI to follow up with Stantec on the status and timing of its governance research efforts.
- LT Gov Committee members to research and draft potential legal authority questions to pose to a legal counsel. Members are encouraged to share useful resources/findings as they research these legal authority issues.

Attendees

GSAs	
Amador County GMA	Rick Ferriera
City of Galt	Mike Selling
Clay Water District	Gary Silva Rick & Sue Wohle
Galt Irrigation District	[Mike Wackman – Liaison]
Omochumne-Hartnell Water District	Mark Stretars Mike Wackman
Sacramento County	Linda Dorn Kerry Schmitz
Sloughhouse RCD	Jay Schneider Austin Miller
Conveners/Facilitators	
Water Forum	Tom Gohring John Lowrie
CBI	Bennett Brooks Stephanie Horii