

Siskiyou County Sustainable Groundwater Management
Scott Valley Advisory Committee Meeting
MEETING SUMMARY

Date/time: October 27, 2021, 3:00 – 6:00 p.m.

Location: **This is a hybrid meeting. Participants can attend in-person or virtually.**

In Person: Fort Jones Community Hall
11960 East Street
Fort Jones, California 96032

Virtual Online Zoom platform: <https://stantec.zoom.us/j/91016698696>

Key contacts: -Matt Parker, County of Siskiyou Natural Resources Specialist mparker@co.siskiyou.ca.us 530.842.8019
-Katie Duncan, Stantec Consulting Services, Facilitator katie.duncan@stantec.com 916-418-8245
-Laura Foglia PhD, U.C. Davis Technical Team Lead lfoglia@ucdavis.edu 530.219.5692

MEETING RECAP

- **Approval of Past Meeting Summary:** The committee approved its July meeting summary for posting on the Siskiyou County Website.
- **Public Comment:** There were no public comments for non-agenda items.
- **District Staff and Other Announcements:** Matt Parker provided an update on behalf of the GSA. Pat Vellines from DWR also shared updates.
- **High-Level Review of Comments Received and the Public Comment Matrix:** The Facilitator provided a high-level review of the comment letters received during the Public Comment Period and an overview of the Public Comment Matrix.
- **Detailed Review of Substantive Technical and Policy Comments and Draft Responses:** The technical team and GSA Legal Counsel reviewed the Multiple Comment Responses to substantive technical and policy comments and answered questions from the Advisory Committee.
- **Discussion: Board Adoption of GSP and Related Action Items:** The Plan will move to the Board of Supervisors on December 7 for adoption, where Chair Tom Menne will present the opinion of the Committee. The technical team will continue to update the Plan based on the comments received.
- **Meeting Adjourns**

SUMMARY OF ACTION ITEMS

<i>Action Item</i>	<i>Responsible Party</i>	<i>Status/Deadline</i>
Add language to the GSP to provide clarity around Public Trust Doctrine.	Technical Team	

View [Siskiyou County's groundwater website](#) for posted meeting materials.

MEETING SUMMARY

Call to Order, Introductions, Agenda Review, and Hybrid Meeting Structure

Katie Duncan called the meeting to order and introduced the in-person Facilitator, Kelly Davenport. The in-person attendees made self-introductions. Kelly Davenport introduced the documentary filmmaker present at the meeting, Kate Jopson. Kate provided information about her project on groundwater and assured the attendees that any footage that she captures will be edited to blur faces. Katie Duncan introduced the online attendees and provided an overview of the hybrid meeting protocols. The Facilitators reviewed the Agenda.

Approval of Past Meeting Summary, Update on Action Items

Katie Duncan provided a copy of the previous meeting summary and asked the Advisory Committee present whether there were objections to posting the minutes. Because there is not a quorum, a formal approval will not be collected at this meeting. The meeting summary from July will be posted to the County of Siskiyou website.

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Public Comment Period – Non-Agenda Items

Katie Duncan solicited public comments on non-agenda items.

District Staff Updates and Other Announcements

Matt Parker provided an update about attendance on the Advisory Committee and the language in the Charter. There will be an opportunity for members of the Committee to indicate if they would like to keep their seat on the Committee or if they would prefer to step down, after GSP Adoption. Drew Braugh, the environmental conservation representative, stepped down after the previous meeting and has not yet been replaced. The State Water Resources Control Board (SWRCB) will attend the November 2nd Board of Supervisors meeting to provide an update on the emergency curtailments. Matt recommends members of the public attend to learn more. The Public Hearing to Adopt the GSP will be held at the Board of Supervisors Meeting on December 7.

Pat Vellines provided several updates from DWR:

1. The AEM flights for Shasta Valley will occur on October 29 and 30; October 30 and November 1 for Scott Valley; and November 1 and 2 for Butte Valley. Results from the flights will be available in six months. Pat provided the following additional information about flight lines:
 - a. All parcel owners within 500 meters of the planned Airborne EM flight lines will receive a letter from DWR notifying them that the surveys will be conducted in their area. The flight lines are draft until flown and may change due to on-ground conditions, which is the reason for notifying parcels owners in the buffer zone. The actual flown flight lines will be shared with the public post data collection.
2. Small communities drought relief funding and urban and multi-benefit drought relief grants are available on the DWR website: www.water.ca.gov/water-basics/drought/drought-funding
3. The Sustainable Groundwater Management Office hosted several webinars last week and recordings will be posted online. One meeting pertained to the GSP Submittal process. Another relates to resources for SGMA implementation: grants for communication and outreach. Lastly, one webinar is on the topic of data accessibility.

High-Level Review of Comments Received and the Public Comment Matrix

The Facilitator provided an overview of the comment letter review process, the grouping of comments, and the scope of today's review. Thomas Harter added information about the Technical Team's approach to addressing the comments and updating the GSP accordingly. Matt Parker included detail about several specific changes to the plan that have been made based on comments submitted from the public. If the matrix does not include an MCR in the Response column, it means that the technical team is still working on preparing a formal response.

There are 92 Group A comments, which will be the subject of today's meeting.

Detailed Review of Substantive Technical and Policy Comments and Draft Responses

The Facilitator introduced the Group A comments that necessitate a response from the GSA's consulting Legal Counsel, Aaron Ferguson. Many of these comments are related to the Interconnected Surface Water Sustainable Management Criteria (ISW SMC) as well as Public Trust Doctrine (PTD) and compliance with other regulatory frameworks.

Aaron Ferguson provided an overview of the GSA's approach to protecting **Public Trust Doctrine** resources and the development of the **Interconnected Surface Water SMC**. The GSA's approach is based on the opinion that PTD is not specifically applicable to the GSA's responsibilities in developing the criteria and composing management actions in the GSP. That opinion is based on a reading of the Environmental Law Foundation (ELF) v Siskiyou County case cited by many commenters, which dealt with the County's obligations to administer public trust in the context of well permitting. Aaron noted that the particulars of GSP development differ from the details of the court case, so the findings are not directly applicable. Specifically, (1) the GSA's actions here don't involve well permitting, though some PMAs touch on coordinating with the County well permitting office. The GSA is not involved in well permitting through the GSP. (2) While the County Flood Control District has the same board members, and is arguably a sister agency to the County, but it is not the County. The ELF case focuses on obligations of the County of Siskiyou, as a subdivision of the State of California. The Flood District is organizationally distinct, as a special act district. Accordingly, the case and its holdings are distinct from today's discussion.

- A member of the public asked how private enterprises or landowners factor into conversations around PTD. Aaron introduced the concept of "reasonableness," with respect to depletion of surface water relative to the benefits accrued by groundwater pumping. Tom Jopson added that the Public Trust Doctrine includes language related to balancing the interests of all water users.

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- Richard Marshall of Siskiyou Water Users Association asked for clarification about the acting authority of the County of Siskiyou to regulate groundwater. Matt proposed taking the question offline. Aaron noted that the Flood District has elected to participate in SGMA as the GSA.

The Facilitator introduced another set of related comments, on the topic of quantifying the balance between **managing undesirable results and reasonableness in the GSP**. Katie asked Aaron and Thomas to weigh in with detail about how the SMCs were determined. Thomas thanked the commenters for their contributions to the Plan. On this particular issue, he noted that it is important to remember that SGMA's requirements to set minimum thresholds relate specifically to avoiding undesirable results relative to the 2015 baseline. No depletion has occurred since 2015 and the PMAs have been developed to ensure there is no depletion above the historical data (1991-2015). Thomas clarified that there is not a minimum threshold requirement set forth in the Public Trust Doctrine—rather, reversing stream depletion is a negotiated process. He added that the technical team conducted an economic analysis of what it would take to implement the drastic actions consistent with the CDFW-recommended in-stream flow and the Advisory Committee determined the cost to be unreasonable. Instead, the Committee selected MAR-ILR PMAs that would reverse stream depletion by about 15% by 2042.

Recognizing that Thomas just provided a summary of the ISW SMC Multiple Comment Response, Katie opened the floor to Advisory Committee feedback. Tom Jopson, Tom Menne, Brandon Fawaz, and Paul Sweezey all voiced support for Thomas's summary.

- Theo Johnson seconded Richard Marshall's comment related to the County investigating its legal authority. She also requested clarification on how Public Trust was quantified in the ELF case and reiterated that the technical team's models found that turning off the groundwater pumps would not meet the in-stream flows recommended by CDFW. Aaron Ferguson and Matt Parker clarified that there is no standard unit of measure to quantify PDT resources. Aaron added that TMDLs are a separate metric.
- Theo Johnson asked the GSA why pumping curtailments are included in the GSP when the previous discussion implies they won't contribute significantly to stream depletion reversal. Thomas Harter replied that the authority to implement curtailments is within the GSA's authority, under SGMA. He spoke to the importance of the GSA having tools available to regulate groundwater, should all other PMAs fail. He assured the public that curtailments would in no way be prioritized as a management action. Tom Jopson added that if rainfall continues to be low in future years, the groundwater levels will drop and it's important that the GSA have tools to conserve. He clarified that curtailments need to be described in the plan, as a tool, even though they are not a proposed PMA. Another member of the public raised the question of the accuracy of the model; Tom Jopson spoke to his anecdotal experience with the model, which he believes has improved over time and offers a reasonable approximation of groundwater in the Valley.

Aaron Ferguson spoke to how the **SWRCB Emergency Regulations** relate to the GSP. His view is that the regulations are informative, but they do not dictate that the GSA take specific action to hit flow targets. He believes the Plan is consistent with the regulations, and therefore meets the requirement related to consistency.

- Tom Jopson expressed frustration that the emergency regulations make no mention of SGMA or the efforts that have been underway in the basin in recent years.

Thomas Harter provided clarifying information about SGMA requirements related to the **basin's adjudicated zone**. The technical team's analysis of the subbasin is inclusive of both the adjudicated and non-adjudicated zone with the exception of the stream depletion calculation. Thomas explained that the GSA's jurisdiction only includes the pumpers outside the adjudicated zone, but cooperation with pumpers inside the zone is not precluded. Aaron provided additional detail about how the Measurable Objectives and aspirational goals apply to the adjudicated and non-adjudicated zones of the subbasin and the regulatory frameworks in place. Thomas clarified that the Measurable Objectives include aspirational goals for the entire basin, but the Minimum Thresholds (the regulatory tool) only apply to the non-adjudicated portion of the basin. The Facilitator solicited feedback from the audience. The Advisory Committee members conveyed that Aaron and Thomas's explanation was confusing and they requested clarification.

- Thomas and Aaron explained that water in the adjudicated zone is "off-limits" when it comes to the GSP. The groundwater characteristics of the adjudicated zone have been considered in the Plan, though they GSA does not have regulatory authority over that area.
- Aaron clarified that SGMA does not speak to the interconnection between the adjudicated and non-adjudicated zones, which leaves it up to the GSA's determination.

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- Lauren Swezey made a public comment related to the amount of water in the Scott River, following the recent storm event.

The Facilitator asked the Advisory Committee members whether there were any additional Group A comments they wanted to discuss today or whether there are any Group B or C comments that should be elevated to Group A. The Advisory Committee Members did not raise any additional comments. Katie opened the floor to the public.

- Jeff Fowle asked Aaron to provide his legal opinion on whether the State has the authority to enact curtailments after the GSP has been adopted. Aaron replied that there is nothing in SGMA that would preclude the State from taking that action.
- Theo Johnson asked the GSA to consider methods whereby they could take actions that would reduce the likelihood of State intervention, particularly in the form of emergency curtailments.

Katie Duncan described the steps that will follow the adoption of the Plan and asked Matt to provide detail on Year 1 of Plan Implementation. Matt Parker noted that this is the last planned Advisory Committee Meeting and shared that the Board of Supervisors will convene on December 7 to adopt the Plan. Between now and that date, the technical team will continue to incorporate comments and finalize the Plan. After the Plan is adopted, DWR holds a 75-day public comment period, then has two years to review and approve the Plan. Matt clarified that DWR does not immediately fail a plan; they work with the GSA to remedy any shortcomings. The GSA will not wait until the plan is approved to begin taking actions. The GSA will prepare annual reports and eventually a five-year update. They will engage the public for additional feedback as appropriate.

- Pat Vellines, DWR, provided additional detail related to the consultation process DWR initiates if there are deficiencies in the GSP.
- A member of the public asked for clarification about the legal implications of a plan failing the DWR review.

Katie relayed a note in the chat, related to the SWRCB curtailment and Matt confirmed that the current curtailments on the Scott River have been lifted until October 31, contingent on flows meeting the minimum flow of 40 cubic feet per second.

Discussion: Board Adoption of GSP and Related Action Items

The Facilitator noted that Matt will bring an update to the Board of Supervisors on November 9. Katie asked Tom Menne, as Chair, to present the Advisory Committee's review of the GSP at the December 7 Board meeting. She asked each member to weigh in on their stance plan adoption.

Tom Menne approves the Plan. He noted that he doesn't believe it could be any better than it already is. He will attend the Board of Supervisors meeting. He noted his discomfort around whether the Plan would be changed after this meeting. Katie responded that the Comment Response Matrix will catalogue how the Plan changes based on comments received and that matrix will be distributed to the Advisory Committee for their reference. Katie confirmed that regarding significant technical policy comments, there will not be any major changes.

Tom Jopson agrees with Tom Menne's thoughts and noted his disappointment with how little time the Committee had to consider stream flows and groundwater dependent ecosystems.

Brandon Fawaz noted his disappointment with the impact that COVID has had on the ability of the Advisory Committee to convene and make important decisions. He does not have specific feedback on the plan, but expressed a general belief that the Plan was a waste of seven years, given that the State can step in at any point, regardless of the GSA's good faith efforts to manage groundwater sustainability. He does not object to the plan moving forward, but he expressed his displeasure with the plan's contents.

Paul Swezey is in favor of the plan moving forward.

Katie thanked the Advisory Committee for their participation and Matt expressed his appreciation to the members as well as the members of the public who have been engaged in the process, noting the particular challenges posed by COVID. A member of the public offered their thanks to the technical team and GSA. Thomas Harter, on behalf of the technical team, offered his appreciation as well.

The Plan will move to the Board of Supervisors on December 7 where Tom Menne will present the opinion of the Committee. The technical team will continue to update the Plan based on the comments received.

The meeting adjourned at 5:28 PM.

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ATTENDEES:

* = *virtual attendee*

Advisory Committee Members Present:

*Paul Sweezey, Member-at-Large
*Brandon Fawaz, Private pumper
Tom Jopson, Private Pumper
Tom Menne, Scott Valley Irrigation District

Advisory Committee Members Absent:

Crystal Robinson, Quartz Valley Tribe
Michael Stapleton, Residential
Jason Finley, Private Pumper
Bill Beckwith, Fort Jones, Municipal/City
[Vacant Environmental/Conservation seat]

Agency Staff and Members of the Public Present:

*Ada Fowler
*Amanda Cooper, California Trout
*Anthony Intiso
*Bonny Nichols
*Curtis Sweezey
*Elisa Noble, SSWD
*Jennifer Dickinson
*Jeff Fowle
*John Clements
*Leah Easley-Grassman, Deputy Watermaster
*Lena Germinario
*Pat Vellines, DWR
*Shari Witmore, NMFS
Curtis Sweezey
Karin Newton
Kate Jopson
Lauren Sweezey
Sari Sommarstrom
Roy Johnson
Theo Johnson

Project Team Staff:

Matt Parker
*Aaron Ferguson
*Natalie Reed
*Katie Duncan
*Marisa Perez-Reyes
Kelly Davenport
*Thomas Harter
*Claire Kouba
*Kelsey McNeill
*Laura Foglia