

FOR GSA RATIFICATION

To: Cosumnes Subbasin SGMA Working Group Members
From: CBI and Water Forum Staff
Date: August 20, 2018
Re: Proposed Final Framework Agreement – Phases 1 and 2

Attached is the proposed final Framework Agreement intended to cover Phases 1 and 2 of GSP development. This document incorporates changes discussed and agreed to at the Cosumnes Subbasin Working Group's August 2018 meeting.

Please use this version when seeking ratification within your respective GSA. As a reminder: We are seeking a formal resolution from each GSA endorsing the Framework Agreement. **Action by each GSA is needed no later than September 15, 2018.**

**Cosumnes Subbasin SGMA Working Group
Framework Agreement to
Guide Near-Term Working Group Deliberations**
(For ratification by each GSA within the Cosumnes Subbasin Working Group)

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 Sustainable Groundwater Management Act (SGMA)-compliant Groundwater Sustainability Plan (GSP or Plan) for the Cosumnes Subbasin.

This non-binding agreement is intended to guide the parties' deliberations during the first two phases of Plan development expected to end on or about December 2019. An interim check-in will be conducted at the end of Phase 1 to assess the agreement's effectiveness. This agreement can be extended beyond Phase Two only with unanimous agreement by the respective governing bodies (or authorizing individuals) of all parties. Prior to Plan implementation in 2022, this or a subsequent 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 (or authorizing individuals) prior to or as close to September 1, 2018, 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 a cost-share agreement approved by all GSAs and incurred prior to the notice to withdrawal, if any, are to be honored.

Overarching Approach

Under California law, SGMA requires the Cosumnes Subbasin groundwater sustainability agency or agencies (GSAs) to have a GSP in place by January 31, 2022.

The following agencies (referred to as the parties in this agreement) are GSAs 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.

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

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, benefiting the basin as a whole. 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. A comprehensive Stakeholder Communication and Engagement Plan is to be developed in Phase 1 to guide stakeholder engagement throughout the GSP development process.

Regarding administrative aspects related to near-term GSP development, the parties have identified Sacramento County as the contract administrator for the Sustainable Groundwater Planning Grant Program award by the state to support GSP development in the Cosumnes Subbasin. Sacramento County undertakes this work on behalf of and at the direction of the Working Group. The Working Group has requested that the Water Forum serve as the overall "Project Manager" and point of contact for the planning work in the subbasin.

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 consultant(s) selected by the Working Group to support its development of a GSP; and (4) commit to resolve differences, including 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. This may, as needed, include establishing subcommittees comprising representatives of each GSA.
- **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 honest and fair; and as 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
- Focus on basin groundwater sustainability, as defined by SGMA

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 collaboration structure:

- A Working Group to guide near-term, collaborative development of the subbasin's GSP. The Working Group consists of 2 or more 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 approval of at least 5 of the 7 GSAs to balance the need for broad support among the parties, fair representation and timely action. Fiscal decisions expected in Phases 1 and 2 are summarized in Attachment 1.
- 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 Phases 1 and 2 are summarized in Attachment 1.
- 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 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 since this Framework Agreement covers only Phase 1 (GSP Foundation Phase) and Phase 2 (Basin Characterization and Analysis Phase) of GSP development.

Technical Support

To support well informed decisions, the parties have established a Technical Advisory Committee (TAC) to provide input and recommendations to the Working Group on technical aspects of GSP development and, later on, implementation. The TAC works in service of the Cosumnes Subbasin SGMA Working Group. The Working Group may combine TAC/Working Group meetings as needed. A separate Terms of Reference has been developed for the TAC.

Also, consistent with the cost-share agreement developed among the seven GSAs, the Working Group intends to engage technical consultant(s) to assist with GSP development. Other support (e.g., legal advisors) will be considered and secured, as needed, by the Working Group.

GSP Development Cost Share

GSP development cost-shares are described in a separate cost-share agreement prepared and approved by the seven GSAs.

GSP Development

The purpose of this Framework Agreement is to provide organizational and decision-making structure to support the GSAs working collaboratively to begin development of a GSP. The Working Group, with the support of Technical Consultant, will tackle the first two phases of the four-phase Plan development outlined in the subbasin's Proposition 1 (AB-1471 Water Quality, Supply, and Infrastructure Improvement Act of 2014) application: (1) GSP Foundation, (2) Basin Characterization and Analysis, (3) Sustainability Planning, and (4) GSP Preparation and Submittal. Additionally, the Working Group commits to general management tasks, also outlined in the Proposition 1 proposal, including actions such as (1) grant management and administration, (2) project management, and (3) quality assurance/quality control (QA/QC). Any changes to the subbasin's Work Plan included in the Proposition 1 proposal are subject to the approval of the Working Group.

The parties have agreed to work together as a collaborative planning body on this GSP development for their mutual benefit. The Working Group is neither a Joint Powers Authority nor a governmental entity; rather, it is a collaborative planning effort guided by the parties for their mutual benefit. Any implementation actions to be taken as a result of this planning effort are expected to be taken by the individual parties and approved by the respective governing bodies.

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 technical consultant and based on additional presentations by the sponsoring GSA, 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 well-coordinated GSPs and the

Working Group. Incremental costs associated with developing a separate, well-coordinated GSP would be paid for separately by the GSA(s) proposing such effort.

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:

- 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, after Phase 1 and Phase 2, and as necessary, to account for public feedback.

An updated Stakeholder and Communication and Engagement Plan will be developed in Phase 1.

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 GSA 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 Decisions

Below is a listing of the possible near-term decisions to be made during Phase 1 and 2 of the GSP development. This list is based on the subbasin's Proposition 1- Sustainable Groundwater Planning Grant Program work plan and is current as of June 2018. This list will be revisited and updated, as needed,

List of Major Decisions to be made during GSP Development (by Phase and Scale)

Phase 1: GSP Foundation

Basin

- Governance/Coordination
 - GSAs will decide whether to designate management areas on the basis of jurisdictional (i.e., GSA) boundaries or wait and determine management areas on a scientific or operational basis (Phase 3)
 - Potentially determine GSP structure
- Stakeholder Engagement
 - Decide on a Basin-wide approach for stakeholder outreach/ engagement
- Technical
 - Choose or design a Data Management System
 - Choose a numerical model and modeling approach

Local

- Stakeholder Engagement
 - Develop local outreach plan to communicate GSA-specific activities to local stakeholders and customers

Phase 2: Basin Characterization and Analysis

The Basin Characterization Phase will focus on the compilation of existing scientific data and information and the collection of new data. Consensus on key technical elements will be important.

Long-term governance decisions are not expected until Phase 3. To the extent it should prove timely to make long-term governance decisions prior to Phase 3, the Working Group will strive for consensus.