

Ratepayer Gathering Notes

Tuesday, January 22, 2019 The American Legion - 5:00 pm – 6:00 pm

In attendance: Mary Delaney, John Delaney, Jim Engelke, Jack Sims, Joanne Sims, Harry Jones, Bob Juers, Lee Scharf, Rick Dobbins, Gary Sanders, Button Shugart, Kerin Shugart, Saul Miller, Laara Maxwell.

These notes consist of reflections on the gathering and, most probably, incomplete recollection of the issues discussed with a focus on our ultimate goal: a **Ratepayer Position Statement** that will address our concerns.

This gathering differed completely from last week's: a different energy, more passion, and more folks. There is a clear core group laser-focused on ensuring that the ratepayers (BWD) receive a Minimum Water Allocation (MLA) of somewhere in the neighborhood of 2400 AFY. This position is firmly held by this group and, once again, a few of you argued that asking for 1700 AFY is a poor strategy.

My general takeaway from a procedural perspective is that I neglected to set some essential ground rules: those of us who are more vocal, have a greater depth of knowledge and information regarding the issues and have been intimately involved for some time, were able to control the conversation. Looking over the list of you in attendance, it is clear that half or more of you remained silent.

The purpose for having more intimate gatherings is so that most, if not all of us can ask questions, express our opinions, and challenge opinions with which we are not in agreement.

So, during the upcoming gatherings I intend to go around the table as we move through the issues and encourage all of us to offer our perspective and commentary. I need to be able to represent all of us in this process.

It is my hope that we can come up with a Ratepayer Position Statement we have crafted through some manner of consensus. For this to happen, we all need an opportunity to speak our piece.

So, since I was unable to obtain comments from many of you, I will begin making phone calls on Friday to ask you personally what you might want to be reflected in the follow-up notes. At any time, please drop me a line or two with comments and points of view.

A New Scenario

There is talk – as it appears in the Board Minutes, January 11, pages 67-70 – that if we were to let the GSP work its way through the 20-yr system, the overall economic effect to the BWD Ratepayer would amount to some \$5 - \$8/month. There are clearly some unknowns in this calculus; the main one being the cost of the land ... what is a farmer willing to take for his/her property. But it could provide resolution for the issue.

If, in fact, this were a true scenario, what is your reaction? How do you see this playing out? Is this a viable pathway for the Ratepayer to adopt?

A few of you categorically noted that this was a non-starter: "it is a pie-in-the-sky" scenario and BWD should not be trusted with the information that sets this out as a possibility.

I was unable to elicit more conversation about this scenario. I'll introduce it again during the next meeting and will try to draw out more discussion.

Other items discussed:

- De Minimis extractors under SGMA¹
- Clear support of an MWA of at least 2400
- In discussing the cost of water (i.e., none of us pay for the asset itself, rather we pay for the infrastructure required to extract the asset) it became clear that, yes, we do not pay for the asset, but the Ratepayer cost to extract the asset far exceeds the cost to any other pumper, given that our infrastructure is so much more extensive ... and we mine only 10% of this asset: BWD incurs the greatest expense for the same perceived benefit.
- The environmental/health issues could be/are extensive. Those responsible for the introduction of contaminants into the aquifer should be liable for polluting it, and for its remediation.

A couple of clarifications:

- Ray S contacted Tom Bunn yesterday evening. Following my conversation with some representatives from one of the golf courses, I was told that Mr. Bunn had recanted his position regarding the 1700AFY. In his response to Ray, Mr. Bunn confirmed that he still believes that an MWA of 1700AFY would succeed in a court of law. (If you heard that it was BWD that referred to Mr. Bunn's recanting, that is not what I meant to say; I heard this from the folks I refer to above.)

¹ 10725.8. MEASUREMENT DEVICES AND REPORTING; INAPPLICABILITY OF SECTION TO DE MINIMIS EXTRACTORS

(a) A groundwater sustainability agency may require through its groundwater sustainability plan that the use of every groundwater extraction facility within the management area of the groundwater sustainability agency be measured by a water-measuring device satisfactory to the groundwater sustainability agency.

(b) All costs associated with the purchase and installation of the water-measuring device shall be borne by the owner or operator of each groundwater extraction facility. The water measuring devices shall be installed by the groundwater sustainability agency or, at the groundwater sustainability agency's option, by the owner or operator of the groundwater extraction facility. Water-measuring devices shall be calibrated on a reasonable schedule as may be determined by the groundwater sustainability agency.

(c) A groundwater sustainability agency may require, through its groundwater sustainability plan, that the owner or operator of a groundwater extraction facility within the groundwater sustainability agency file an annual statement with the groundwater sustainability agency setting forth the total extraction in acre-feet of groundwater from the facility during the previous water year.

(d) In addition to the measurement of groundwater extractions pursuant to subdivision (a), a groundwater sustainability agency may use any other reasonable method to determine groundwater extraction.

(e) **This section does not apply to de minimis extractors.**

- I stated I would meet with an attorney today. The meeting, set up by a good friend of mine, will be, interestingly, with a former President of the San Diego and California Farm Bureau. This should be an interesting and, I hope, fruitful meeting.

Questions raised if this meeting had been with an attorney (still essential questions):

- Where should the burden of the water reductions fall?
- The Ratepayers have made measurable and significant reductions in water use. Shouldn't ag then bear the burden of the reductions?
- Ag has polluted the water source. It should then be fined and held liable for the cleanup.
- The 20% credit awarded ag by BWD for return flows is not acceptable.
- The Ratepayers have and are still not taken into consideration by BWD.
- What are BWD's water rights under SGMA?