

Meeting Notes

May 12, 2016

Groundwater Sustainability Program

Sustainable Groundwater Management Team

Prepared by the Center for Collaborative Policy, CSUS

Purpose

These notes summarize a workshop conducted by the California Department of Water Resources (DWR) to provide information to Tribes and water agencies in the Northern California region about Tribal engagement groundwater management planning under the Sustainable Groundwater Management Act (SGMA). The goals of the meeting were to:

- *Update on California groundwater regulations*
 - *Discuss how the regulations relate to Tribes.*
- *Discuss needed tools for reaching groundwater sustainability statewide for Tribes and GSAs.*
- *Update on development of Best Management Practices for Groundwater Sustainability Agency (GSA) and Tribal engagement, collaboration, and coordination.*

Introduction

The following is a list of Tribes, agencies, and other organizations represented at this meeting. The names of specific individuals who were in attendance are provided in the participants list in the attached sign in sheet.

- Barona Band of Mission Indians
- Big Valley Band of Pomo Indians of the Big Valley Rancheria
- Buena Vista Rancheria
- California Indian Environmental Alliance
- Colusa Indian Community
- Coyote Valley Band of Pomo Indians
- Elem Indian Colony
- Habematolel Pomo of Upper Lake
- Hopland Tribe
- Kashia Band of Pomo Indians of the Stewarts Point Rancheria
- Redwood Valley Rancheria
- Round Valley
- Sherwood Valley Band of Pomo
- Winnemem Wintu
- Yocha Dehe Wintun Nation
- Bureau of Indian Affairs

- DWR – Northern Region
- DWR – Sacramento
- FlowWest
- Governor's Office of Emergency Services
- Hobbs Strauss Dean & Walker, LLP
- Indian Health Service
- Lake County Board of Supervisors
- Mendocino County Board of Supervisors
- Mendocino County Resource Conservation District
- Mendocino County Water Agency
- Redwood Valley County Water District
- Stanford University
- State Water Resources Control Board
- Ukiah Parks, Recreation & Golf
- US Bureau of Reclamation
- Yuba County Water Agency GSA

List of Acronyms

CASGEM	California Statewide Groundwater Elevation Monitoring
DAC	Disadvantaged Community
DWR	Department of Water Resources
EDA	Economically Distressed Area
GSA	Groundwater Sustainability Agency
GSP	Groundwater Sustainability Plan
IRWM	Integrated Regional Water Management
JPA	Joint Powers Authority
MHI	Mean Household Income
MOU	Memorandum of Understanding
NAHC	Native American Heritage Commission
SDAC	Severely Disadvantaged Community
SGMA	Sustainable Groundwater Management Act
SGMP	Sustainable Groundwater Management Program
SWRCB	State Water Resources Control Board

Issues

- A. Sustainable Groundwater Management Act
- B. DWR Groundwater Sustainability Program
- C. DWR GSP Draft Regulations
- D. Website Tools And Information Center
- E. Tribal Involvement Roundtable Discussion

Attachments Enclosed

- Appendix A, Attendee List
- Appendix B, Notes, power points, and handouts for this workshop
 - For Maps please contact Tito Cervantes directly (Tito.Cervantes@water.ca.gov)
- Appendix C. Referenced presentations from Kate Gladstein of Sierra Water Workgroup.

Table of Contents

Purpose	1
Introduction	1
List of Acronyms.....	2
Issues.....	2
Attachments Enclosed	3
Action Items	5
A. Welcome and Introductions	5
B. Sustainable Groundwater Management Act – Updates	5
Sustainable Groundwater Management Program and Tribal Participation.....	5
Discussion, comments, and questions.....	7
Art Bunce: Tribal Perspectives on SGMA.....	9
Discussion, comments, and questions.....	11
C. DWR Sustainable Groundwater Management – Online, Mapping, and Technical Assistance Tools.....	13
Water Management Planning Tool.....	13
GSAs Interactive Map.....	14
Groundwater Information Center Interactive Map Application	14
Basin Boundary Assessment Tool	15
Basin Boundary Modification Request System.....	15
Water Data Library.....	15
Adjudicated Basin Reporting	15
D. DWR Sustainable Groundwater Management: Data Needs	15
Discussion, comments, and questions.....	16
E. DWR Proposition 1 Update.....	17
Discussion, comments, and questions.....	19
F. Roundtable Discussion on Tribal Engagement in SGMA	20
G. Closing remarks	24
Appendix A. Participants List	24
Appendix B. Meeting Presentations and Handouts.....	26
Appendix C. Kate Gladstein Presentations	27

Action Items

- Tito Cervantes will share white paper to attendees upon request.
- The Tribal Advisory Group (TAG) representative made a recommendation for DWR and its partner agencies to develop a list of criteria for Proposition 1 grants responsive to Tribal applicants.
- DWR will share a list of areas that have been awarded facilitation services through DWR.
- There will be coordination in Lake County on Integrated Regional Water Management (IRWM) and Disadvantaged Community (DAC) involvement in proposals for new funding sources.

A. Welcome and Introductions

Anecita Agustinez, Tribal Policy Advisor for the Department of Water Resources (DWR), welcomed participants and thanked the Coyote Valley Band of Pomo Indians for providing the meeting space.

Anecita Agustinez reviewed the goals of the workshop. This is the third of three workshops focusing on Tribal roles and challenges in SGMA implementation. DWR will hold a final, statewide wrap-up meeting in Sacramento to discuss the findings from these workshops.

Following introductions, facilitator Stephanie Lucero reviewed the agenda:

- SGMA Update: New regulations and how they affect tribes, including speakers from both state and Tribal perspectives
- Resources for SGMA: DWR website tools and resources
- Proposition 1 update, focusing on funding resources for which Tribes may be eligible
- Developing Best Management Practices (BMPs) for Tribal engagement
- Roundtable discussion on Tribal needs for engaging in SGMA

B. Sustainable Groundwater Management Act – Updates

Sustainable Groundwater Management Program and Tribal Participation

Mary Randall, Regional Coordinator and Tribal Liaison for DWR, Northern Region, provided an overview of SGMA. She encouraged participants to contact her for questions about SGMA and for help with identifying DWR staff to help them with their needs. Mary Randall is also the regional office lead for the IRWM program.

The slides from the presentation are attached. Highlights of the presentation included:

- SGMA has three key intended outcomes:
 - Establish effective local governance to protect and manage groundwater basins.
 - For local agencies to achieve sustainable management of groundwater basins.
 - If local or regional agencies are not able to manage groundwater sustainably, the state will intervene until local agencies can implement sustainable management.
- Local, State, and Tribal roles in SGMA:
 - *Local*: Establish a Groundwater Sustainability Agency (GSA), develop and implement a Groundwater Sustainability Plan (GSP)
 - *State*: Define regulations, provide technical and planning assistance, evaluate and assess GSPs, and intervene if necessary to achieve sustainability
 - DWR is responsible for regulation and assistance
 - The State Water Resources Control Board (SWRCB) is responsible for enforcement and will intervene if GSAs have not made adequate progress toward sustainability
 - *Tribal*: Tribal trust lands are exempt from SGMA, but Tribes can voluntarily participate. Fee lands may NOT be exempt.
- The purpose of groundwater sustainability planning is to avoid “undesirable results” including “significant and unreasonable:”
 - Lowering of groundwater levels
 - Reduction of groundwater storage
 - Seawater intrusion
 - Water quality degradation
 - Land subsidence
 - Depletions of surface water
- Which basins require a GSP?
 - Of the 515 groundwater basins in California, 127 are medium or high priority and therefore must develop GSPs.
 - Adjudicated basins are exempt, except for minimal reporting requirements.
 - Low and very low priority basins are exempt, but are encouraged to develop GSPs.
- GSPs must show a path for achieving sustainability for the basin in 20 years.
- SGMA Milestones for Success
 - GSA formation by June 30, 2017 – otherwise SWRCB can intervene to administer groundwater management in the basin.
 - Local agencies can form GSAs – those with water supply, water management, or land use responsibility in the area. The term “local agencies” in SMGA does not include Tribes. SGMA does allow Tribes to participate in GSAs through Joint Powers Authority (JPA), Memorandum of Understanding (MOU), or other agreement.
 - Non-local agencies can partner with GSAs.
 - GSPs must be developed by:

- January 1, 2020 – for critically over-drafted basins (there are none of these in Northern California)
- January 31, 2022 for all other high and medium priority basins
- Sustainability is determined on the basin level. Basins with multiple GSPs must coordinate through agreements.
- SGMA establishes a 20-year implementation period and 50-year planning horizon to achieve sustainability
- Phases of GSP development and implementation:
 - Phase 1: GSA Formation and Coordination (*current phase)
 - Phase 2: GSP Preparation and Submission
 - Phase 3: GSP Review and Evaluation
 - Phase 4: Implementation and Reporting
- DWR released the GSP Emergency Regulations on May 10, 2016.

Discussion, comments, and questions

Staff from DWR and SWRCB responded to audience questions and comments.

- Q: How do DWR and SWRCB assess surface water depletion under SGMA?
 - DWR is developing a process for this now, using California Statewide Groundwater Elevation Monitoring (CASGEM) and other data sources. GSPs will identify trigger points for when surface water depletion is occurring. Stakeholder involvement will contribute to those determinations; that is one reason that Tribes might want to be involved.
- Q: How will the state define lowering of groundwater levels and reduction of groundwater storage? How will it account for seasonal variation? “Significant and unreasonable” needs to be better defined. Tribes want to know how SWRCB will rule when there are differences of opinion between a GSA and Tribes, or a GSA and other stakeholders, about what constitutes lowering of groundwater levels and reduction of groundwater storage.
 - A: One of the challenges for implementing SGMA is the lack of data to define those levels. This is particularly a challenge for Tribal lands.
 - SGMA defines the baseline for groundwater levels as January 2015. The state also recognizes that groundwater levels change throughout the year. GSAs are responsible for defining the specific critical points and triggers, as well as what is significant and unreasonable.
- Q: What are the criteria for reclassifying a groundwater basin as critically over-drafted? If a basin is declining over time, is there a threshold?
 - A: There are a few different definitions of overdraft in SGMA. Basins defined as critically over-drafted must submit a GSP in 2020, instead of 2022. That is the

main difference in how those basins are treated. After that, the definition will not be very important, in terms of SGMA implementation.

- Q: How are the GSPs developed, and is there stakeholder involvement?
 - A: Stakeholder involvement is critical. GSAs have to document involvement of stakeholders, and there are requirements for stakeholder involvement throughout the process, including GSA formation and GSP development. GSAs must describe their stakeholder involvement process in their applications to become a GSA, and stakeholders can comment on those. Stakeholders can also comment on applications for basin boundary modifications.
 - A: We are currently in Phase 1, GSA Formation. SB 13 gives DWR the authority to review GSA applications and make sure that they have followed the process guidelines, including for stakeholder involvement and Tribal notifications. Tribes that are in a basin and have concerns may want to assign a staff member to follow the GSA formation process in your basin. If you have not been contacted, let DWR know.

- Q: If we are classified as a low or very low priority basin, but we think groundwater depletion is actually occurring from over-pumping, how do we upgrade to a higher status? In the Mount Shasta area, water bottling companies want to move in, and there is no authority to tell them they cannot. But pumping adversely affects everyone downstream.
 - A: Many people are concerned that their basin should be categorized as medium, not low. Now it is critical to ground truth those categorizations. If you have information on these basins that you think would be valuable and would make a difference in how they were ranked, DWR is very interested in that information. Bill Ehorn, Planning Branch Chief for DWR Northern Region, is the best person to share that information with. He can be contacted at Bill.Ehorn@water.ca.gov.

- We also have a lot of concern in the Mt. Shasta area because areas with volcanic geology are not included in the alluvial basins but, as recharge areas, have a huge impact on groundwater sustainability in those basins.
 - Many things went into determining priority, which had to be done as of January 1, 2015. DWR used the best information we had at the time, including prioritization from CASGEM, which was originally developed to determine what alluvial basins needed to be monitored. We now have people working to improve the process for basin prioritization. Groundwater/surface water interaction has been raised to a higher level of importance in the categorization. Because the basin categorizations are a statistical distribution, when one basin's numbers change, it impacts prioritization for all 515 basins, so the process is complex.
 - Follow up question: How do we request help from the state if local authorities are unwilling to stop the water bottling companies?

- A: If you have data that DWR can use to better characterize the basin, and to show that the priority should be higher, that would help.
- Also, low and very low priority basins can adopt plans and form GSAs. SWRCB authority isn't applicable to those GSAs, but local agencies can adopt plans.

Art Bunce: Tribal Perspectives on SGMA

Art Bunce, Tribal Attorney for the Barona Band of Mission Indians in San Diego County, spoke about why SGMA may be important for Tribes, even though Tribes are exempt from implementing SGMA on trust lands.

- Art Bunce showed participants DWR's groundwater management planning tool (<http://water.ca.gov/groundwater/boundaries.cfm>)
 - Art Bunce showed how to use the planning tool to pull up groundwater basins in Lake County and overlay tribal lands to show which are inside, outside, or next to a basin.
 - California defines groundwater basins based on the presence of alluvial material. Watershed are typically much larger.
- Adjudication is a legal process to determine who has water rights in a basin and how much water the rights-holders can use. Adjudication, if triggered under SGMA, may not be favorable to Tribes:
 - SGMA sets up a process for streamlined groundwater adjudications that will happen in State courts, which have not been historically favorable to Tribes. The McCarren amendment, passed in 1952 during the Termination era, allows state courts to adjudicate Tribal water rights.
 - Adjudication processes determine all rights in a basin including Tribal water rights. Most Tribal water rights adjudications happen in federal court, where outcomes tend to be better for Tribes because they are based on federal water rights.
 - Winter's Rights, based on a court decision in 1908, established that a Tribe's water rights on a reservation came with the reservation, and that the water rights date to the creation of the reservation, whether or not the Tribe was then using the water.
 - Winter's Rights are based on priority date (the first historical users are first "in line" to get water today). This is important because those with junior rights, toward the back of the line, are not entitled to any water if it runs out before it is their turn in line to access the water.
 - Tribes may not have been in line because they previously were not using their rights. But based on Winter's Rights, the Tribe is allowed to step into line based on the date the reservation was created.
 - By contrast, California state water law is a "share and share alike" system.

- In state courts, adjudications usually have resulted in a “physical solution” where all users, including Tribes, must cut back by some percentage of pumping.
- Adjudications are typically a long, involved, and costly process. Under SGMA, adjudication processes happens in very compressed period of time, of six months to a year.
 - By contrast, the San Luis Rey adjudication, involving five Tribes, was filed in 1969 and is just now wrapping up in federal court.
- SGMA does have some protective language for Tribes: under Section 10720.3, if there is any adjudication, all federally reserved water rights, including to groundwater, will be respected, and Tribes are not required to participate in the process.
- There are legal ambiguities about whether Winter’s Rights apply to groundwater. However, an important case (San Luis Rey) is currently in federal court that will set precedent in the 9th Circuit, which includes much of the West and all of California.
 - There are three district court cases from the West that have determined that Tribal reserved water rights include groundwater, not just surface water. These decisions were only binding to the parties before them in those courts.
 - By contrast the Federal Court of Appeals makes binding precedent. The Aqua Caliente case is currently in the Court of Appeals. Oral argument will begin in about one and a half years.
 - In the Agua Caliente case, the Agua Caliente Tribe in the Coachella Valley filed suit against big pumpers in the valley, based on concerns including land subsidence and loss of storage capacity.
 - The judge ruled to split the case into three parts, as follows:
 - Do Tribes have groundwater rights under Winter’s?
 - The Judge ruled “yes” on this question last summer. The appeal is moving forward, with oral arguments expected in 1.5 years.
 - The Tribe has good records and a good fact situation.
 - Assuming the first answer is yes, do Tribes have defenses to those rights?
 - If yes, what quantity are they entitled to?
- Art Bunce reviewed some ways that Tribes might engage in SGMA:
 - Many Tribes have been engaged for decades in sustainable groundwater management on their own. Tribes may continue to do that, as sovereign entities, outside of SGMA.
 - SGMA allows Tribes to seek funding under Proposition 1.
 - In some situations, Tribes might want to use SGMA to prevent non-Indians, off the reservation or Rancheria, from pumping in ways that are harming Tribal rights.

- A Tribe cannot be a GSA, according to SGMA. However, a Tribe can join with others under a Memorandum of Understanding (MOU) or other arrangement to operate a GSA.
 - One option is a JPA. However, Tribes may not feel comfortable with reporting requirements for JPA members under state law requirements for JPA members on reporting.
 - Instead, a Tribe can create a subsidiary entity and have that entity be part of the JPA. In that case, the entity rather than the Tribe must comply with the reporting requirements.
- Anecita Agustinez added:
 - Under SGMA, the definition of Tribes includes both federally recognized and non-recognized Tribes.
 - GSAs can form Advisory Committees, and we think that could be a place for Tribes to be involved.

Discussion, comments, and questions

Art Bunce responded to questions from participants.

- Q: What about Tribes that were terminated, and created a new reservation somewhere else? How does Termination affect their water rights?
 - A: The starting point is the 1958 Termination Act, which says Tribal water rights will be respected for at least a 15 year period. The answer to that question really depends on how that particular restoration occurred. Many Rancherias that were terminated have been restored, and most restorations occurred by legislation or were administrative. To answer that question for a particular Rancheria, you would need to look at the decree from the federal act that restored the reservation, or the administrative or legislative order.
 - The Menominee case is also relevant. After restoration in that case, the question arose whether or not the Tribe still had hunting and fishing rights. The ruling was that it did retain those rights, since the Termination did not mention those rights.
 - Most Rancherias were established between 1906 and 1910, so there would not be many water users ahead in priority.
- Q: Are fee properties subject to SGMA?
 - A: Once property passes into fee, they may still be subject to SGMA. It depends on whether those parcels are subject to county control, which is a complicated question. Some agencies have taken a look at allotted land that has been passed into fee on reservations, and have decided not to take jurisdiction over those.
 - It might depend on the Montana Test (Montana vs. United States), which provides for situations where Tribal land use controls do or do not apply to fee land.

- Q: In our area (Capay Valley), there is a plan to create management areas. There are 33 potential entities that could make up GSA, but they will want to select fewer. Where would a subsidiary (like a Tribal JPA) fit into that type of structure?
 - Art Bunce: It depends on various factors including what authorities the Tribe seeks for that management area and their water rights, if any.
 - Anecita Agustinez added that if Tribes have fee land that will stay fee land, they may want to participate in the GSA as fee land owners.

DWR and SWRCB staff answered additional questions.

- Q: How are GSAs accountable to stakeholders (that are not GSA members) for the resource? How are they accountable to Tribes and DACs?
 - GSAs are responsible for developing, implementing, and monitoring the GSP and they are required to involve stakeholders in that process. The state agencies (SWRCB and DWR) are responsible for ensuring that the GSAs are getting the right result and they are engaging stakeholders including Tribes and DACs.
 - More specifically, SGMA requires that GSAs, when they form, must inform relevant parties and ask if they want to be part of a GSA and, as relevant, an Advisory Committee. In developing GPSs, GSAs are also required to outreach to Tribes and others to ask if the GSP is responsive to their needs. It is the responsibility of those groups to respond. DWR will, in evaluation of a plan, look at how those groups were engaged.
 - In terms of the resource, GSAs will prepare annual reviews for DWR to show whether it is reaching its annual goals, including reporting how much water is being extracted.
- Q: The term “significant and unreasonable” is not well defined, but is important in framing how GSAs will be managing the groundwater. For example, will it consider economic and other considerations? A Tribe might think an impact is significant and unreasonable but a GSA may not. There will be disagreements.
 - A: What is considered significant and unreasonable will vary locally and will be determined at the local level. The regulations try to frame up a process where the definition will reflect all the local needs. Specifically, minimum thresholds must be developed with input of all users in the basin, and the communication plan will identify how the GSA will collect data from the users in the basin. Minimum thresholds will determine what is significant and unreasonable in the basin. It is important for Tribes to be involved in determining the minimum thresholds and how those add up to a significant and unreasonable result.
 - “Beneficial users” in the statute includes Tribes, DACs, and others. DWR will look at how GSAs considered the needs of beneficial users in developing the GSP. These include beneficial users’ perspectives on “significant and unreasonable.”
 - This meeting will feed into development of Best Management Practices for how DWR assesses that process.

C. DWR Sustainable Groundwater Management – Online, Mapping, and Technical Assistance Tools

The path to follow to access this website from DWR’s home webpage (www.water.ca.gov) is:

- DWR homepage → Issues Tab → Planning Tab → Sustainable Groundwater Planning
- Access the “Groundwater Information Center” on the tan-colored side-bar

Water Management Planning Tool

Link: <http://water.ca.gov/groundwater/boundaries.cfm>

Art Bunce and DWR representatives demonstrated various tools from DWR’s online Groundwater Information Center. The Water Management Planning tool is a web-based application to assist local agencies in water management planning efforts. It is an interactive map application that allows users to overlay numerous Geographic Information Systems (GIS) layers onto a map of California, and provides access to more information about those data layers. The Water Management Planning Tool is intended to assist local agencies with their responsibilities related to the California Water Plan, IRWM, and SGMA and as an informational tool for all interested parties.

Accessing and using the Water Management Planning Tool:

- Links:
 - The planning tool is available through the DWR Groundwater website at: <http://water.ca.gov/groundwater/boundaries.cfm>
 - The direct link is: <https://gis.water.ca.gov/app/boundaries/>
- Some of the boundaries and layers shared include:
 - DWR Regional Office Service Areas
 - Tribal lands
 - CASGEM Groundwater basin prioritization (high/med/low/very low)
 - Water agencies (highlights overlaps)
 - Bulletin 118 basins
 - Bulletin 118 is a DWR document that provides information about groundwater basins and sub-basins, including boundaries, hydrology, hydrogeologic characterization, etc.
 - IRWM regions
 - Previous groundwater management plans under A.B. 3030, S.B. 1938, A.B. 359

- Various base maps
- Disadvantaged Community Tracts

GSA Interactive Map

Link: http://water.ca.gov/groundwater/sgm/gsa_map.cfm

This online mapping tool can help Tribes identify the relevant GSA(s) for their area. It shows the location of local agencies that decided to form GSAs. It also provides a link to GSA submittals that have additional information about GSA outreach to Tribes and contact information.

- Interactive Map Layers discussed:
 - GSAs and overlaps
 - Adjudicated areas
 - Bulletin 118 groundwater basins
 - CASGEM prioritization
 - Counties
 - B118 basins
 - GSA submittal, which will include whatever information the GSA included about Tribal outreach
- The GSA Interactive Map webpage includes a link to the GSA Formation Table.
GSA Formation Table: http://water.ca.gov/groundwater/sgm/gsa_table.cfm#table
 - Through this table users can see who has submitted GSA applications and access the submittals. DWR updates the table daily or weekly.
 - The table shows the names of all entities that have applied to be GSA for a basin. The write-up of each request is included, including whether there are Tribes in the Basin.
 - The application must state whether the basin area includes Tribes and how they were consulted.

Groundwater Information Center Interactive Map Application

Link: http://water.ca.gov/groundwater/MAP_APP/index.cfm

This tool provides GIS layers containing geospatially-referenced groundwater-related information. Data may not be up to date, but include:

- Water levels
- Boundaries
- Subsidence

Basin Boundary Assessment Tool

Link: <http://water.ca.gov/groundwater/sgm/bbat.cfm>

The Groundwater Basin Boundary Assessment Tool is intended to assist local agencies with their planning efforts related to basin boundary modifications. It includes very detailed geologic data.

Basin Boundary Modification Request System

Link: <http://sgma.water.ca.gov/basinmod/>

This website provides access to information about basin boundary modification requests that have been submitted.

- The current phase of requests has ended. Another round is anticipated in 2018.
- Some water agencies are working to develop a GSA but have not filed yet. They may be requesting modifications now to set up for when they do file. A potential GSA entity might not want to step forward until the basin boundary modification has been made.

Water Data Library

Link: www.water.ca.gov/waterdatalibrary/

This tool provides DWR data on water production, wells, and water quality throughout the state. How many different wells with groundwater level data? In rural areas, it lists individual wells. Some of the data are inconsistent and incomplete.

Adjudicated Basin Reporting

Link: <http://www.water.ca.gov/groundwater/sgm/adjudicated.cfm>

This website provides access to adjudicated basin reporting under SGMA. Follow the link in the box to <http://sgma.water.ca.gov/adjudbasins/>, and then click “View List of Submitted Reports” in the tan box.

D. DWR Sustainable Groundwater Management: Data Needs

Tito Cervantes, Tribal Liaison and Land and Water Use Section Chief, DWR Northern Region, provided an overview of the Land and Water Use Section’s data collection efforts to support SGMA implementation. He encouraged Tribes to document and share their data with DWR.

- The Land and Water Use Section collects a variety of data to assess water use and needs in the Region. It assesses land use and water use for agricultural, municipal, and industrial uses, and conducts wetlands mapping.

- Tribes have been reluctant to share their data. However, sharing data can help protect a Tribe's future access to water. It is valuable to collect data and document the water that Tribes supply, especially for municipal/industrial uses.
 - Agencies will not give out a Tribe's data or information to anyone, including consultants. Data are recorded at hydrologic or basin level.
- Sustainable management is not possible without data. Lack of basic hydrology data is a challenge for the Sustainable Groundwater Management Program (SGMP).
- Tito Cervantes shared several handouts:
 - A white paper on SGMP developed by the Tribal Advisory Group, with goals for how SGMP can work with Tribes to address data needs.
 - An overview of GSP data requirements, including:
 - Acreages (i.e., by crop type, riparian vegetation)
 - Irrigation Types
 - Water source
 - Water use
 - Water use by Water Year type
 - Water budgets
 - Water budget projections
 - Maps with relevant information for Mendocino and Lake Counties, including basin boundaries and land use types.

Discussion, comments, and questions

Tito Cervantes responded to participant questions and comments.

- Q: If we share data with DWR, will it be subject to FOIA requests and given out to parties that request it?
 - A: In the event of a FOIA request, we would provide information only on a basin or hydrological level. We would not share individual-level data from Tribes.
 - Anecita Agustinez added that information that Tribes share with DWR on sacred lands is protected under the Public Records Act. If a Tribe believes a sensitive area with cultural resources might be impacted, the Tribe can share that type of information through formal government-to-government consultation. The Tribe would not have to disclose to DWR the exact location.
 - For those types of concerns, Tito Cervantes recommends that Tribes email him or Mary Randall to set up a meeting.
- Comment: We have mapped the wells on two local creeks and found that many of them have not been evaluated by the Department of Fish and Wildlife, as they were supposed to be, for impacts to surface water flows. There is an opportunity to do better in the future.

E. DWR Proposition 1 Update

Mary Randall provided an overview of Proposition 1 and funding opportunities available for IRWM and groundwater management. She noted that Margie Graham is also a good contact in the Northern Region Office for information on these grant programs.

Proposition 1 eligibility and program overview:

- Tribal eligibility:
 - Proposition 1 specifically includes, as eligible applicants, federally recognized tribes, and state tribes listed on the Native American Heritage Commission (NAHC) consultation list.
 - To be eligible for IRWM funding, Tribes must participate in the IRWM region.
- Disadvantaged community definitions under Proposition 1:
 - DAC: < 80% Median Household Income (MHI)
 - Severely Disadvantaged Community (SDAC): < 60% MHI
 - Economically Distressed Area (EDA) < 85% MHI
 - Additional criteria required.
- Proposition 1 requires 50% local cost share, but the state can waive or reduce this requirement for DAC or EDAs.
 - Specifically, SB 208 requires the state to provide advance funding (50%) for projects that meet eligibility requirements.
- Proposition 1 programs administered by DWR:
 - Chapter 7: Regional Water Reliability
 - Includes \$510 Million for IRWM
 - Chapter 9: Water Recycling
 - Chapter 10: Groundwater Sustainability
 - \$100 Million for local plans & projects to manage groundwater
 - Chapter 11: Flood Management

Proposition 1 funding for IRWM:

- DWR recently released new Draft 2016 IRWM Grant Program Guidelines
- IRWM funding notes:
 - Proposition 1 created a new funding area for IRWM: Mountain Counties (comprising the west-slope Sierra foothills)
 - Proposition 1 has no IRWM funding for the Delta
 - Proposition 1 IRWM general purpose
 - Help water infrastructure systems adapt to climate change.
 - Provide incentives for collaboration on managing water resources and setting water infrastructure priorities.
 - Improve regional water self-reliance.
 - \$5 Million is currently available for IRWM planning grants.

- If you have an active Round 1 grant, you are not eligible for these funds.
- Many Tribes could qualify as under-represented and therefore be eligible for DAC Involvement grants (\$51 Million available) for IRWM planning efforts.
 - 10% of each funding area's allotment is to go to involvement of DACs, EDAs, and underrepresented communities in IRWM planning efforts.
 - Mary Randall suggests contacting your local IRWM group.
- Proposition 1 IRWM Implementation Grants
 - These can support a wide variety of project types.
 - There is a single allocation per funding area. In the North Coast:
 - \$2.65 Million for DAC Projects
 - \$19.345 Million for general projects
- DWR's Proposition 1 IRWM anticipated schedule:
 - June 2016: Issue final grant program guideline documents
 - Mid-2016: Administer DAC Involvement and Planning grants
 - To follow: Administer Implementation grants

Groundwater Sustainability funding under Proposition 1:

- Proposition 1 provides \$100 Million for Sustainable Groundwater Management
 - The first release of funding focused on counties with stressed basins.
 - Of \$10 Million available, DWR only had requests for about \$7 Million.
 - Northern California Counties with Stressed Basins Grant Awards: Butte, Colusa, Glenn, Humboldt, Mendocino, Placer, and Sonoma
 - The Sustainable Groundwater Planning Grant Program will provide \$80 Million or more.
 - DWR is still scoping this grant program.
 - DWR will solicit for applications after GSP regulations are adopted.
 - Grants will target development GSPs or related activities.
 - Competitive grant program.
 - To be eligible, entities will likely need to be involved in a GSA.

Other funding programs under Proposition 1

- Mary Randall briefly reviewed grant programs under Proposition 1, administered by DWR or other agencies.
- These include Water Use Efficiency, Flood Management, Desalination, Clean and Safe Drinking Water, Watershed Restoration and Protection, Regional Water Security, Statewide System Operation, Water Recycling, and Groundwater Sustainability (\$800 Million for prevention and cleanup of groundwater pollution, administered by SWRCB).
- Some of these grant solicitations have ended.
- The Proposition 1 Bond Accountability website is a good resource for tracking grant solicitation timeframes, which can be short.
 - <http://bondaccountability.resources.ca.gov/p1.aspx>

Discussion, comments, and questions

- Comment: It is extremely difficult for Tribes to figure out which funding sources Tribes are specifically eligible for, and particularly the criteria for those. As a member of the TAG, I've brought up this issue a number of times. We also wrote it in the tribal work plan for the California Water Plan.
 - **Action:** DWR verified that there is not a single list that compiles all grant criteria in one place other than the bond accountability website. The TAG can make a recommendation for DWR to develop this document. However, this would require significant time and inter-agency coordination since there are a variety of different programs.
 - Mary Randall believes that the only DWR grant they for which Tribes are not eligible is Counties with Stressed Basins.
 - DWR staff recommended a number of additional resources for identifying funding sources and criteria:
 - California Financing Coordinating Committee (CFCC) Funding Fair, July 26 in Redding (also webcast).
 - http://www.cfcc.ca.gov/funding_fairs.htm
 - The fair brings together seven state and federal agencies with funding programs (including SWRCB and DWR). Tribes can speak with representatives of each agency.
 - CFCC also provides a Common Funding Inquiry form to help Tribes (and others) identify funding sources for which they are eligible: <http://www.cfcc.ca.gov/res/docs/2015/12-18-14%20Common%20Inquiry%20Form.pdf>
 - SWRCB's FAAS application: <http://faast.waterboards.ca.gov/>
 - Bond Accountability Website
 - <http://bondaccountability.resources.ca.gov/>
 - Tracks implementation of Proposition 1 and others, and provides details about how agencies are developing the guidelines and distributing funding.
 - Attachment: Handbook from Proposition 1 Tribal consultation in June 2015
- Q: For the DAC definition, what year and MHI is the definition based on?
 - A: The most up to date Census data. DWR is also using the 2010-2014 ACS data set for DAC and economically distressed area (EDA) Prop 1 definitions.
- Q: How much more money is left in Proposition 84? Will it run out?
 - A: All Proposition 84 funds have been distributed. IRWM is now being funded through Proposition 1.

- Q: To be eligible for IRWM, do you have to apply through a local group?
 - A: Yes, a Tribal participant needs to be involved with their regional IRWM. We hope that the DAC involvement grant will help with underrepresented communities. This grant program has \$51 Million available on a funding area basis.

- Participant discussion on IRWM funding in the Northern Region:
 - Sherri Norris: The North Coast Resource Partnership, an active IRWM group on the North Coast, has Tribal Representatives. She is available to speak in detail by contacting her directly at sherri@cieaweb.org in her role as Tribal Engagement Coordinator for the Northern Coast Resource Partnership.
 - Katie Burdick, Yuba County Water Agency GSA:
 - The Sacramento River funding area is putting together our proposal right now, and I am here to make sure we have solid liaisons. A small team will work with each IRWM region to put together a funding-area wide proposal.
 - If you are in the Sacramento/McCloud area, you are not part of the North Coast IRWM. If you are in Lake County, you are part of the West Sacramento IRWM area, which Katie Burdick is coordinating.
 - **Action:** there will be coordination in Lake and Mendocino County on IRWM and DAC involvement on proposals for new funding sources.

F. Roundtable Discussion on Tribal Engagement in SGMA

Stephanie Lucero introduced a discussion on preferences for how to be engaged in SGMA and GSAs. She noted that different water agencies and counties have different experience and understanding of how to work with Tribes, including understanding of Tribal sovereignty issues. This workshop is to help local agencies know how to engage Tribes, and so that DWR knows what to look for when they evaluate whether Tribes have been effectively, appropriately engaged. What BMPs do Tribes suggest?

- Comment (Sherri Norris): The National Indian Justice Center gave our region a presentation, for local agencies to understand Tribal sovereignty. It was very helpful. That could be a recommendation, for organizations to provide that kind of technical assistance.

- Q: What about law enforcement under SGMA? There are illegal diversions happening now, and there is no law enforcement. There are also paper water rights (water rights being given out that do not have any actual water behind them).
 - Sam Boland-Brien, SWRCB responded that SGMA's enforcement provisions are not activated until there is a failure at the local level, either because a GSA is not forming or a GSP is not adopted or is insufficient. SWRCB would rely on DWRs determination of that, and enforcement would kick in. SWRCB could come in and

collect info on extractions, then if problematic, move forward with an interim plan to manage extractions in basin. SWRCB is not meant to manage permanently; it provides a backstop until the local entities can come up to speed.

- In terms of paper rights, SWRCB has jurisdiction over surface water rights. We issue permits for new diversions through a process that evaluates impacts of new diversions, including whether water is available and impacts on downstream/instream resources. That permitting process is supposed to address the paper water issue.
 - A Tribe or community member can contest a new permit. The SWRCB process gives strong consideration to protests. The permit application has to be noticed, and there is a window of opportunity for a protest to be submitted. The protest must be resolved before issuance of a new permit.
 - SWRCB also has continued jurisdiction over previously issued permits. There needs to be strong evidence to go back and re-evaluate those, and it is a long process.
 - There is also a complaint process if you believe your rights are being injured by another parties' activities. SWRCB's Division of Water Rights Enforcement program investigates those complaints.
 - SWRCB's Division of Water Rights Enforcement program will also investigate illegal diversions or permit violations.
- Follow up Q: People have illegally drilled wells on our property. We do not know exactly where. I'm concerned about our protection.
 - Audience answer: The North Coast Regional Board does have enforcement capacities and is engaging marijuana growers. You might want to talk with an official there.
 - Comment: Public notifications for Tribal involvement are lacking. We want a Tribal voice that includes rural and urban voices, Tribal scientists, and people with Tribal traditional knowledge. I suggest public notice in our local newspapers including the Ukiah Daily Journal. Some of us do not have access to email or internet. Some traditional people have been disenrolled, so their voices will not be heard.
 - In a government-to-government relationship, the agency's responsibility is to reach out to the Tribal government, which may inform the agency of other contacts such as Tribal scientists. The contact for additional participants has to come from the Tribes.
 - DWR public meetings are open to everyone. DWR will continue to have Tribal outreach meetings like this one.
 - Comment: Tribes often have ancestral territory with cultural sites that they may be concerned about, either in a basin or the headwaters. Those Tribes also need to be engaged. There may be concerns about potential impacts on cultural resources.

- Question: SGMA refers to a category of people who are “interested persons” that are not necessarily formally affiliated with an organization. Can we develop a list of Tribal people within each region, for agencies to contact as interested persons? Many water agencies send letters to Tribes and never hear back from them, and decide that is all the outreach they need to do. A directory could help make the connections between agencies and Tribal contacts.
 - No, agencies must involve Tribes as sovereign entities. Consultation must go through the Tribal government. It cannot be with individual people without the link to Tribal government.
 - It needs to be clear to agencies that outreach to individuals does not constitute government to government consultation with Tribes.
 - However, those “interested persons” are not precluded from contacting the GSAs and requesting information directly through a public process or other stakeholder outreach.

- Anecita Agustinez asked participants to identify what qualifies as sufficient outreach, if Tribes do not respond? In a previous workshop, Tribes recommended that an agency write a certified letter documenting their attempts if there was no response after multiple attempts.
 - Comment: It is helpful to follow up letters to the Tribal Chair with communication to a staff person. Agencies can cc Tribal staff members, water managers, or Tribal administrators and follow up with them (cc or attention).
 - The certified letter idea is fine. For consistency, DWR should set the criteria the same as the Bureau of Indian Affairs’ existing 90 day rule.
 - Anecita Agustinez noted that SB 18 also provides guidelines for how local agencies should contact Tribes.

- Comment: For a traditional Tribe and leadership, there is no chairperson or council. There is a Chief. Agencies should make sure letters are sent to the designated person, and cc other relevant people.

- Native American Heritage Commission list.
 - Participants asked Tribal participants whether the Native American Heritage Commission list is a good first stop to identify the appropriate contacts when agencies do not know who to contact.
 - Yes
 - Anecita Agustinez encouraged Tribes to submit updates to the list, as it is used by all state agencies.
 - Q: An attendee indicated that they have asked to be included on the NAHC list as a non-profit, but we are still not on it. They wanted information on how to get on the list.
 - Anecita Agustinez recommended coordinating with the NAHC, as they manage that list for specific purposes.

- Stephanie Lucero and Anecita Agustinez clarified that a Tribal nonprofit, may engage directly with a GSA as an interested party, even if they are not on the NAHC list.
- Anecita Agustinez encouraged Tribes to be proactive, including by sending local agencies a list of local contacts and requesting inclusion in the GSA’s “interested persons” list. GSAs are required to maintain this list.
- Comment: In terms of technical assistance, funds for facilitation and outreach would help and could support groups that are already doing that kind of outreach.
- Comment: Some Tribes need technical assistance with gathering data and water modeling, help from hydrologists and hydrogeologists. Tribes do not have resources to measure groundwater or gather data on groundwater resources, needs, or beneficial uses. We do not have the technical ability to bring that information to a GSA.
 - DWR can help you with these needs. Anecita Agustinez suggests contacting Tito Cervantes as a first step, to figure out what kinds of resources you need and how DWR can help. In the longer term, DWR can work to share resources such as GIS and water modeling. Tito Cervantes can be reached at Tito.Cervantes@water.ca.gov.
- Comment: As GSAs are forming, it would help Tribes to have technical assistance in evaluating those decisions. A Tribal Circuit Rider (expert on the ground) could meet with Tribes in the region to answer one-on-one specific questions. That would help tribes figure out what is happening and answer questions about how a proposal could impact us.
- Comment: Mendocino County and Mendocino County Resource Conservation District are available for technical assistance.
- Comment: We are organizing in the Ukiah Valley, which is a medium priority basin, and received \$50,000 from DWR for facilitation support. We would like to have Tribal participation in that.
- Q: Who else has received grants for facilitation?
 - Ms. Stephanie Lucero: There is a roster of facilitators statewide that SWRCB and DWR use. There is an application process where an eligible applicant can request facilitation support from DWR. DWR conducts an interview process. If an applicant’s request is approved DWR will engage a facilitator based on the roster and the location.
 - GSA formation is a first step to receiving those services. In Northern California, it is typically counties that are receiving the facilitation support. The contact in the North Central Region is Hong Lin: hong.lin@water.ca.gov

- **Action:** DWR will share a list of where facilitation service have been awarded.
- Q: Can we form a GSA later, if we are not doing it now?
 - A: Yes. Nothing prevents a low or very low priority basin from forming a GSA. Also, if you are in a low or very low, and the basin is elevated to a higher priority, you are given two years to form a GSA, and additional time to develop a GSP.
- Mendocino County has an interested persons list. We post available data on our website, as well as videos of our meetings on YouTube. We received facilitation money and money for Counties with Stressed Basins. The interaction between surface and groundwater is a primary concern here.

G. Closing remarks

Anecita Agustinez provided closing comments.

- She thanked participants for coming, and thanked the Coyote Valley Band of Pomo Indians for hosting the meeting.
- She suggested participants also review the primer (included as a handout) on Tribal law and land types, which Art Bunce developed for the BMP guide. The primer is a draft and DWR welcomes comments.
- There will be a wrap-up meeting in Sacramento to discuss the issues raised in the three statewide workshops.
- Q: Will DWR compile notes from all three workshops?
 - Yes. Each meeting has a separate agenda and summary notes. DWR will also prepare a compilation of highlights from all three workshops and post those highlights on the tribal policy website.

Appendix A. Participants List

NAME	AFFILIATION
Tribes	
Tim Bettiga	Pit River Tribe
Paula Britton	Round Valley
Art Bunce	Barona Band of Mission Indians
Richard Campbell	Coyote Valley Band of Pomo Indians
Omar Carillo	Yocha Dehe Wintun Nation
John Gichuki	Big Valley Band of Pomo Indians of the Big Valley Rancheria
Christina Harrison	Habematolel Pomo of Upper Lake
Karola Kennedy	Elem Indian Colony
Emily Luscombe	Coyote Valley Band of Pomo Indians

David Martinez	Winnemem Wintu
Hai Nguyen	Yocha Dehe Wintun Nation
Sherri Norris	California Indian Environmental Alliance
Ashley Pulawa	Coyote Valley Band of Pomo Indians
Nathan Rich	Kashia Band of Pomo Indians of the Stewarts Point Rancheria
Sarah Ryan	Big Valley Band of Pomo Indians of the Big Valley Rancheria
Oscar Serrano	Colusa Indian Community
Javier Silva	Sherwood Valley Band of Pomo
Jack Singer	Redwood Valley Rancheria
Omar Tinoco	Buena Vista Rancheria
Lianna Vasquez	Hopland Tribe
Local Agency / Other Non-Tribal	
Adam Bailey	Hobbs Strauss Dean & Walker, LLP
Carrie Brown	Mendocino County Board of Supervisors
Chris Bujalski	Bureau of Indian Affairs
Katie Burdick	Yuba County Water Agency GSA
Troy Burdick	Bureau of Indian Affairs
Kevin Clancy	US Bureau of Reclamation
Sibyl Diver	Stanford University
Sarah Dukett	Mendocino County Water Agency
Deborah Edelman	Mendocino County Resource Conservation District
Anthony Falzone	FlowWest
Susan Knopf	Ukiah Parks, Recreation & Golf
Bill Koehler	Redwood Valley County Water District
Jan Marnell	Governor's Office of Emergency Services
Travis Sorum	Indian Health Service
Jim Steele	Lake County Board of Supervisors
Rickey Wright	Indian Health Service
State Staff	
Anecita Agustinez	DWR – Sacramento
Sam Boland-Brien	SWRCB
Xavier (Tito) Cervantes	DWR -- Northern Region
Margie Graham	DWR -- Northern Region
Mary Randall	DWR -- Northern Region
Facilitation	
Stephanie Lucero	Center for Collaborative Policy, California State University, Sacramento
Sarah Di Vittorio	Center for Collaborative Policy, California State University, Sacramento

Appendix B. Meeting Presentations and Handouts

DWR Interactive Maps

Interactive Maps – DWR has released several interactive maps and mapping tools. Here are a few:

- [Water Management Planning Tool](#) - web-based application to assist local agencies in water management planning efforts.
- [Disadvantaged Communities \(DAC\) Mapping Tool](#) - web-based application to assist local agencies and other interested parties in evaluating disadvantaged community (DAC) status throughout the State, using the definition provided by Proposition 84 IRWM Guidelines (2015).
- [Economically Distressed Area \(EDA\) Mapping Tool](#) - web-based application to assist local agencies and other interested parties in evaluating Economically Distressed Area (EDA) status throughout the State, using the definition specified in Proposition 1.
- [Groundwater Basin Boundary Assessment Tool](#) - web-based application to inform local agencies and the public about the existing Bulletin 118 groundwater basins and other relevant geologic and geographic data.
- [Groundwater Sustainability Agency \(GSA\) Interactive Map](#) - This interactive map shows the location of local agencies that have elected to become GSAs.
- [Groundwater Information Center \(GIC\) Interactive Map](#) - web-based application serving as a compliment to the data, reports, and other information provided on the GIC website. With this application you can view individual Geographic Information Systems (GIS) layers containing geospatially referenced groundwater-related information, and download these layers as GIS shapefiles or GeoTIFF raster files.
- [CASGEM Statewide Basin Prioritization Interactive Map](#) - The map contains the CASGEM Basin Prioritization results. Click on the basin of interest and an informational window will open. Click on the link at the bottom of the window to access the Basin Summary Sheets. Zoom in three times to view basin numbers on the map. For more information visit the [Basin Prioritization page](#). If you have additional questions please contact the appropriate [Region Office](#). The interactive map below may take to 1-2 minutes to load.)

For additional information, please contact Mary Randall at mrandall@water.ca.gov.

Appendix C. Kate Gladstein Presentations