NOTES: Core Stakeholder Group Meeting 9

Meeting Held: Oct 27, 2020
Notes prepared by: Consensus Building Institute

Meeting in Brief

The Core Group discussed the approaches to ramp down from the Borrego Water District example and from the LPUG White Paper; advanced deliberations around ramp down criteria and proposals; and received updates on ad hoc committee progress. The legal committee is working through questions around ramp down, allocations, and replenishment fees, and the projects committee is identifying and gathering information on new projects.

Reflections on Ramp Down Examples

The Borrego Water District example is most helpful as a model for adaptive management.
Borrego has a set 5 % ramp down for the first 5 years. Then at each subsequent five-year milestone, the ramp down adjusts based on the results of technical analysis. Notable features include flexibility to make up for over-pumping in any given year, transferability of water facilitated via an internal water market, and a replenishment fee on all water pumped.

The LPUG model aimed to establish an allocation that split the different between historical and correlative rights. Notable features include a minimum allocation that is adjusted every five years based on analysis of the sustainable yield and no differentiation in cuts between high water users and low water users (all users reduce equally).

Ramp Down Decision Criteria

The Core Group can use decision criteria to weigh ramp down options against one another. Feasibility of administration is key for ensuring the system is not overly burdensome for the GMA or producers and for promoting accuracy in reporting. Adaptive management-oriented policies should have limits on year-to-year changes. Generally, criteria should address the need for progress at the 5-year check points (and avoid only focusing on the end point).

Identifying Ramp Down Conceptual Proposals

A linear approach provides simplicity, ease of administration, flexibility to adjust based on new data, and motivates paying for projects because the cuts happen from year one. Group members generally support a minimum allocation, but it needs to be designed to ensure motivation to pay for projects. A minimum allocation might be coupled with a cap on water use (have a floor and a ceiling) and / or be guided by efficiency standards. A stair-step approach has the benefit of aligning with the timeline for GSP updates, but would need to include a carryover provision. Two routes for replenishment fees are: 1) apply a uniform fee to all acre feet of water and 2) have a tailored approach where folks can pay more for access to additional water (or pay less if willing to take a steeper ramp down). Going forward the legal committee will take the Core Group's input, develop proposals (with a focus on minimum allocations), and brief the Core Group at a subsequent meeting.

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Ad Hoc Committee Updates

Legal Ad Hoc Committee

- Meeting regularly under Mediation Confidentiality Agreement
- Series of presentations on legal concepts and related issues
- Now tackling Ramp Down and Allocation Questions
- Held preliminary conversation on Replenishment Fees
- Preparing "outputs" and insights to share with Core Stakeholder Group

Projects Ad Hoc Committee

- Planning Framework underway
- Active participation among technical folks
- Identifying projects and conducting preliminary assessment of feasibility and costs
- Considering optimization scenarios and opportunities for creative regional solutions
- Will be ready to present status update to Core Stakeholder Group

Reflections on Ramp Down Examples

The Core Group discussed the approaches to ramp down from the Borrego Water District example and from the LPUG White Paper.

The Borrego Water District example is most helpful as a model for adaptive management.
The ramp down approach in Borrego has a set 5 % ramp down for the first 5 years, then at each subsequent five-year milestone the ramp down is adjusted based on the results of technical analysis. Notable features include flexibility to make up for over-pumping in any given year, transferability of water facilitated via an internal water market, and a replenishment fee on all pumped water. The LPUG model aimed to establish an allocation that split the different between historical and correlative rights. Notable features include a minimum allocation that is adjusted every 5 years based on analysis of the sustainable yield and no differentiation in cuts between high water users and low water users (all users reduce equally).

Borrego Water District Example Background and Q&A

Note: Background information and answers to participant questions provided by Russell McGlothlin.

The Borrego Water District example could be a helpful model for adaptive management for consideration in OPV. It will be less helpful as a model for allocations as the context is quite different. The approach in Borrego is to have a set 5 % ramp down for the first 5 years, then at each subsequent five-year milestone the ramp down is adjusted based on the results of technical analysis on the sustainable yield until the end of ramp down in 2040. In OPV, a similar approach could be implemented, adjusting the ramp down in 5-year increments based on refined understanding of the sustainable yield and progress on projects.

Q: How did transferability of water work in the Borrego example?

A: Transferability was achieved through an internal water market. The approach taken in Borrego was to provide growers time to continue making a return on their agricultural investments while also providing the structure for folks to voluntarily sell allocation to uses that are likely higher value, e.g. golf and hospitality. For the first five years users have significant flexibility: they can pump over their allocation within the first three years so long as they hit targets by year five. Also, for the duration of ramp down, folks can avoid charges so long as they make up for over pumping within 12 months.

Q: What is the carry over provision in Borrego?

A: Carryover is factored into the replenishment assessment: pumpers pay the assessment for water that is carried over at the time of use. If pumping under allocation, that water is effectively in storage for the pumper. Notably, this approach to carryover may lead to accounting difficulties in the future.

Q: Does everyone pay the replenishment assessment in Borrego?

A: Yes, the only way to avoid paying fees on water is by not pumping it and / or not carrying that water over.

Q: Were minimum allocations included as part of the strategy?

A: Yes, there are minimum allocations to less than 2 acre-feet of use.

Q: How uniform is water use in Borrego?

A: Much of the growing is citrus but there are other uses as well. Allocations were based on an assessment of an evapotranspiration (ET) factor multiplied by acres based on the WUCOLS system out of UC, which provided an ET estimate for different crops. There were conflicts around how burden would be shouldered among high and low water users, but the situation was different in that all of agriculture was represented by one group.

Q: Are allocations split in different pools between M&I and agriculture?

A: No, general allocations were reflective of historic use based on a recent base period.

Q: Is one of the differentiating factors between the Borrego example and OPV the fact that growers in Borrego have the option to sell their water to golf courses and municipal uses at a significantly higher value than their crop values, allowing folks to salvage crop loss by selling water at a high price?

A: Yes, this is a key difference.

Q: Are the transfers in Borrego outright sales or other types of agreements?

A: There are a variety of transactions: annual leases, multi-year leases, and permanent sale.

Q: How was the base period established?

A: The base period was based on recent use: data from use from five years before SGMA was established.

LPUG White Paper Background and Q&A

Note: Background information and answers to participant questions provided by John Grether and Alden Broome.

LPUG's process for developing a ramp down plan started before SGMA was adopted and included participation by the water works districts. LPUG's recommendations reflect negotiation between various interest groups that focused on establishing an allocation that split the different between historical and correlative rights. Historical pumping established the initial starting point, followed by a 20-year ramp down. The plan recognized that Calleguas could provide supplemental water, with the water market serving as an additional buffer. The plan also contemplated a minimum allocation. The LPUG white paper also took into consideration that some lands had water rights that were unexercised and set aside reserve pools for those lands.

Q: Was there differentiation between high and low use?

A: No – cuts would be equal until the user got down to the sustainable yield per acre.

Q: What is the percent reduction required to get from current use to sustainable yield?

A: A rough estimate would be 15-20 % though estimates varied widely. It proved challenging to get information on water use per individual from the GMA so estimates are based on a limited data set.

Q: Was the assumption that if the minimum allocation did not achieve the sustainable yield then everyone would reduce more?

A: The plan was to adjust the minimum allocation every five years based on updated information around the sustainable yield.

Q: Recognizing that most folks in LPV are in citrus, what was the assumed course of action for folks growing other crops?

A: The assumption was that 20 years would be enough time for high water users to adapt their operations as needed. Information suggested that technological advances for increasing water

savings for crops like raspberries and blackberries might come to market soon to make these adjustments more manageable.

Q: What are the prospects of getting water from Metropolitan Water District (MWD) for use in Las Posas?

A: Jurisdictional challenges make it difficult to access MWD water via United. Parts of West Las Posas are not within the MWD service area. It is possible that these challenges could be overcome based on the need.

Q: Theoretically could LPV growers use water from MWD to manage shortages if folks are willing to pay?

A: LPV growers can turn to MWD water in principle (Zone Mutual receives MWD water via Calleguas) but the complicating factors are cost and infrastructure, e.g. the pipelines to access the water.

Q: Theoretically, could you do a water-market-type trade between someone with access to MWD water and a pumper in another area without access?

A: An MWD user cannot sell allocation to anyone outside the Metropolitan Water District.

After clarifying that MWD users cannot sell allocation outside MWD, a meeting participant suggested that the group should consider lobbying MWD to change the rules around the sale of MWD water. Another meeting participant responded that all MWD member agencies would have to approve the sale and reaffirmed that users have to be in an area that is annexed to MWD even to receive indirect deliveries of water from MWD. Another participant highlighted LAFCO restrictions as a potential barrier to pipeline construction for creating access to MWD water.

Ramp Down Decision Criteria

The Core Group reviewed progress to date on ramp down decision criteria and discussed additional factors to consider. The group can use criteria to weigh ramp down options from one to another. Feasibility of administration is key for ensuring the system is not overly burdensome for the GMA or producers and for promoting accuracy in reporting. Adaptive management-oriented policies should have limits on year-to-year changes. Criteria should address the need for making progress at the 5-year check points (and avoid only focusing on the end point).

Feasibility of Administration is about creating a system that is not overly burdensome to the GMA or to pumpers because of complicated reporting processes. Overcomplication can lead to a reporting system that has low accuracy.

Adaptive Management could help manage different climatic cycles. In the

Decision Criteria (discussed to date)

- Feasibility of Administration
- Legally Defensible / Durable
- Burden Sharing
- Adaptive Management, tied to certainty (vs. optimism) of projects; ability to create new supply and climatic variability
- Predictability to plan investments and business decisions
- Support diversity of crop type recognizing WUE
- Economic Analysis of Impacts

past droughts have prompted GMA executive action, not always viewed as favorable. Some basins set limits on adjustments as part of adaptive management programs to avoid "whiplash" from the combination of drought and disappointing short-term results. OPV should consider the scale of adjustments and refinement as part of any adaptive management program.

OPV needs to ensure progress at the 5-year check points and not just focus on the end point.

Progressing Ramp Down Proposals

Building off discussions at meeting 8, the Core Group continued ramp down strategy deliberations with a focus on making progress towards 2 – 3 ramp down scenarios that could be vetted and improved as other elements take shape.

Linear approach: A linear approach provides simplicity, ease of administration, flexibility to adjust based on new data, and motivation to pay for projects because the cuts happen from year 1.

Minimum allocation: Group members generally support a minimum allocation, but it needs to be designed to ensure motivation on projects. Ideas to achieve this include: 1) a low minimum allocation (e.g. 1 AF) and 2) a minimum that responds to progress on projects (e.g. slow progress = the floor lowers). A minimum allocation might be coupled with a cap on water use (a ceiling and a floor); the gap between the floor and ceiling should reduce overtime. Efficiency standards could also be a good guiding framework, e.g. align minimum allocation with lowest viable amount for growing a crop.

Stair-step approach: A stair-step approach has the benefit of aligning with the timeline for GSP updates, but including a carryover provision would be important.

Replenishment fees: Two routes for replenishment fees are: 1) apply a uniform fee to all acre feet of water and 2) have a tailored approach where folks can pay more for access to additional water (or pay less if willing to take a steeper ramp down). Prop 218 and Prop 26 requirements must be considered (unless there is a stipulated judgement), and if Prop 1 funding comes into play specific impacts to disadvantaged communities will need to be assessed.

Going forward the legal committee will take the Core Group's input, develop proposals (with a focus on minimum allocations), and brief the Core Group at a subsequent meeting, hopefully Nov. 17.

Stakeholder Comments on Approaches

The CBI facilitation team has attempted to provide a comprehensive summary of meeting participants' comments on the ramp down proposals below:

Linear progression

The straight-line ramp down is understandable, allows for multi-year planning and ensures that OPV will reach its goals. This approach can also accommodate adjustments to the slope as projects become real. The simplicity of this approach makes it a good option for a starting point.

OPV needs to develop the linear no-project ramp down scenario so that everyone understands the worst-case scenario that will unfold in the absence of projects. Clarity around what this scenario looks like will

motivate buy-in on the other options and we can effectively explore other ramp down approaches like the stair-stepped ramp down.

Cons of Linear Approach: The linear approach does not include a minimum allocation—if OPV just plans for a straight-line reduction from current use, there are folks who will be out of production within 10 years.

Minimum allocation and cap on water use (floor and ceiling)

The concern with having a floor is that it will reduce support for projects and a replenishment fee. OPV needs to consider how folks with a floor would be positively inclined towards projects. One option to achieve this aim is to have a floor that adjusts over time based on progress (or lack of progress) on projects. For example, OPV might establish a floor today with the understanding that it will drop if OPV doesn't make enough progress on projects.

One approach for managing the minimum allocation and cap on water use would be to have a steeper ramp down for the water use cap since folks at the higher end of water use likely have more room to reduce through efficiency.

The difference between the floor and ceiling should reduce over time, so that high and low water users are converging. Also, the end points of ramp down should vary based on local climactic conditions.

Minimum allocation considerations for equitable burden sharing & motivation for projects

- Managing for an equal end point across OPV does not constitute equitable burden sharing. All growers are using water beneficially so a singular focus on saving water for conservation's sake is insufficient. A more equitable approach –mindful of the variation in water needs—would be to have a minimum allocation that is low enough that all growers have to make meaningful cuts in the absence of projects, e.g. minimum allocation of around 1 AF.

Ramp Down Concepts (Brainstormed to Date)

- Establish linear progression
- Establish linear progression to a minimum and then "safe harbor" (i.e. don't fall below that minimum).
- Reduce in "steps," i.e. 5-year increments.
- Delay ramp down to generate more fees from pumping, then do a cliff / dramatic reduction at 5 years or 10 years.
- Create variable ramp down, set in 5-year increments, with smaller percentage reduction in initial increments to allow projects time to come online.
- Allow business owner to customize ramp down as long as owner hits benchmarks.
- Provide for climatic variability in the end point based on physical location (i.e. coastal zones vs. inland); consider 3 potential zones. End point would reflect that zone (and thus affect the slope of the ramp down for individual users).
- Consider establishing a floor and a ceiling (cap water use).
- Consider general categories of crops and customize ramp down to those pools of crop-type (vs. individual ramp down).
- OPV White Paper Hybrid Method: % reduction and AF/acre.
- Establish minimum allocation or acre-foot per acre of land.

- The ramp down's impact on crop values must be considered. E.g. If the ramp down forces all growers into lemons, the lemon market will crash.
- The minimum allocation should be tied to crop efficiency standards. A focus on efficiency will motivate water conservation, similar to the approach of municipal systems that are tied to urban water plans and guidelines from the state. A first step would be to get clarity on the conservation standards across crop types. Then it might make sense to establish the minimum as the lowest commercial water use standard for today with the expectation that it gets tightened over time.
- A general aim of ramp down could be to first start on redistributing wasteful water from high water use folks to the low water users, and then move to focusing on replenishment fees. The minimum allocation should respond to progress on projects to ensure that low water users are motivated. Everyone should face the prospect of some of their land coming out of production in the absence of progress on projects.
- Low water users and high water users could be on the same ramp down slope, with a low minimum allocation. Low water users would ramp down to 1 AF and stop. High water users would keep reducing until the entire basin is at sustainable yield. Historically, average water use has been 1.375 AF, so if everyone ramps down by an equal proportion, low water users would end up around 1 AF and high users around 1.5—everyone ends up with insufficient water to continue operating as they would like to, which creates strong motivation for projects.
- Low water users should ramp down more slowly than high water users. The focus should be on tiered conservation standards that recognize a minimum. Motivation for projects should be addressed through the approach to replenishment fees.
- Minimum allocations should be linked to land use, not viability of crops.
- To achieve burden sharing, ag pumpers may need to consider everyone fallowing some portion of their land. For instance, in Popperville Valley, folks came to a decision that everyone should fallow 7% of their land.

Stair-step approach on 5-year increments

- A 5-year milestone stair-step approach makes sense because that timing would tie into the updates for GSPs.
- A stair-step approach would need to feature a flexible carry over policy.

Focus on simplicity for effective administration

- Focusing on a ramp down that is simple and manageable to administrate will ensure that the GMA can keep all users accountable. A straight ramp down approach would work for Camarillo because it is simple. The Core Group should set strategy based on the information available: the sustainable yield of the basin. The group should make a plan that begins implementing the reductions right from the start. Then we can adjust the plan as we make real progress on projects.

Replenishment fee considerations

- Prop 218 and 26 must be considered. One of the requirements is going to be developing a report that documents the use of funds collected.

- If seeking Prop 1 funding, the GMA will have to look into how rate increases might impact disadvantaged communities.
- To reduce costs, the group should consider how conservation activities can complement projects.
- It is likely that groundwater management deliberations in OPV will culminate in a stipulated judgement or a litigated judgement. If this is the case, the courts will apply a replenishment assessment and Prop 218 and 26 would not apply.
- The group needs to consider the impacts to land values if land is stranded without water or with a very low allocation. It might make sense to consider a policy that allows folks to essentially buy additional water via a higher replenishment fee.
- The group should consider an approach where individuals can have varying ramp down scenarios. For instance, folks could choose to accept a lower allocation in lieu of paying a replenishment fee.
- The group should consider a policy that features opportunity to "make up" for over-pumping in a prior period. If you pull too much water in a given year, you would not immediately be subject to a surcharge, providing flexibility to lease water or reduce pumping in subsequent years.
- Generally, surcharge fees should not be significantly greater than the cost to bring in new water. The surcharge shouldn't be viewed as a penalty, so much as a means to assess the cost of bringing in new water.
- The benefits that folks receive from paying the replenishment assessment should be proportional to the amount paid. A high water user paying more into the assessment should be entitled to more water from projects.
- The replenishment fee should apply to all water.
- To motivate projects, everyone could pay the same replenishment fee per acre foot.
- The water market should reflect the replenishment fee costs.
- We need to ensure there is clarity on the use of replenishment fee dollars and that users understand the benefits.

Next Steps on Ramp Down

Going forward the legal committee will take the Core Group's input, develop proposals (with a focus on minimum allocations), and brief the Core Group at the Nov 17 meeting.

Core Group Members Present: Arne Anselm, Jared Bouchard, Alden Broome, James Dubois, Terri L. Ferro, Rosemarie Gaglione, Jurgen Gramckow, Martin Gramckow, John Lindquist (filling in for Dan Detmer), Candace Meneghin, Lucie Munoz-McGovern, E.J. Remson, Jennfer Tribo