

Cuyama Basin Groundwater Sustainability Agency
Board of Directors

July 10, 2019

Meeting Minutes

Cuyama Valley Family Resource Center, 4689 CA-166, New Cuyama, CA 93254

PRESENT:

Yurosek, Derek – Chair
Compton, Lynn – Vice Chair
Albano, Byron
Anselm, Arne – *Alternate for Glenn Shephard*
Bantilan, Cory
Bracken, Tom
Cappello, George
Chounet, Paul
Christensen, Alan – *Alternate for Zack Scrivner*
Williams, Das (*telephonic*)
Wooster, Jane
Beck, Jim – Executive Director
Hughes, Joe – Legal Counsel

ABSENT:

None

1. Call to order

Chair Derek Yurosek called the meeting to order at 4:00 p.m.

2. Roll call

Hallmark Group Administrative Assistant Melissa Ballard called roll (shown above) and informed Chair Yurosek that there was a quorum of the Board.

3. Pledge of Allegiance

The pledge of allegiance was led by Chair Yurosek.

4. Approval of Minutes

Chair Yurosek opened the floor for comments on the June 5, 2019 CBGSA Board meeting minutes.

Director Cory Bantilan commented that the minutes incorrectly captured his attendance during the meeting and corrected the motions to read that he was absent.

Director Das Williams arrived at 4:06 pm

MOTION

Director Christensen made a motion to adopt the June 5, 2019 CBGSA Board meeting minutes. The motion was seconded by Director Bracken, and the motion passed with a majority vote.

- AYES: Directors Albano, Bracken, Cappello, Chounet, Christensen, Williams, Wooster, and Yurosek
- NOES: None
- ABSTAIN: Directors Compton, Anselm, and Bantilan
- ABSENT: None

5. Report of the Standing Advisory Committee

Cuyama Basin Groundwater Sustainability Agency (CBGSA) Standing Advisory Committee (SAC) Chair Robbie Jaffe provided a report on the June 27, 2019 SAC meeting, which is provided in the Board packet.

SAC Chair Jaffe provided an overview of the discussions held during the SAC meeting and the recommendations provided by the SAC to the Board.

6. Groundwater Sustainability Plan

a. Groundwater Sustainability Plan Update

Mr. Melton provided an update on the Groundwater Sustainability Plan (GSP) development, which is included in the Board packet.

b. Funding Structure Decision

Mr. Beck provided a summary of the funding structure discussion that occurred at the June 5, 2019 CBGSA Board meeting. He restated that during this meeting Chair Yurosek asked the Directors to consider the funding mechanism presented and to develop ideas on appropriate mechanisms and strategies for collecting the funds necessary to continue to operate the GSA in the future.

Legal counsel Joe Hughes presented an overview on the funding authority, including Water Codes 10730 and 10730.8, and the process for imposing fees through the various options, which included an extraction-based fee, acreage-based fee, and a hybrid approach.

Director Compton asked if there is a plan to exclude de minimis users from being assessed fees. Mr. Beck said the Board will need to determine the qualifications of a de minimis user, and the process for imposing assessments or fees, if any, on these users.

Director Chounet asked if the Community Services District (CSD) in the Kings River East GSA is required to pay the per acre-foot assessment or the flat fee. Mr. Hughes said he is unsure but would research and report back.

Director Wooster recommended performing an economic analysis to review affordable options. Mr. Beck said the cost allocation tool can provide information regarding the impacts to the landowner. He reported that there are funds in the budget allocated for a Prop 218, however if the Board chose to go forward with an extraction fee staff could use those funds for an economic analysis. Mr. Beck reminded the Board that staff is not recommending a particular path.

Walking U Ranch, LLC.'s managing member Kathleen March stated that she owns a 1,000-acre cattle ranch within the Basin that uses minimal groundwater. She said the statutory purpose of GSAs and GSPs is to achieve groundwater sustainability. She believes that the CBGSA should not assess landowners based on acreage because landowners with larger amounts of acreage do not necessarily have a larger water usage. Ms. March stated that the California Constitution requires a Prop 218 election in order to assess a tax based on land ownership and believes the CBGSA would not be successful in passing a Prop 218 election. She said the California Water Code 10730.28 states that a GSA that adopts a GSP may impose fees on the extraction of groundwater from the Basin to fund the costs. She commented that if the CBGSA attempts to assess fees based on acreage without a Prop 218 election, she will file a lawsuit against the CBGSA. Ms. March's correspondence with the GSA is included in the Board packet under Item No. 12.

Director Wooster read the following letter from BAR 3J Ranch's owner John Caufield:

"Jane,

Due to the earthquake at China Lake I doubt that I will be able to make the meeting on 10 July.

I (and other Division heads) will be reporting back Monday AM with the remainder of my employees returning hopefully mid-week.

Below are my thoughts concerning the fee structure discussed at the board meeting 2 weeks ago.

Note: As per the map dated May 2017, my ranch (BAR 3J) is not located within the Cuyama Basin Water District (CBWD) sphere of influence.

Feel free to use the discussion below as you see fit.

it is my position that the cost recovery schedule for the Cuyama Valley ground water projects should not include non-irrigated land but should be based around irrigated land, wells, and ground water extraction.

I do not believe that it is appropriate to impose a fee, tax, assessment or other charge on non-irrigated land.

The basis for this position is that there are few, if any, actions that could be taken in any given year on non-irrigated land that would impact the valley ground water either positively or negatively.

As such, because there are no meaningful actions to take or monitor; there is nothing to administer. With no administrative costs incurred, there is no basis for cost recovery.

A long-term action that could be taken is the clearing and replacement of natural chaparral with range grass so as to gain the benefit of additional water availability (1) associated with grasses as opposed to native brush.

A cost schedule along these lines would still be problematic:

- A. Costs applied to graze lands would be penalizing the landowner for creating the condition in which more water would be available than if the land were in its natural condition.
- B. Costs applied to chaparral lands would be penalizing the landowner for leaving the land in its natural condition, which is self-regulating and does not require administration.
- C. Bare land is not an acceptable approach (at least away from the valley floor) due to wind and water driven erosion.

Support for my position that cost recovery for the Cuyama Valley ground water projects should be based around irrigated land, wells, and ground water extraction is as follows...

Administering and monitoring of irrigated land and wells is inherent in the ground water plan under consideration. There will be a cost associated with this activity and recovery of that cost is appropriate.

A cost schedule for ground water extract is logical as its incentives conservation and specifically ties value to the resource under consideration.

- (1) Aside from being intuitive, several papers from the 1940s-1960s for US Forest Service & California Natural Resources discuss this. Studies were in California and Arizona."

Director Cory Bantilan asked Mr. Hughes if any irrigated land can be considered as de minimis. Mr. Hughes replied that under the Sustainable Groundwater Management Act (SGMA) de minimis users are defined as household or domestic use, however the CBGSA can chose to treat landowners differently within the GSP under the rate settings.

Chair Yurosek asked how landowners with less than two acre-feet are evaluated and Mr. Hughes replied that the basis of evaluation is under the discretion of the Board.

Director Chounet asked if the Cuyama CSD could be considered de minimis because each of the households within the CCSD use less than two acre-feet of water per year. Mr. Hughes replied that each household can be considered de minimis but not the CCSD because the CCSD consists of all those households.

Cuyama Landowner Ann Myhre commented that Salinas Valley did not assess any fees on dry acreage because it would not benefit from SGMA. She is afraid the Basin cannot afford SGMA.

Director Compton believes that landowners who are not using the water should not be paying for it. However, she is unsure if the Board should identify de minimis users using SGMA's definition or dry land. She expressed concern that SGMA may break the Basin.

Director Bantilan asked how water usage will be monitored. Mr. Beck said in his previous experience landowners were responsible for self-reporting with spot checks, which is his recommendation. Mr. Beck commented that the budget for next year assumes self-reporting.

Mr. Beck presented an overview of the CBGSA cost allocation tool. He said the draft budget is strictly for GSA administration, including monitoring and reporting. Mr. Beck commented that this budget assumes no delinquencies, but he expects this may be something the CBGSA would want to consider adding.

Chair Yurosek believes the GSA should use a hybrid approach with a minimal assessment on all acres within the Basin. He believes this would be beneficial to the landowners and the Basin.

Director Bantilan asked Mr. Beck if the budget will get cut over time. Mr. Beck said he believes cost could go down after the first year, however every GSA has the same ongoing implementation costs and model defining/development costs. He said the Board's options are to either pay for the GSP development or have the California State Water Resources Control Board (SWRCB) take over the Basin.

Director Albano said the Board will need legal advice and management to determine what landowners are entitled to pump and the structure of the pumping fees. Chair Yurosek agreed that a mechanism will need to be developed in the future to structure the pumping fees, however that is not currently in the budget.

Director Alan Christensen asked if there is a shortage in the current budget. Mr. Beck replied that in the proposed budget there may be a shortage after January 2020.

Director Bantilan asked if administrative costs to collect the fees are included in the budget and Mr. Beck confirmed.

Ms. March recommended using electric bills to calculate the amount of water being pumped by landowners. She said a hybrid approach would require a Prop 218 election because if the GSA were to charge a fee based on acreage, it would be a property tax.

Landowner Stephanie Menzies said ranchers who own a business within the Basin have a budget and assigning assessments to match the proposed GSA budget is not a sustainable method.

SAC member Louise Draucker believes there should be an extractive fee and the landowners who are not using the water should not bear the costs. She said a lot of people who are not irrigating live on the outskirts of the basin where a lot of rainfall occurs and contributes to the groundwater supply.

Stakeholder Jubel Russell said his cattle ranch uses approximately two acre-feet of water per year and he is willing to pay the rate to keep his rights to pump water.

SAC Chair Jaffe said she agrees with the extraction fee and commented that there needs to be incentives to have the cutbacks take place and a cured approach to take care of the limited users as Ag moves toward the sustainable yield.

Cuyama Valley Family Resources Center Executive Director Lynn Carlisle recommended having a higher rate now and lowering it to offer as an incentive.

Director Compton said we should not operate under the assumption that the cost of water will decrease for landowners due to less usage because there is cost with the infrastructure itself.

Mr. Hughes recommended setting the extraction fee for one year because the budget for the remaining years has not been determined.

Director Chounet requested that staff recommend a flat fee for CCSD the next fiscal year. Mr. Beck said with a motion that is passed staff will present an option on how to handle the CCSD.

MOTION

Director Wooster made a motion that the GSP be funded on a per acre-foot water extraction fee basis for the fiscal year 2019-20 budget and that the Board direct staff to come back to the GSA Board with suggestions on how that extraction fee will be calculated and collected, and the Board will address increases in water use on the currently non-irrigated acreage. The motion was seconded by Director Compton, and the motion passed with a 100% vote.

- AYES: Directors Albano, Anselm, Bantilan, Bracken, Cappello, Chounet, Christensen, Compton, Williams, Wooster, and Yurosek
- NOES: None
- ABSTAIN: None
- ABSENT: None

c. Fiscal Year 2019-20 Budget Adoption

Mr. Beck presented an overview of the Fiscal Year 2019-20 budget.

Director Albano said he believes that the steps after the GSP is submitted to the California Department of Water Resources (DWR) can be accomplished on a smaller budget. Mr. Beck said moving forward the bulk of W&C's work is refinement of the model and data collection.

Director Compton asked if counties are expected to apply for grants. Mr. Beck said we are open to working with counties on the grants, but there is money in the budget supporting grant applications.

Director Wooster asked what the \$60,000 budgeted for Prop 218 could be reallocated to. Mr. Beck said this money could possibly be used to handle costs relating to extraction.

Director Wooster asked what is composed of the additional outreach performed by Hallmark Group. Mr. Beck said Hallmark Group is involved in administering outreach which captures all of the individual questions received from stakeholders.

Director Wooster recommended allocating zero funds to W&C's economic analysis of projects and actions and Mr. Melton agreed.

Chair Yurosek commented that at the Cuyama Basin Water District (CBWD) meeting, EKI was asked to review the CBGSA budget from a technical standpoint, especially in regard to the level

of monitoring (levels, quality, and DWR TSS support). Mr. Melton said this is a potential opportunity to reduce costs.

SAC Chair Jaffe said she would like to look at an overview plan of the SAC's role moving forward. Director Wooster commented that she feels that the SAC's input is beneficial to the Board and suggested having the Board meeting first in the future. SAC Chair Jaffe asked if staff can examine Director Wooster's recommendation. Mr. Beck said staff's current budget is authorized through the end of January 2020, however if the Board would like to change the budget before January, then the Board can advise staff to change their task order.

Mr. Beck stated that there will not be a lot of information to review post-GSP submittal because the basin will be in the data collection phase.

Director Wooster mentioned that EKI had noticed clusters of wells at the same depth and asked if this was necessary. Mr. Beck said staff can amend the GSP to include less wells with the Board's approval. Director Wooster asked if the number of wells would be reduced when moving forward and Mr. Beck confirmed.

Director Wooster commented that if the Board chose to pass the budget, it does not mean that this money will need to be spent. She requested that there be cost reductions in the areas of Prop 218, SAC meetings, and monitoring expenses if possible.

MOTION

Director Chounet made a motion to adopt the Fiscal Year 2019-20 budget and directs staff to reduce Prop 218, SAC meetings, and monitoring expenses if possible. The motion was seconded by Director Bantilan, and the motion passed with a 93.33% vote.

AYES:	Directors Anselm, Bantilan, Bracken, Cappello, Chounet, Christensen, Compton, Williams, Wooster, and Yurosek
NOES:	Director Albano
ABSTAIN:	None
ABSENT:	None

d. Discussion on Updated GSP Draft and Response to Comments

Mr. Melton presented an update on the GSP draft and response to comments.

Chair Yurosek asked how the Board will reduce the economic impacts and costs. Mr. Melton said staff will structure it how the Board directs. Mr. Beck said the pumping allocation reductions are limited to the management area.

Chair Yurosek said he believes the CBWD should be responsible for the management areas.

Director Wooster said if the CBWD develops a plan on managing a management area, the Board would need to approve it.

Mr. Hughes said the Board can choose to hand the heavy lifting to the CBWD and come back to the GSA on how that should be managed.

Mr. Beck said currently the GSP states that the GSA will manage the management areas however staff can change this language to state that the GSA may delegate appropriately to a third party, which can be voted on by the Board. Chair Yurosek said he is not comfortable voting on the GSP currently and would like to develop an agreement during the 90-day public comment period that is acceptable by all Board members.

Mr. Hughes said after collecting all the comments prior to and at the public hearing and making the revisions to the GSP, the SGMA does not say that another public hearing is needed. He stated that he is unsure if the Board should push forward with the October hearing date.

Director Wooster commented that the Board should use the expertise of the CBWD and that she would like to see Chair Yurosek's language in the GSP.

Director Compton requested to modify the language in the GSP to prohibit artificial transfer or sale of groundwater out of the water shed, as recommended in San Luis Obispo's Cathy Martin's comment. She said Cathy had made this comment numerous times however it has not been addressed.

SAC Chair Jaffe asked if these changes can be addressed in the upcoming 90-day public comment period. Mr. Hughes said the delegation to the CBWD could be a determining factor in approving the GSP.

Mr. Hughes recommended sliding the timeline so staff can have the opportunity to adjust these components.

Stakeholder Sue Blackshear said she supports the plan with the CBWD serving at an advisory capacity.

Chair Yurosek directed staff to manage the calendar and to develop an agreement on how the CBWD should interact with the GSA during the implementation process.

e. Discussion Regarding Process for Future Adjustment of Pumping Restrictions under GSP

Mr. Hughes reminded the group that at a previous Board meeting there was a question regarding a way to draft around the pumping restrictions that the model dictates after the Board adopts the GSP. Mr. Hughes presented three potential options for the Board to consider.

Mr. Hughes suggested postponing this item until the August 7, 2019 CBGSA Board meeting.

Director Compton left at 8:31 pm

f. Notice of Intent to Adopt the GSP

This item was postponed to the August 7, 2019 CBGSA Board meeting.

g. Set Public Hearing Date

This item was postponed to the August 7, 2019 CBGSA Board meeting.

h. Set SAC and Board Meetings through January 2020

This item was postponed to the August 7, 2019 CBGSA Board meeting.

i. Stakeholder Engagement Update

This item was postponed to the August 7, 2019 CBGSA Board meeting.

i. 90-Day Public Comment Process

This item was postponed to the August 7, 2019 CBGSA Board meeting.

7. Groundwater Sustainability Agency

a. Report on the Standing Advisory Committee Vacancy

Director Chounet reported that the ad hoc reviewed Jose Valenzuela's application for the SAC vacancy and two of the three members of the ad hoc were in favor of the approving the application.

MOTION

Director Chounet made a motion to appointment Mr. Valenzuela as a committee member on the SAC. Director Bantilan seconded. and the motion passed with a 64.45% vote.

AYES: Directors Albano, Anselm, Bantilan, Bracken, Chounet, Christensen, Wooster,

NOES: Directors Cappello and Yurosek

ABSTAIN: None

ABSENT: Directors Williams and Compton

b. Report of the Executive Director

This item was postponed to the August 7, 2019 CBGSA Board meeting.

c. Progress & Next Steps

This item was postponed to the August 7, 2019 CBGSA Board meeting.

d. Report of the General Counsel

This item was postponed to the August 7, 2019 CBGSA Board meeting.

8. Financial Report

a. Financial Management Overview

Mr. Beck provided an overview of the CBGSA's financial activities.

b. Financial Report

Mr. Beck provided an overview of the May 2019 financial report and is included in the Board packet.

c. Payment of Bills

Mr. Beck reported on the payment of bills for the month of May 2019.

MOTION

A motion was made by Director Wooster and seconded by Director Bantilan to approve payment of the bills through the month of May 2019 in the amount of \$27,083.58, pending receipt of funds. A roll call vote was made, and the motion passed unanimously.

AYES: Directors Albano, Anselm, Bantilan, Bracken, Cappello, Chounet, Christensen, Compton, Williams, Wooster, and Yurosek
 NOES: None
 ABSTAIN: None
 ABSENT: None

9. Reports of the Ad Hoc Committees

Nothing to report.

10. Directors' Forum

Director Albano suggested adding an item to the August 7, 2019 CBGSA Board agenda relating to water districts managing management areas within the Cuyama Basin.

11. Public comment for items not on the Agenda

Nothing to report.

12. Correspondence

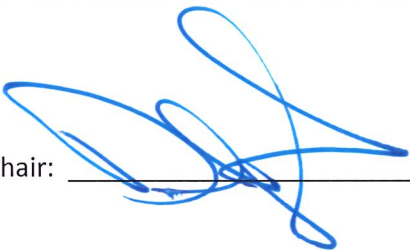
Nothing to report.

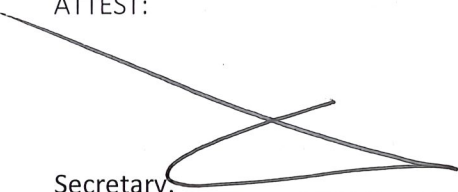
13. Adjourn

Chair Yurosek adjourned the meeting at 8:44 p.m.

Minutes approved by the Board of Directors of the Cuyama Basin Groundwater Sustainability Agency the 7th day of August 2019.

BOARD OF DIRECTORS OF THE
 CUYAMA BASIN GROUNDWATER SUSTAINABILITY AGENCY

Chair:  _____

ATTEST:

 Secretary: _____