

**SACRAMENTO CENTRAL GROUNDWATER AUTHORITY (SCGA)  
Sustainable Groundwater Management Act Sub-Committee Meeting  
Final Minutes  
May 16, 2016**

**LOCATION:** 10060 Goethe Road, Room 1213  
Sacramento, CA 95827  
1:00 p.m. to 3:00 p.m.

**MINUTES:**

**1. Call to Order and Roll Call**

Paul Schubert called the meeting to order at 1:00 p.m.

The following meeting participants were in attendance:

Board Members:

Paul Schubert, Golden State Water Company  
Tom Nelson, FRCD/EGWD  
Rick Bettis, Conservation Landowners  
Brett Ewart, City of Sacramento  
Forrest Williams, County of Sacramento

Staff Members:

Darrell Eck, SCGA  
Sarah Britton, Legal Counsel  
Ping Chen, SCGA  
Ramon Roybal, SCGA

Others in Attendance:

Mark Madison, FRCD/EGWD  
Bruce Kamilos, FRCD/EGWD  
Jonathan Goetz, GEI  
Rodney Fricke, GEI  
Jay Schneider, Sloughhouse RCD

**2. Public Comment**

None

**3. Status Report On Issues Related To The Request By Florin Resource Conservation District/Elk Grove Water District For A New Joint Powers Agreement**

Ms. Britton reported that she had coordinated with FRCD/EGWD's legal counsel, David Aladjem, in addition to conducting her own research, and that she and Mr. Aladjem had

determined an acceptable edit to the wording of the JPA that would address FRCD/EGWD's need to broaden who they could designate as their representative on the SCGA Board. Ms. Britton then reported that the edit would add the words 'or designated employee' to the JPA. Ms. Britton stated that Mr. Aladjem had consulted with his client (FRCD/EGWD) and they were agreeable to the edit. Ms. Britton said that the edited language would also apply to Omochumne-Hartnell Water District and Rancho Murieta CSD. Ms. Britton reported that she would be working on a full first amendment to the JPA and that she would have it ready to go to the full Board in June. Mr. Kamilos asked why the proposed language did not simply state a 'designee' of the organization. Ms. Britton replied that she had mirrored the language as it related to the signatories and had consulted Mr. Aladjem about it. Mr. Madison stated that if the proposed language matched the language that applied to the JPA signatories, then it would be acceptable to FRCD/EGWD as it sought only to be treated equally.

Mr. Nelson stated that he recognized that all of the subcommittee members had a commitment to their respective agencies to represent their agencies the best way possible. Mr. Nelson then said he had some concerns about the long term management of the GSP. He said that the GSP would have a different function for SCGA that it would have to be carried out for twenty years while representing every agency, and that he wanted to have the employees of SCGA to have their loyalties to that agency and not to an agency that is a member of the board. Mr. Nelson went on to state that the Executive Director, legal counsel, and staff needed to have their loyalties with SCGA and not the Sacramento County Water Agency or the County of Sacramento. Ms. Britton warned Mr. Nelson that his comments were going beyond the scope of the agenda item and that she wanted to avoid any violation of the Brown Act. If there was a need to continue this discussion then the item would need to be agendaized in order to provide an opportunity for members of the public to comment. Mr. Nelson then requested that the subject be agendaized for the June 8<sup>th</sup> SCGA Board meeting. Mr. Madison responded that it would be too late to hear the item at that time adding that FRCD/EGWD had already proposed a new JPA for SCGA of which only one small part would be carried forward. Mr. Madison then reported that on the evening of June 8<sup>th</sup> he would be making a recommendation to the FRCD/EGWD board to consider the notion of filing to become a GSA for the entire FRCD/EGWD jurisdictional area. Mr. Madison then stated that FRCD/EGWD would like a recommendation by the subcommittee to the SCGA Board for a firm commitment that either at the time of GSP adoption or Alternative Plan submittal that the SCGA Board would negotiate with them in earnest over the terms of a new JPA. Mr. Madison went on to state that one of FRCD/EGWD's key concerns was a conflict of interest between SCGA and Sacramento County. Mr. Schubert responded that the issue of a new JPA and an independent stand-alone agency had already been brought before the subcommittee several times and that the subcommittee had declined to endorse it. Mr. Schubert continued by stating that FRCD/EGWD was the only member of the SCGA Board making the request and had just attempted what amounted to blackmail to get the SCGA Board to give it what it wanted. Ms. Britton asked Mr. Madison for a clarification of his statements as she had spoken that same morning with Mr. Aladjem who had communicated that the biggest issue to tackle was who FRCD/EGWD could chose to

represent it on the SCGA Board. Ms. Britton apologized if there was any misunderstanding between her and Mr. Aladjem over the context of the request and that a discussion of the activities to which Mr. Madison had just described never came up.

Mr. Williams stated that the subcommittee had agreed that looking into an independent stand-alone agency and a revision of the JPA were valid points but that the time to do so was not now. Mr. Williams said that the Budget Subcommittee had agreed to create a reminder to look at those issues at the appropriate time in the future and that at the previous SGMA Subcommittee a compromise had been agreed to between the subcommittee and FRCD/EGWD relative to the JPA and that he was under the impression that the issues had been resolved for the time being. Mr. Williams then stated that SCGA was made up of sixteen independent board members who considered all the information brought before them and vote as a board on whether to approve or deny proposals. Mr. Ewart concurred and recalled that SGMA Subcommittee had agreed to address FRCD's issue with representation on the Board but that it had decided to not endorse a wholesale revision of the JPA until the appropriate time. Mr. Ewart further explained that previous discussions had contemplated the adoption of a GSP as potentially an appropriate time revisit the JPA but that there was never a flat denial that it should occur, rather that there was a reasonable order of activities necessary for SGMA compliance.

Mr. Kamilos stated that he wanted a codified commitment for their requests and not just a tickler file. Mr. Nelson added that there was a long process ahead and that work needed to start now and suggested a governance committee might be established to begin the work.

Mr. Schubert made the point that meaningful discussions concerning governance could not occur until you know what you were trying to govern and who would be involved. Mr. Schubert said that SCGA was in the process of working towards that point but was not there yet. In terms of an independent SCGA structure, Mr. Schubert said that it was likely to be necessary at some point but that for the time being he could not justify the additional cost onto his rate payers.

Mr. Madison asked the subcommittee how it felt about and the idea of SCGA as an independent agency once it became a GSA and adopted a GSP. Ms. Britton stated that she understood Mr. Madison's assertion but wanted to clarify that technically SCGA was already a legally independent agency with a staffing agreement with the County of Sacramento. Ms. Britton then stated that the Sacramento County Water Agency was not a member of the SCGA Board and said that under the Joint Powers Agreement Act that all members of the Authority had separate legal and fiduciary obligations to SCGA. Mr. Madison replied that it all sounded good in theory but that in his opinion it was not how it was in actuality.

Mr. Kamilos stated that he would like to see an action item at the next Board meeting with discussion on changing the governance structure and opening up the JPA. Mr. Williams responded that he was unwilling to commit to a date certain for having the

discussion because it was tied to the outcome of a process that was currently being worked through. Mr. Williams recalled that the Budget Subcommittee had identified increased future legal fees in anticipation of working through the governance issue and had also made note of it in the event that the makeup of the board changed and new board members would be informed of its importance.

Mr. Schubert asked if a recommendation for a Governance Subcommittee to track along with the GSA/GSP process could be made under the current discussion item. Ms. Britton replied in the negative but offered that it could be agendaized by the SCGA Chair for a future Board meeting. Mr. Ewart suggested letting the legal counsels for SCGA and FRCD/EGWD work out solutions to issues previously identified and when those were complete they could then be packaged into a comprehensive suite of recommendations for the Board's consideration including the formation of a Governance Subcommittee.

Mr. Madison stated that FRCD/EGWD wanted a recommendation to be made at the June 8<sup>th</sup> Board meeting that would commit SCGA to a specific date or milestone to trigger negotiations with them for a new governance structure. Mr. Williams responded that he was not comfortable taking such an action given that the item was not agendaized and that he felt like the subcommittee was being pressured to alter its previous decisions without due consideration. Mr. Schubert added that the subcommittee could not make the requested recommendation because it was not agendaized and that he was unclear on what the appropriate trigger would be without further research. Mr. Ewart suggested that staff could look into it.

Ms. Britton stated that she could finalize the proposed amendment as previously discussed and agendaized, in addition to consulting with Mr. Aladjem on additional legal issues regarding governance, and then bring the results back for an agendaized discussion at a future SGMA Subcommittee meeting. Mr. Schubert suggested separating out the items such that Ms. Britton would prepare the discussed amendment for a subcommittee recommendation to the Board for consideration at its June 8<sup>th</sup> meeting and to agendaize further discussion of governance at a future SGMA Subcommittee meeting.

Ms. Britton clarified that the proposed modification would not change the appointment process of the City of Elk Grove or any other appointing authority. Mr. Madison stated that it was not a problem. Mr. Williams asked if he would have to notify or acquire approval of the County of Sacramento for the modification. Ms. Britton replied that approval of each of the JPA signatories would be required.

***Motion/Second/Carried*** - Mr. Ewart moved, seconded by Mr. Nelson, the motion carried unanimously to direct staff to prepare the language that would modify the Joint Powers Agreement, as determined by legal counsel, to state 'or designated employee', and to recommend that the SCGA Board adopt the modification of the Joint Powers Agreement at the June 8, 2016 Board meeting.

#### **4. Update On Proposed Groundwater Sustainability Plan Emergency Regulations**

Mr. Goetz announced that the proposed GSP regulations would be going before the California Water Commission on May 18<sup>th</sup> and were planned for adoption on June 1<sup>st</sup>. Mr. Goetz stated that he had reviewed the updated regulations to compare how the comments SCGA had submitted were incorporated. Mr. Goetz said that overall DWR had done a very good job of listening to the comments that were provided and may have slightly biased their response to those submitted on behalf of counties. Mr. Goetz reported that a major criticism of the regulations was that they were too prescriptive and essentially created new laws that went beyond the legislation and that DWR had done a good job to scale back in those areas.

Mr. Goetz then reported that staff had submitted an additional comment letter to the California Water Commission which addressed Alternative Plan requirements. Specifically, the letter proposed to remove a requirement that an Alternative Plan be equivalent to articles five and seven of the SGMA legislation and left the requirement that an Alternative Plan demonstrate the ability to achieve the objectives of SGMA. Mr. Goetz stated that if incorporated the suggested change would significantly reduce the level of specificity required for development of an Alternative Plan. Mr. Eck stated that the Sacramento Groundwater Authority planned to submit a similar comment and that John Woodling was planning on appearing before the Water Commission to provide oral comments.

Mr. Kamilos asked if there had been any discussion of extending the deadline for Alternative Plan submittal. Mr. Goetz replied that there had not been any discussion that he was aware of.

##### **5. Approach To Alternative Submittal**

Mr. Goetz introduced Rodney Fricke who spoke on the approach to an alternative submittal. Mr. Fricke presented a table which compared all of the elements identified in articles five and seven of the SGMA legislation with the elements of the current SCGA GMP. Mr. Fricke's table identified those elements that were or were not included in the current GMP and if an element was not included, what the estimated level of effort might be to satisfy the requirement.

The general consensus of the subcommittee was that if the law required equivalency with articles five and seven, there would be a significant amount of effort required to meet the requirement. Mr. Kamilos asked what would happen if SCGA submitted the plan and it was rejected by DWR. Mr. Eck replied that the expectation was that staff would work closely with DWR through each step of the process so that such an outcome would be minimized.

Mr. Madison asked if pursuing an alternative submittal was still the correct approach if the level of effort was the same as the GSP process but without the benefit of an additional four years for compliance. Mr. Eck replied that what had been presented was the most conservative approach and that it was still expected that an alternative submittal process would require less effort than putting together a GSP from the beginning.

Mr. Ewart asked if staff had the ability to complete the list of requirements identified. Mr. Goetz replied that although it appeared to be a daunting task that much of the data and information that was required already existed but needed to be compiled and communicated to DWR.

Mr. Madison asked when the Alternative Plan would be become effective if it were approved. Mr. Fricke replied that it would be effective immediately upon approval. Mr. Madison then asked if the accelerated timeframe of an Alternative Plan would place the constituents who would be covered under the plan under an accelerated schedule for enforcement actions such as metering of wells. Mr. Eck replied that it was not expected that enforcement actions such as metering wells would occur.

Mr. Kamilos remarked that the Alternative Plan process might present a more streamlined approach rather than waiting for five years to develop a GSP.

Mr. Schubert asked if a detailed schedule had been developed accounting for all of the necessary steps that needed to occur prior to the Alternative Plan being adopted. Mr. Goetz replied that such a plan had not yet been developed but that staff planned to present that information when appropriate.

Jay Schneider with the Sloughhouse RCD commented that the alternative plan process being considered would be made easier if SCGA agreed to the boundary line adjustment proposed by OHWD. Mr. Schneider suggested that SCGA engineers could work with Sloughhouse RCD engineers to better understand reasons for moving the boundary line to the watershed boundary and to begin coordination on a plan that would account for Sloughhouse RCD and the Cosumnes Subbasin. Mr. Schneider stated that Sloughhouse RCD did not have an option for an alternative plan but that SCGA did have an option which included working with a Sloughhouse RCD and accepting the boundary line modification. Mr. Schneider said that during the SGMA process personalities may have gotten in the way including his and that respective positions were hardened but that Sloughhouse RCD was willing to cooperate and sought SCGA's engagement.

***Motion/Second/Carried*** - Mr. Williams moved, seconded by Mr. Ewart, the motion carried unanimously to recommend to the SCGA Board to take the necessary action to initiate, complete, and set for adoption in a timely manner, an alternative plan.

## **6. Action Items/Next Steps Assignments**

Mr. Madison wanted to clarify that his comments regarding an inescapable conflict of interest between SCGA and the County should not be interpreted as an accusation or criticism that Mr. Eck, Ms. Britton, or staff were not doing a fine job and were not loyal to the cause of SCGA.

The subcommittee agreed to reconvene on June 22, 2016 at 1 pm.

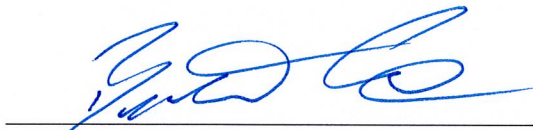
**ADJOURNMENT**


Mr. Schubert adjourned the meeting at 3:30 pm

**Upcoming meetings –**

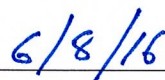
**Next SCGA Board of Directors Meeting** – Wednesday, June 8, 2016, 9:00 am; SASD  
South Conference Room 1205, Valley Oak.

By:

  
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Chairperson

  
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