

Notes: Core Stakeholder Group Meeting 3

Meeting Held: August 4, 2020

Notes prepared by: Consensus Building Institute

Meeting in Brief

The Core Stakeholder Group held its initial discussion on ramp down, which will define the pathway to reduce pumping to the sustainable yield by 2040. The Core Stakeholder Group discussed factoring projects into the ramp down; defining an end point; using the ramp down to create urgency for collaboration on basin management; addressing equity via a minimum threshold; and planning for climate change. The group identified preliminary ramp down options: linear, a flatter slope at the beginning, a stepped approach, and adjusting over time based on the results of studies. The Core Stakeholder Group will continue discussing ramp down and identifying decision criteria and options at future meetings.

The Core Stakeholder Group continues to refine its charter. The Core Group is striving for consensus and would present recommendations with a minority report. Back-up voting would determine if enough agreement exists to take a recommendation to the Fox Canyon Groundwater Management Agency Board. Options discussed for the approach to back-up voting include a super majority (2/3) threshold and weighting votes by the percentage of allocation. All interests would have a voice in back-up voting; however, the group needs more time to think about how voting takes place to ensure support across interests.

The Legal Ad Hoc Committee is moving forward and will focus on working through water rights and property rights issues and questions framed by the Core Group. The committee will brief the Core Group on recommendations and the committee's rationale. Mediation confidentiality privilege is important for this committee's success.

Action Items

Gina/ CBI	By 8/18	Legal Committee: CBI will continue to work with committee members to refine the group's charge based on the Core Group's input and explore options to provide mediation privilege.
Rosemarie and CBI	By 9/1	Back-up Voting: CBI will work with Rosemarie to develop a back-up voting proposal.
CBI	By 8/28	Project Committee: Develop proposal for group's charge and approach to work in consultation with project committee members.

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Key Components of Ramp Down

The ramp down will define the path to reduce pumping to achieve sustainability by 2040. Core Group members discussed the need for clarity about the end point and how projects factor in, as well as desired outcomes from the ramp down and different approaches to be considered.

Need Clarity about Endpoint & Projects

Multiple group members said that they need more clarity about the “end point” and want a plan for factoring projects into the ramp down. One participant suggested that the first step is to get more information about what can be gained through projects and optimization, including timelines and budgets for the projects. Then the group needs to identify what projects the community can commit to.

Another member offered that the group needs to build confidence in the data and models to cultivate buy-in on projects.

Ramp Down should Bring People to the Table

Multiple group members suggested that the ramp down should apply enough pressure on pumpers to encourage folks to work through the key issues related to projects and funding. With the right information and right amount of pressure, pumpers could be inclined towards creative problem solving, offered one participant. Another group member suggested that a smart ramp down may not require 50 % reductions, but rather focused work to choose the right optimization efforts and projects. The right approach to projects also makes court a less attractive route, highlighted another participant.

Equity via a Minimum Threshold

A meeting participant suggested that the ramp down should aim to support equity across the different types of water users and crops by including an appropriate minimum allocation threshold. A minimum allocation protects investments in efficiency upgrades and supports conservation.

Multiple Pathways

Some meeting participants suggested a linear ramp down. Others feel it makes sense to have a flatter slope in the beginning or to have a stepped process to allow progress on project design, feasibility studies, and implementation. One meeting participant called the group’s attention to the option of having multiple pathways with beginning and end points, that adjusts as data improves and projects come online. An audience member highlighted an example from [Borrego Springs Basin](#), where the ramp down slope is adjusted every five years based on the results of studies and projects.

Climate Change

A participant suggested that the ramp down also needs to take into account the effects of climate change. The GSPs address climate change and researchers have forecast the [impacts of climate change in Ventura County](#), but the range of possible weather conditions is very wide, and the forecasts require interpretation.

Next Steps on Ramp Down

Group members generally agreed that the next steps on defining the ramp down should be:

- 1) Gather more information about options, timelines, and costs for projects.
- 2) Build consensus on a set of optimization efforts and projects.
- 3) Plug the projects into the ramp down to get a sense of how the slope would change when the projects come online.
- 4) Begin discussing decision criteria, think about options, and consult with the Legal Committee for any guidance.

Charter Refinements and Back-up Voting

The Core Stakeholder Group continued to refine its charter, focusing on the parameters for back-up voting. In cases where the Core Group does not arrive at consensus for a policy proposal, back-up voting is a as the threshold for submitting a recommendation to the GSA. Multiple group members suggested a super majority (2/3) vote as the threshold for submitting a recommendation (reminder: this would be accompanied by a minority report that captures the opinions of members who suggest a different proposal). One meeting participant suggested that back-up voting on allocations issues be restricted to members with allocations and that votes be weighted by percentage of allocation (noting that members without allocation are not subject to regulation). This participant highlighted that city representatives will be voting on behalf of many disadvantaged communities that are the most affected by policies that would increase costs for rate payers. Core group members representing the environment highlighted that the environment is a beneficial user of water under the law and that they do have interests in the outcomes of water allocation policy.

The facilitator reminded the group that: 1) All interests on the Core Group need to buy in on the group's recommendations to establish durable policy and 2) Core Group members are responsible for communicating with their constituents about policy proposals to deepen understanding and build support.

For the next steps on back-up voting, Rosemarie and CBI will work together to develop a proposal to present to the Core Group.

Legal Committee

See appendix with comments on the draft charge shared at the meeting.

The Legal Committee is moving forward and will focus on working through water rights and property rights issues and questions framed by the Core Group.

A member of the legal committee highlighted the importance of ensuring mediation privilege to best position the committee for productive dialogue and problem solving. CBI is working on this with other members of the Legal Committee.

One group member suggested that the Core Group would benefit from understanding the legal committee's process for arriving at their conclusions. Going forward, the legal committee will brief the Core Group on recommendations and the dialogue that led to those recommendations. Core Group members can also listen directly to the legal committee's deliberations (Core Group members would be asked to submit to mediation privilege if listening in).

Group members framed up the following preliminary legal questions/ issues to be considered:

- 1) The implications of how the GSA categorizes the basins (together or separate).
- 2) How augmented yield factors into legal questions.

Next Steps on Advancing Projects

The facilitation team is working with the Core Stakeholder Group to develop the structure, composition, and charge of a project committee. The following have volunteered to participate in the Projects Ad Hoc Committee.

Projects Committee Participants

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| ✦ Jared Bouchard (PVCWD) | ✦ Kim Loeb (FCGMA) |
| ✦ Alden Broome (Guadalupe Mutual) | ✦ Lucie Munos-McGovern (City of Camarillo) |
| ✦ Dan Detmer & Maryan Brall (United) | ✦ Thien Ng (City of Oxnard) |
| ✦ Jurgen & Martin Gramckow (Southland Sod) | ✦ Ian Prichard (Camrosa WD) |
| ✦ Nathan Jacobsen (U.S. Navy) | |

Core Stakeholder Group Members Present

Arne Anselm, Jared Bouchard, Alden Broome, Dan Detmer, James Dubois, Terri L. Ferro, Rosemarie Gaglione, Jurgen Gramckow, John Krist, Martin Gramckow, Greg Lewis, Candice Meneghin, Lucie Munoz-McGovern, Ian Prichard, E.J. Remson, Jennifer Tribo

DRAFT Legal Ad Hoc Committee Charge

Version: ~~July 31, 2020 (v1.1)~~ v1.2 with notes from 8/4/20 Core Stakeholder Group input
Developed by Consensus Building Institute in consultation with the Legal Ad Hoc Committee

PURPOSE + OBJECTIVES

Refine purpose to reflect the meeting summary – work on issues related to water and property rights. They are reviewing the work of the Core Stakeholder Group.

The Core Stakeholder Group has recommended that a Legal Ad Hoc Committee form to grapple with issues related to allocation, ramp down, and allocation reduction method in the Oxnard Subbasin and Pleasant Valley Basin as part of the facilitated process.

The purpose of the Legal Committee is to **identify solutions** (*problematic, avoid parallel process*) related to allocation, ramp down, and ending point, respective of water rights, in the Oxnard Subbasin and Pleasant Valley Basin.

Move to deliverables: The Legal Committee will share legal doctrines and corresponding legal questions / dilemmas with the Core Stakeholder Group to inform the Group's policy recommendations.

The Legal Committee will keep the Core Stakeholder Group and interest group caucuses abreast of its activities and proposals and integrate feedback to the extent possible. The goal is to build widespread support and understanding for recommendations that emerge from the Legal Committee.

TIMELINE + STEPS

Improve this section to reflect that the Core Stakeholder Group is driving. Legal Committee may frame up legal guidance prior to Core Stakeholder Group OR respond to Core Group questions framed for the legal committee.

Initial Meeting with Attorneys: Ask the attorneys to frame the key legal issues related to the allocation, ramp down, and end point.

Legal teams negotiate and meet (principals can opt to attend) to build solutions and options.

Legal teams or principals recommend meeting with the legal committee periodically. Legal teams identify decision points or dilemmas that would benefit from legal committee collective direction and input.

The Legal Committee will vet proposals with the Core Stakeholder Group and interest group caucuses to solicit and integrate feedback and build support for outcomes.

DELIVERABLES / PRODUCTS

A set of proposals that address ramp down, allocation, and end point (minimum allocation) that is responsive to the interests of beneficial users of groundwater.

Question about this, should this be part of the Core.... Seek GMA Board direction on whether the Oxnard Subbasin and Pleasant Valley Basins are being managed together or separately and to assess whether Western Last Posas Subbasin should be included.

PRELIMINARY LIST OF QUESTIONS

Allow attorneys to refine questions. And others.

The State Water Resources Control Board states that SGMA allows a Groundwater Sustainability Agency to build a regulatory framework and allocation scheme without affecting water rights. What are the key considerations or drivers between water rights, allocation, and ramp down in the Oxnard and Pleasant Valley Basins?

What are the strengths and weaknesses of the legal approaches to these issues?

Conjunctive use: Under an allocation plan that limits groundwater pumping, how does the availability of surface water affect water rights for agriculture? For cities?

What are the options / implications of establishing a minimum allocation within water law?

What happens if one user group, agriculture, hits its minimum allocation, and a municipal pumper, like the City of Oxnard, still needs water to meet its mandated requirements? How does groundwater law consider this?

How do Regional Housing Needs Assessment (RHNA) requirements affect other water rights questions?

Suggest adding: The Oxnard Subbasin and PV Basin have been heavily augmented (via United's activities) and managed (via the legislative formation of the FCGMA) for decades. How do these facts bear on the water rights / allocation discussion? Does this place us into a category where specific case law is or isn't really applicable?

(Core Group needs to discuss this first, then have the legal committee / review.) The base period has been a source of conflict for the Oxnard Pleasant Valley Basins, what base period(s) might the legal committee

recommend that would best serve all stakeholders given the need to develop a ramp down to achieve sustainability?

Are there unique issues to the OPV basins where case law isn't really applicable?

Managing Basins Together: The GMA was formed to manage the Fox Canyon Aquifer that underlies Oxnard, Pleasant Valley, and Los Posas Valley collectively? What are the legal implications of managing collectively or independently given the founding legislation, SGMA, and Bulletin 118? if managing the Oxnard and Pleasant Valley basins together, what are the legal implications given interconnectivity of West Las Posas?

PARTICIPANTS

City of Oxnard

Attorney: Greg Newmark, Meyers Nave

Principals: Rosemarie Gaglione

City of Ventura

Attorney and Principal: Miles Hogan, Assistant City Attorney

Guadaluca Mutual Water Company / Broome Ranches

Attorney: Robert Saperstein, Brownstein, Hyatt, Farber, Schreck

Principals: Alden Broome

Oxnard Plains and Pleasant Valley Basins Landowner Coalition

Attorney: Russ McGlothlin, O'Melveny

Principals: James DuBois and Greg Lewis

Pleasant Valley County Water District

Attorney: Robert Saperstein, Brownstein, Hyatt, Farber, Schreck

Principals: Jared Bouchard

Southland Sod

Attorney: Eric Robinson, Kronick

Principals: Jurgen Gramckow and Martin Gramckow