



**BEAUMONT-CHERRY VALLEY WATER DISTRICT  
AGENDA  
PUBLIC HEARING  
AND ENGINEERING WORKSHOP OF BOARD OF DIRECTORS  
560 Magnolia Avenue, Beaumont, CA 92223  
Thursday, June 1<sup>st</sup>, 2017  
Workshop Session at 7:00 p.m.**

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**Call to Order, President Slawson**

**Roll Call**

**Public Comment**

**PUBLIC COMMENT:** At this time, any person may address the Board of Directors on matters within its jurisdiction which are not on the agenda. However, any non-agenda matters that require action will be referred to Staff for a report and possible action at a subsequent meeting. To provide comments on specific agenda items, please complete a speaker's request form and provide the completed form to the Board Secretary prior to the Board meeting. Please limit your comments to three minutes. Sharing or passing time to another speaker is not permitted.

**ACTION ITEMS**

- 1. Overview of the Sustainable Groundwater Management Act of 2014.**  
(pages 3-102)
- 2. Public Hearing for Determination Whether to Form a Groundwater Sustainability Agency Pursuant to the Sustainable Groundwater Management Act for the San Timoteo Sub-Basin.**
- 3. Consideration of Resolution No. 2017-04 – Election to Become a Groundwater Sustainability Agency Pursuant to the Sustainable Groundwater Management Act for the San Timoteo Sub-Basin** (pages 103-107)
- 4. Update on Chromium VI Impacts and Well Pumping Capacity Restoration Options Available to the District**
- 5. Update of Various District Projects.**
- 6. Topics for Future Meetings**
- 7. Adjournment**

\*\* Information included in the agenda packet

**AVAILABILITY OF AGENDA MATERIALS** - Agenda exhibits and other writings that are disclosable public records distributed to all or a majority of the members of the Beaumont-Cherry Valley Water District Board of Directors in connection with a matter subject to discussion or consideration at an open meeting of the Board of Directors are available for public inspection in the District's office, at 560 Magnolia Avenue, Beaumont, California ("District Office"). If such writings are distributed to members of the Board less than 72 hours prior to the meeting, they will be available

from the District Office at the same time as they are distributed to Board Members, except that if such writings are distributed one hour prior to, or during the meeting, they can be made available from the District Office in the Board Room of the District's Office.

**REVISIONS TO THE AGENDA** -In accordance with §54954.2(a) of the Government Code (Brown Act), revisions to this Agenda may be made up to 72 hours before the Board Meeting, if necessary, after mailings are completed. Interested persons wishing to receive a copy of the set Agenda may pick one up at the District's Main Office, located at 560 Magnolia Avenue, Beaumont, California, up to 72 hours prior to the Board Meeting.

**REQUIREMENTS RE: DISABLED ACCESS** - In accordance with §54954.2(a), requests for a disability related modification or accommodation, including auxiliary aids or services, in order to attend or participate in a meeting, should be made to the District Office, at least 48 hours in advance of the meeting to ensure availability of the requested service or accommodation. The District Office may be contacted by telephone at (951) 845-9581, email at [info@bcvwd.org](mailto:info@bcvwd.org) or in writing at the Beaumont-Cherry Valley Water District, 560 Magnolia Avenue, Beaumont, California 92223.

## Fact Sheet

The Sustainable Groundwater Management Act of 2014 is a comprehensive three-bill package that provides a framework for sustainable management of groundwater supplies by local authorities, with a limited role for state intervention only if necessary to protect the resource.

The act requires the formation of local groundwater sustainability agencies (GSAs) that must assess conditions in their local water basins and adopt locally-based management plans. The act provides substantial time – 20 years – for GSAs to implement plans and achieve long-term groundwater sustainability. It protects existing surface water and groundwater rights and does not impact current drought response measures.

ACWA supported the legislation, which was substantially consistent with recommendations developed by the association’s Groundwater Sustainability Task Force and adopted by the ACWA Board of Directors. ACWA’s recommendations, together with recommendations from the California Water Foundation and input from other stakeholders, helped shape many provisions to protect local control and empower local agencies to achieve the sustainability goal.

The Sustainable Groundwater Management Act of 2014 is considered just one part of a statewide, comprehensive water plan for California that includes investments in water conservation, water recycling, expanded water storage, safe drinking water, wetlands and watershed restoration. The plan is intended to ensure a reliable water supply for California for years to come.

### **GSAs and Local Sustainability Plans**

The Sustainable Groundwater Management Act provides local GSAs with tools and authority to:

- Require registration of groundwater wells
- Measure and manage extractions
- Require reports and assess fees
- Request revisions of basin boundaries, including establishing new subbasins

GSAs responsible for high- and medium-priority basins must adopt groundwater sustainability plans within five to seven years, depending on whether the basin is in critical overdraft. Agencies may adopt a single plan covering an entire basin or combine a number of plans created by multiple agencies. Preparation of groundwater sustainability plans is exempt from CEQA.

Plans must include a physical description of the basin, including groundwater levels, groundwater quality, subsidence, information on groundwater-surface water interaction, data on historical and

projected water demands and supplies, monitoring and management provisions, and a description of how the plan will affect other plans, including city and county general plans.

Plans will be evaluated every five years.

## State Involvement and Technical Assistance

The California Department of Water Resources (DWR) has several tasks under the Sustainable Groundwater Management Act. It must:

- Designate basins as high, medium, low or very low priority by Jan. 31, 2015
- Adopt regulations for basin boundary adjustments by Jan. 1, 2016
- Adopt regulations for evaluating adequacy of GSPs and GSA coordination agreements by June 1, 2016
- Publish a report estimating water available for groundwater replenishment by Dec. 31, 2016
- Publish groundwater sustainability best management practices by Jan. 1, 2017

## State Review and Intervention

The State Water Resources Control Board may intervene if a GSA is not formed or it fails to adopt or implement compliant plans by certain dates.

DWR is tasked with reviewing GSPs for adequacy after they are adopted at the local level. If DWR determines in its review that a GSP is not adequate, the State Board may designate the basin as “probationary.” If the local agency does not respond within 180 days, the State Board is authorized to create an interim plan that will remain in place until a local GSA is able to reassume responsibility with a compliant plan.

## Financial Assistance

If approved by voters, Proposition 1 would provide \$100 million in funding to GSAs to develop and implement sustainable groundwater management plans.

## Key Implementation Dates

- **June 30, 2017:** Local groundwater sustainability agencies formed.
- **Jan. 31, 2020:** Groundwater sustainability plans adopted for critically overdrafted basins.
- **Jan. 31, 2022:** Groundwater sustainability plans adopted for high- and medium-priority basins not currently in overdraft.
- **20 years after adoption:** All high- and medium-priority groundwater basins must achieve sustainability.

## Frequently Asked Questions

### **Q: What is the Sustainable Groundwater Management Act of 2014?**

**A:** The Sustainable Groundwater Management Act of 2014 is a comprehensive three-bill package that includes AB 1739 (Dickinson), SB 1168 (Pavley), and SB 1319 (Pavley) and sets the framework for statewide long-term sustainable groundwater management by local authorities.

It requires the formation of new groundwater sustainability agencies (GSAs) tasked with assessing the conditions in their local basins and adopting locally-based sustainable management plans. It provides for limited state intervention only when a GSA is not formed and / or fails to create and implement a plan that will result in groundwater sustainability within 20 years.

### **Q: What authority will GSAs have?**

**A:** GSAs are empowered to utilize a number of new management tools to achieve the sustainability goal. For example, GSAs may require registration of groundwater wells, mandate annual extraction reports from individual wells, impose limits on extractions, and assess fees to support creation and adoption of a groundwater sustainability plan (GSP). GSAs also may request a revision of a groundwater basin boundary, including the establishment new subbasins.

A GSA may adopt a single plan covering an entire basin or may combine several plans from multiple agencies.

### **Q: Is there any funding available to assist GSAs?**

**A:** If approved by voters, Proposition 1 – the Water Quality, Supply and Infrastructure Improvement Act of 2014 – would provide \$100 million in funding to help create and implement GSPs.

### **Q: When do sustainable groundwater management plans have to be completed and implemented?**

**A:** GSPs for critically overdrafted basins must be completed and adopted by the GSA by Jan. 31, 2020. GSPs for high- and medium-priority basins not in overdraft must be completed and adopted by the GSA by Jan. 31, 2022. All high- and medium-priority groundwater basins must achieve sustainability within 20 years of GSP adoption.

### **Q: Who determines whether a groundwater sustainability plan is sufficient?**

**A:** The Department of Water Resources (DWR) is tasked with reviewing GSPs for compliance. If DWR determines that an adequate GSP has not been adopted or that it is not being implemented in a way

that will achieve sustainability within 20 years, then the State Water Resources Control Board may designate the basin “probationary.”

After receiving notice from the State Board, local authorities will have 180 days to address GSP deficiencies. If the plan is brought into compliance the state will remove the “probationary” designation and will have no further authority to intervene.

If the deficiencies are not addressed by the GSA, the State Board is authorized to create an interim plan that would remain in effect only until the GSA could assume responsibility with a compliant plan that will achieve sustainability.

**Q: What does sustainable groundwater management mean?**

**A:** The aim of the legislation is to have groundwater basins managed within the sustainable yield of each basin. The legislation defines “sustainable groundwater management” as the management and use of groundwater in a manner that can be maintained during the planning and implementation horizon without causing undesirable results, which are defined as any of the following effects:

- Chronic lowering of groundwater levels (not including overdraft during a drought, if a basin is otherwise managed)
- Significant and unreasonable reductions in groundwater storage
- Significant and unreasonable seawater intrusion
- Significant and unreasonable degradation of water quality
- Significant and unreasonable land subsidence
- Surface water depletions that have significant and unreasonable adverse impacts on beneficial uses

**Q: Isn't this basically a state takeover of groundwater?**

**A:** No. At its core, the legislation provides a framework for the improved management of groundwater supplies by local authorities. In fact, it provides protection *against* state intervention, provided that local agencies develop and implement groundwater sustainability plans as required by the legislation. Significantly, the legislation provides tools and authorities some agencies have previously lacked to manage for sustainability. In addition, it provides substantial time (20 years from the time a GSP is adopted) to take the actions necessary to achieve sustainability.

**Q: Does this legislation take away the ability of growers to pump groundwater if the current drought continues?**

**A:** No. The legislation will not affect the ability of local water managers and water users to get through the current drought. The legislation allows local managers time to get on the path of sustainability. It recognizes that implementation of local groundwater sustainability plans may take up to 20 years.

**Q: How does this legislation affect existing water and property rights?**

**A:** The legislation does not change existing groundwater rights. Groundwater rights will continue to be subject to regulation under article 10, section 2, of the California Constitution.

**Q: Will this legislation make future adjudications more complicated?**

**A:** No. In fact, it is possible that future adjudications would be made easier because there will be more data and information about the basin and pumpers available. Although it is important to note that the legislation will restrict public release of information related to individual groundwater pumpers.

**Q: Does this legislation allocate groundwater for environmental and habitat purposes?**

**A:** The legislation does not allocate water for any purpose. There is no expansion of water rights and the public trust doctrine does not apply to groundwater. Local agencies may choose to address this issue in their plans, if they desire.

**Q: Why doesn't this legislation address groundwater recharge as a beneficial use of surface water?**

**A:** Groundwater recharge is currently accomplished by filing a petition with the State Board that demonstrates the water would be put to beneficial use. ACWA members have been working on legislative language to address this matter but have not yet reached agreement on any recommendations.

**Q: Where can I get more information on groundwater sustainability?**

**A:** Information is available from the following resources:

California Department of Water Resources Groundwater Information Center

<http://www.water.ca.gov/groundwater/>

ACWA's Recommendations for Achieving Groundwater Sustainability

<http://www.acwa.com/content/groundwater/acwa-recommendations-achieving-groundwater-sustainability>

California Water Foundation Information / Recommendations on Groundwater Sustainability

[www.californiawaterfoundation.org](http://www.californiawaterfoundation.org)

## Implementation Deadlines

When	Who	What
January 31, 2015	Department of Water Resources (DWR)	Categorize and prioritize basins as high, medium, low, or very low [§ 10722.4(a)]
January 1, 2016	DWR	Adopt regulations for basin boundary adjustments and accept adjustment requests from local agencies [§ 10722.2(4)(b)]
April 1, 2016	Local water agencies or water-masters in adjudicated areas	Submit final judgment /order / decree and required report to DWR (report annually thereafter) [§ 10720.8(f)]
June 1, 2016	DWR	Adopt regulations for evaluating adequacy of Groundwater Sustainability Plans (GSPs) and Groundwater Sustainability Agency (GSA) coordination agreements [§ 10733.2]
December 31, 2016	DWR	Publish report estimating water available for groundwater replenishment [§ 10729(c)]
January 1, 2017	DWR	Publish groundwater sustainability best management practices [§ 10729(d)]
By June 30, 2017	Local agencies	Establish GSAs [§ 10735.2(a)(1)]
After July 1, 2017	State Water Resources Control Board (SWRCB)	Designate basins as probationary where GSAs have not been formed [§ 10735.2(1)]
After July 1, 2017	Groundwater users in probationary basins	File annual groundwater extraction report with SWRCB by December 15 each year [§ 5202]
January 31, 2020	GSAs in medium- and high-priority basins in critical overdraft	Adopt GSPs and begin managing basins under GSPs [§ 10720.7(a)(1)] or alternative [§ 10733.6]
After January 31, 2020	SWRCB	Designate basins as probationary where GSPs have not been adopted in medium- and high-priority basins in critical overdraft [§ 10735.2(1)]
January 31, 2022	GSAs in other medium- and high- priority basins	Adopt GSPs and begin managing basins under GSPs [§ 10720.7(a)(2)]
After January 31, 2022	SWRCB	Designate basins as probationary where GSPs have not been adopted in other medium- and high-priority basins [§ 10735.2(1)]
After January 31, 2025	SWRCB	Designate basins as probationary where GSPs are inadequate or not being implemented, and extractions result in significant depletions of interconnected surface waters [§ 10735.2(a)(5)(B)]
After January 31, 2040	GSAs (in medium- and high-priority basins in critical overdraft)	Achieve groundwater sustainability goals (DWR may grant two five-year extensions upon a showing of good cause) [§ 10727.2(3)(A)]
After January 31, 2042	GSAs (in other medium and high priority basins)	Achieve groundwater sustainability goals (DWR may grant two five-year extensions upon a showing of good cause) [§ 10727.2(3)(A)]





# SUSTAINABLE GROUNDWATER MANAGEMENT ACT

## A Framework for Sustainability

The California Legislature enacted comprehensive legislation aimed at strengthening local control and management of groundwater basins throughout the state. Gov. Jerry Brown signed the three-bill package into law on Sept. 16, 2014.

Known as the Sustainable Groundwater Management Act of 2014, the legislation provides a framework for sustainable management of groundwater supplies by local authorities, with a limited role for state intervention when necessary to protect the resource.

Multiple discussions and a public stakeholder process that began in late 2013 helped shape the legislation, which the Brown Administration identified as a top priority for 2014. It is considered one element of a comprehensive water action plan advanced by the Administration that also includes investment in water conservation, water recycling, expanded water storage, safe drinking water, wetlands and watershed restoration.

## The Act at a Glance

The Sustainable Groundwater Management Act of 2014 consists of three bills – AB 1739 (Dickinson), SB 1168 (Pavley) and SB 1319 (Pavley). Together the bills commit the state to locally controlled, sustainable groundwater management and provide tools and authorities for local agencies to achieve the sustainability goal over a 20-year implementation period.



## Key Steps on the Road to Sustainability

The legislation lays out a process and a timeline for local authorities to achieve sustainable management of groundwater basins. It also provides tools, authorities and deadlines to take the necessary steps to achieve the goal. For local agencies involved in implementation, the requirements are significant and can be expected to take years to accomplish.

- **Step one:** Local agencies must form local groundwater sustainability agencies (GSAs) within two years.
- **Step two:** Agencies in basins deemed high- or medium-priority must adopt groundwater sustainability plans (GSPs) within five to seven years, depending on whether a basin is in critical overdraft.
- **Step three:** Once plans are in place, local agencies have 20 years to fully implement them and achieve the sustainability goal.
- **State role:** The State Water Resources Control Board may intervene if locals do not form a GSA and / or fail to adopt and implement a GSP.

**June 30, 2017:** Local groundwater sustainability agencies formed.

**Jan. 31, 2020:** Groundwater sustainability plans adopted for critically overdrafted basins.

## News Tools for Local Agencies

The legislation gives local agencies new tools to manage groundwater sustainably. For example, groundwater sustainability agencies may:

- Require registration of wells and measurement of extractions
- Require annual extraction reports
- Impose limits on extractions from individual groundwater wells
- Assess fees to implement local groundwater management plans
- Request a revision of basin boundaries, including establishing new subbasins

## Creation of Groundwater Sustainability Plans

The legislation provides options for local agencies to develop the required groundwater sustainability plans. Agencies may opt to create a single plan covering the entire basin, or knit together multiple plans created by multiple agencies.

A plan must include measurable objectives and interim milestones to achieve the sustainability goal for the basin within a 20-year time frame. The plan also must include a physical description of the basin, including information on groundwater levels, groundwater quality, subsidence and groundwater-surface water interaction; historical and projected data on water demands and supplies; monitoring and management provisions; and a description of how the plan will affect other plans, including county and city general plans.



## State Technical and Financial Assistance

The California Department of Water Resources (DWR) has several tasks under the Sustainable Groundwater Management Act. It must:

- Designate basins as high, medium, low or very low priority by Jan. 31, 2015
- Adopt regulations for basin boundary adjustments by Jan. 1, 2016
- Adopt regulations for evaluating adequacy of GSPs and GSA coordination agreements by June 1, 2016
- Publish a report estimating water available for groundwater replenishment by Dec. 31, 2016
- Publish groundwater sustainability best management practices by Jan. 1, 2017

## State Review and Intervention

The State Water Resources Control Board may intervene if a GSA is not formed or fails to adopt or implement compliant plans by certain dates.

DWR reviews the GSAs for adequacy after they are adopted at the local level. If DWR determines that an adequate groundwater sustainability plan is not in place, the State Board may designate the basin as “probationary.” If the local agency does not respond within 180 days, the State Board is authorized to create an interim plan that will remain in place until a local GSA is able to assume responsibility with a compliant plan.

## Financial Assistance

If approved by voters, Proposition 1 would provide \$100 million in funding to GSAs to develop and implement sustainable groundwater management plans.

**Jan. 31, 2022:** Groundwater sustainability plans adopted for high- and medium-priority basins not currently in overdraft.

**By 2040:**  
All high- and medium-priority groundwater basins must achieve sustainability.

## Probationary Status

In general, the State Water Resources Control Board may designate a basin as “probationary” if, after consulting with DWR, it is found that a groundwater sustainability plan has not been created, the plan is inadequate, or the plan is not being implemented in a way that will lead to sustainability.

Specifically, the State Board may designate a basin as probationary if:

- No local agency has formed a groundwater sustainability agency for the basin by the June 30, 2017, deadline
- No groundwater sustainability plan has been adopted for a high- or medium-priority basin in critical overdraft by the Jan. 31, 2020, deadline
- No groundwater sustainability plan has been adopted for a high- or medium-priority basin not currently in critical overdraft by the Jan. 31, 2022, deadline
- After Jan. 31, 2020, the groundwater sustainability plan for a basin in critical overdraft is found to be inadequate or is not being implemented to achieve sustainability
- After Jan. 31, 2022, the groundwater sustainability plan for any other high- or medium-priority basin is found to be inadequate, or is not being implemented to achieve sustainability, and the State Board determines the basin is in a condition of long-term overdraft
- After Jan. 31, 2025, a groundwater sustainability plan is found to be inadequate, or is not being implemented to achieve sustainability, and the State Board determines that groundwater extractions are resulting in significant depletions of interconnected surface waters

If a local agency fails to respond to a deficiency within 180 days, the State Board is authorized to create and develop an interim plan that would remain in place until a local groundwater sustainability agency is able to take over and manage the basin sustainably.



## About “High-Priority” and “Medium-Priority” Groundwater Basins

The Sustainable Groundwater Management Act applies to basins or subbasins designated by the Department of Water Resources as high- or medium-priority basins, based on a statewide ranking that uses criteria including population and extent of irrigated agriculture dependent on groundwater. Final basin prioritization by DWR is due by Jan. 31, 2015.

It is anticipated that about 125 basins throughout the state will be designated as high- or medium-priority basins for which a plan must be developed. Those basins account for about 90% of California’s annual groundwater use. DWR’s California Groundwater Bulletin 118 identifies a total of 515 alluvial groundwater basins and subbasins in California.

The Sustainable Groundwater Management Act does not apply to adjudicated basins that are managed by the courts, or to basins deemed by DWR to be low or very low priority.





## Implementation Schedule



## ACWA's Path on Advancing Sustainability

In response to mounting concerns about groundwater overdraft and subsidence in some areas of the state, ACWA's Board of Directors acted in November 2013 to establish a Groundwater Sustainability Task Force to help identify ways to address the issue.

Drawing on the expertise of ACWA Board members from across the state, the task force developed a series of recommendations on groundwater to build on the association's Statewide Water Action Plan as well as its 2011 Groundwater Framework.

The task force's work led to a suite of recommendations adopted by the ACWA Board in March 2014 as discussions intensified in the regulatory and legislative arenas to address groundwater.

ACWA's recommendations, issued formally on April 7, 2014, made a strong policy statement in support of sustainable, locally controlled management of the state's groundwater basins and called for new tools and authorities to help local agencies take action. At the same time, the recommendations recognized the need for a limited state backstop role in cases where locals cannot accomplish the goal.

ACWA's recommendations, together with recommendations from the California Water Foundation, provided the basis for many key provisions of the groundwater sustainability legislative package that ultimately emerged and was signed by Gov. Jerry Brown on Sept. 16, 2014.

### Resources:

**ACWA's Recommendations for Achieving Groundwater Sustainability**  
<http://www.acwa.com/content/groundwater/acwa-recommendations-achieving-groundwater-sustainability>

**California Department of Water Resources Groundwater Information Center**  
<http://www.water.ca.gov/groundwater/>

**California Water Foundation Information / Recommendations on Groundwater Sustainability**  
[www.californiawaterfoundation.org](http://www.californiawaterfoundation.org)

### Contacts:

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## Summary

AB 1739 (Dickinson), SB 1168 (Pavley) and SB 1319 (Pavley)

The Sustainable Groundwater Management Act empowers local agencies to manage groundwater basins in a sustainable manner over a long-term horizon. The Act provides five to seven years for locals to form a Groundwater Sustainability Agency (GSA) and to create a Groundwater Sustainability Plan (GSP). The plan would have a 20-year implementation horizon with the opportunity for two five-year extensions, if the agency is making progress towards sustainability.

(All references to code sections are to the Water Code, unless otherwise noted.)

### State Policy and Local Government Coordination

- Establishes that it is the policy of the state that groundwater resources be managed sustainably for long-term water supply reliability and multiple economic, social, or environmental benefits for current and future beneficial uses. Section 1. (a) of SB 1168
- Requires a city or county planning agency, before adopting or substantially amending a general plan, to review and consider groundwater sustainability plans. Government Code Section 65352.5

### I. Core Provisions

#### Groundwater Sustainability Agency Formation

- Local Agencies have until June 30, 2017, to form a GSA. Section 10735.2 (1)
- Any local agency or combination of local agencies overlying a groundwater basin may elect to be a Groundwater Sustainability Agency. Section 10723
- Agencies that have been created by statute to manage groundwater are deemed the exclusive agencies to comply with the Act within their boundaries, unless the agency elects to opt out. Section 10723 (c)(1) and (c)(2)
- A GSA may adopt rules, regulations, ordinances, and resolutions for the purposes of the Act.

#### Tools for GSAs

- The Act gives local agencies new tools to manage groundwater sustainably.
- A GSA may conduct investigations to carry out the requirements of the Act. Section 10725.4
- A GSA may require the registration of wells. Section 10725.6

- A GSA may require the installation of water-measuring devices on all groundwater wells within the basin boundaries at the expense of the operator or owner. Section 10725.8
- A GSA may require annual extraction statements or other reasonable method to determine groundwater extractions. Section 10725.8 (c) and (d)
- A GSA may impose well spacing requirements and control extractions by regulating, limiting or suspending extractions from individual groundwater wells. Section 10726.4 (a)(1) and (2)
- A GSA may assess fees to establish and implement local groundwater management plans. Section 10725.4 (a)(3)
- Local agencies may request that the Department of Water Resources (DWR) revise the boundaries of a basin, including establishing new subbasins. The request shall include information, to be specified by DWR in regulations by January 1, 2016, to support the request. Section 10722.2 (a)

#### Creation of Groundwater Sustainability Plans

- GSAs must create and implement a GSP in each high- and medium-priority basin to meet the sustainability goal of the Act. Section 10727 (a) [See the attached map indicating the location high- and medium-priority basins as currently identified.]
- GSAs in basins that are in “critical conditions of overdraft” must adopt a compliant plan by January 31, 2020. Section 10720.7 (a)(1)
- GSAs in all other high- and medium-priority basins must adopt a compliant plan by January 31, 2022. Section 10720.7 (a)(2)
- A plan may be a single plan covering the entire basin, a single plan covering the entire basin created by multiple agencies, or multiple plans created by multiple agencies. Section 10727 (b)(1), (2), and (3)
- A GSP must include:
  - A description of the physical setting and characteristics of the aquifer system. Section 10727.2 (a)
  - Historical data, groundwater levels, ground water quality, subsidence, groundwater-surface water interaction, a discussion of historical and projected water demands and supplies. Section 10727.2 (1), (2) and (3)
  - A map that details the area of the basin and boundaries. Section 10727.2 (4)
  - A map identifying existing and potential recharge areas that substantially contribute to the recharge of the basin. Section 10727.2 (5)
  - Measurable objectives, as well as interim milestones in increments of five years, to achieve the sustainability goal in the basin within 20 years. Section 10727.2 (b) (1)
  - A planning and implementing horizon. Section 10727.2 (c)
  - The monitoring and management of groundwater levels, water quality, groundwater quality degradation, and inelastic land surface subsidence. Section 10727.2 (d)(1), (2), (3), (4), and (5)
  - A summary of the type of monitoring. Section 10727.2 (e)
  - The monitoring protocols. Section 10727.2 (f)

- A description of the consideration of other applicable local government plans and how the GSP may affect those plans. Section 10727.2 (g)
- DWR may grant two five-year extensions upon a showing of good cause beyond the 20-year sustainability timeframe. Section 10727.2 (3) (A)
- DWR may grant an extension beyond the two five-year extensions, if the local agency demonstrates a need for an extension, has made progress toward meeting its sustainability goal and adopts a feasibility work plan for meeting the sustainability goal during the extension period. Section 10727.2 (3) (B) (i), (ii) and (iii)

#### DWR Evaluation and Assessment

- DWR shall periodically review GSPs to evaluate whether they conform with the Act and are likely to achieve the sustainability goal. Section 10733 (a)
- If multiple plans are created for a basin, DWR shall evaluate whether the plans conform with the Act and together are likely to achieve the sustainability goal. Section 10733 (b)
- DWR shall evaluate whether a GSP adversely affects the ability of an adjacent basin to implement its GSP or impedes achievement of the sustainability goals in an adjacent basin. Section 10733 (c)

#### Probationary Status

In general, the State Water Resources Control Board (State Board) may designate a basin as “probationary” if, after consulting with DWR, it is found that a GSA has not been formed, a GSP has not been created, the GSP is inadequate or the GSP is not being implemented in a way that will lead to sustainability. “Sustainable groundwater management” means the “management and use of groundwater in a manner that can be maintained during the planning and implementation horizon without causing undesirable results.” “Undesirable results” are defined as follows, based on a “significant and unreasonable” standard:

- Chronic lowering groundwater level
- Seawater intrusion
- Degraded water quality
- Land subsidence
- Depletions of interconnected surface water that have significant and unreasonable adverse impacts on beneficial uses

Probationary status requires a GSA to respond to the State Board and describe how it intends to rectify these shortcomings.

Specifically, the State Board may designate a basin as a probationary, if:

- After June 30, 2017, the State Board finds that there is no local agency or a collection of agencies that has elected to become the GSA or an agency has not provided an alternative plan. Section 10735.2 (1)

- After January 31, 2020, a GSA in any high- or medium-priority basin in critical condition of overdraft has not adopted a GSP for the entire basin. Section 10735.2 (2)
  - After, January 31, 2020, DWR in consultation with the State Board determines that the GSP is inadequate or the GSP is not being implemented in a manner that will likely achieve the sustainability goal. Section 10735.2 (3)
  - After January 31, 2022, a GSA in any high- or medium-priority basin that is not subject to the critical conditions of overdraft has not adopted a plan for the entire basin. Section 10735.2 (4)
  - After January 31, 2022, DWR in consultation with the State Board determines that the GSP is inadequate or that the GSP is not being implemented in a manner that will achieve the sustainability goal and the State Board determines that the basin is in a condition of long-term overdraft. Section 10735.2 (5)(A)
  - After January 31, 2025, DWR in consultation with the State Board determines that the GSP is inadequate or that the GSP is not being implemented in a manner that will achieve the sustainability goal and the State Board determines that the basin is in a condition where groundwater extractions result in significant depletions of interconnected surface waters. Section 10735.2 (5)(B)
- A GSA has 180 days to remedy any deficiency with additional time provided if the agency is making substantial progress toward remedying the problem. Section 10735.4 (a) and (b)

#### State Board Intervention/Interim Plans

A GSA has 180 days to respond appropriately to the designation of “probationary status” before the State Board can move forward with the next step. Failure to respond to the deficiencies in the GSP could lead to limited state intervention and the development of a State Board- created interim plan.

- The State Board may develop an “interim plan” for a probationary basin if at the end of the time provided for rectifying the deficiency the State Board, in consultation with DWR, determines that the local agency has not remedied the deficiency. Section 10735.4 (c)
- The State Board must exclude from probationary status any portion of a basin for which a GSA demonstrates compliance with the sustainability goal. Section 10735.2 (e)
- Before January 1, 2025, the State Board is prohibited from establishing an interim plan to remedy a condition where the groundwater extractions result in significant depletions of interconnected surface waters. Section 10735.8 (h)
- The State Board may adopt regulations to establish the allocation, administration or collection of fees in carrying out its duties. Section 10736 (d)(3)

#### Protections for Areas under Sustainable Management

- The State Board must exclude from probationary status any portion of a basin for which a GSA demonstrates compliance with the sustainability goal. Section 10735.2 (e)



- State fees may be assessed by the State Board to carry out its duties only in areas not in compliance with the Act after 2017, or 2020, or later, as described in the requirements for “probationary status” designation.

## II. Other Important Provisions

### California Environmental Quality Act (CEQA)

- The formation of a GSA is not expressly exempt from CEQA. Any deadlines missed due to litigation challenging the formation of the agency would be extended until the litigation is resolved. Section 10735.2 (d)
- The preparation of a GSP is exempt from CEQA. Section 10728.6
- The Act does not exempt the implementation of projects under a GSP from CEQA. Section 10728.6

### Water Rights

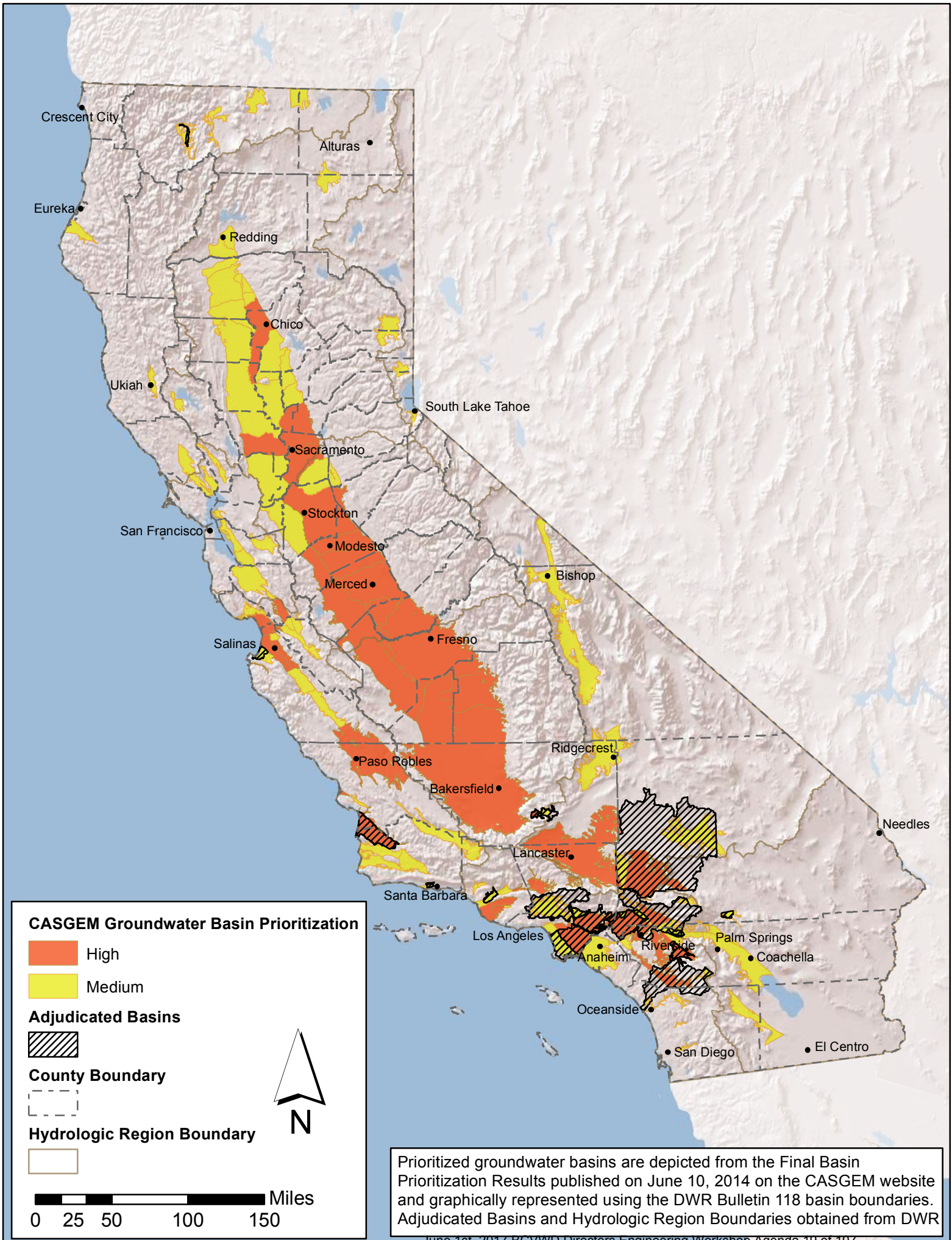
- The Act states that the intent of the Legislature is to “respect overlying and other proprietary rights to groundwater, consistent with section 1200 of the Water Code.” Section 1(b)(4) of AB 1739
- The Act further states that it is in the intent of the Legislature to “preserve the security of water rights in the state to the greatest extent possible consistent with the sustainable management of groundwater.” Section 10720.1(b)
- Additionally, the Act states that “nothing in this part or in any groundwater management plan adopted pursuant to this part, determines or alters surface water rights or groundwater rights under common law or any provision of law that determines or grants surface water rights.” Section 10720.5(b). Similar language is at Section 10726.8(b)

### Application to Adjudicated Basins

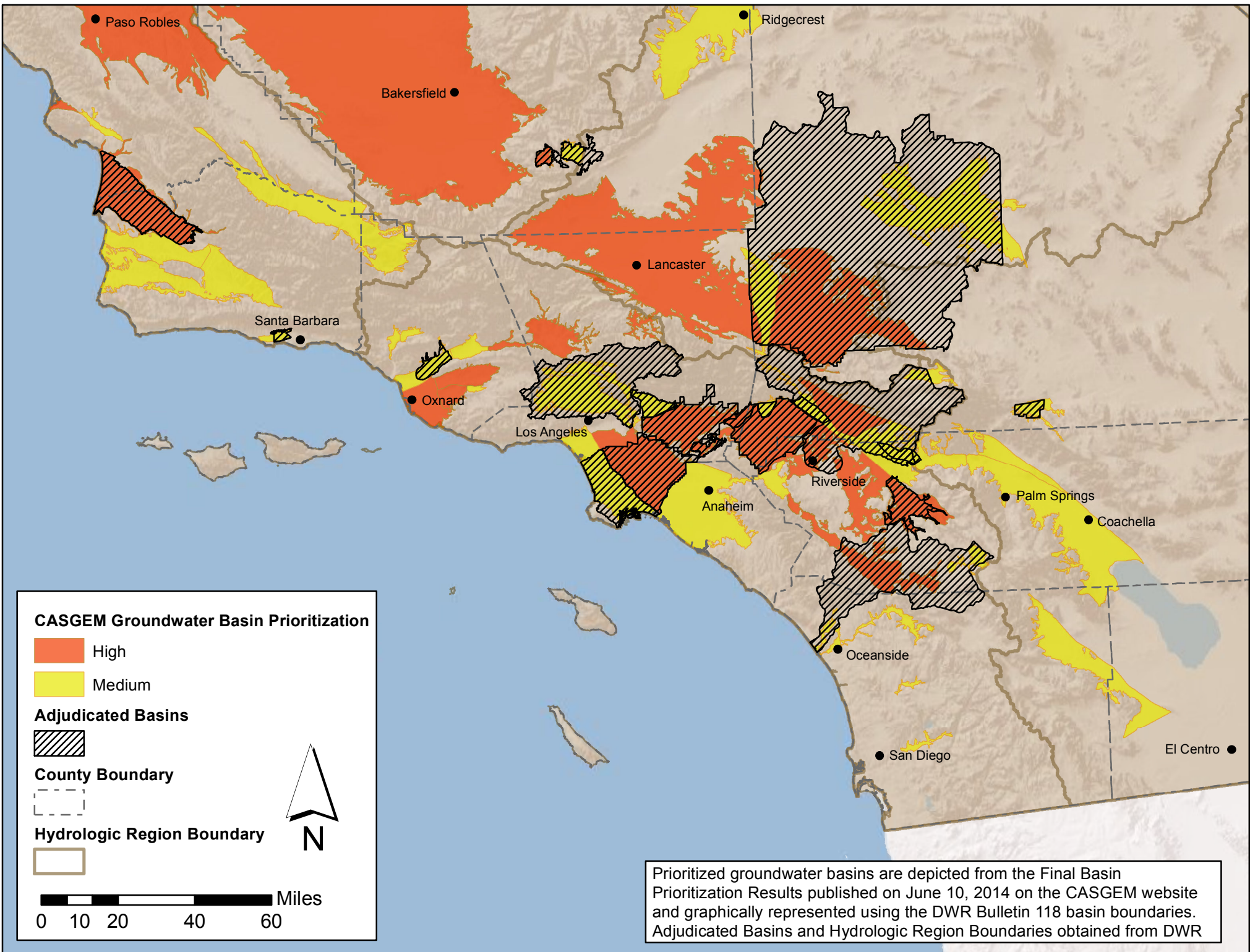
- The Act does not contain any provisions affecting the adjudicatory process.
- Adjudicated basins are required to submit to DWR a copy of a governing final judgment, or other judicial order or decree and any amendments entered before April 1, 2016. Section 10720.8 (f)(1) [ See the attached map indicating the location of adjudicated basins.]
- After April 1, 2016, adjudicated basins are required to submit:
  - Any amendment made to the decree or final judgment.
  - Groundwater elevation data unless submitted under Section 10932.
  - Annual aggregate data identifying extraction for the preceding year.
  - Surface water supply used for or available for groundwater recharge or in-lieu use.
  - Total water use.
  - Change in groundwater storage.
  - The annual report submitted to the court.

## Tribal Lands

- The Act applies to tribes to the extent authorized under federal law. Section 10720.3(b)
- The Act provides that tribes may voluntarily agree to participate in a GSA and GSP. Section 10720.3(c)
- The Act provides that federally reserved rights to groundwater shall be respected in full. Section 10720.3(d)







RECOMMENDATIONS FOR ACHIEVING  
**GROUNDWATER**  
*April 2014* → **SUSTAINABILITY**



*Prepared by*



Association  
of California  
Water Agencies  
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ACWA's mission is to assist  
its members in promoting the  
development, management and  
reasonable beneficial use of good  
quality water at the lowest practical cost  
in an environmentally balanced manner.

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# Introduction and Background

The Association of California Water Agencies (ACWA) has prepared these recommendations in response to growing concern about potentially unsustainable groundwater level declines, local subsidence and degraded groundwater quality in some subbasins and widespread recognition that further action is required to promote and achieve groundwater sustainability throughout California.

Most groundwater basins in the state are under sound local and regional management; some, however, are not. Local control of groundwater continues to be the most effective form of management, even in areas where sustainability concerns have emerged and must be addressed. Existing authorities and requirements for managing groundwater basins provide a strong foundation, but achieving more sustainable management requires additional tools to augment that foundation. The Brown Administration also has recognized the need for additional tools, noting in its California Water Action Plan (January 2014) that sustainable groundwater management can be improved by ensuring “that local and regional agencies have the incentives, tools, authority and guidance to develop and enforce local and regional management plans that protect groundwater elevations, quality and surface water-groundwater interactions.”

In many areas, including parts of the San Joaquin Valley, overdraft has been and continues to be exacerbated by a significant reduction in available surface water supplies over the past two decades. The inability of the State Water Project and the federal Central Valley Project to reliably deliver contracted water supplies has eliminated a substantial amount of surface water that once played a key role in recharging groundwater basins. In many cases, demand for groundwater is directly related to the reliability and availability of surface water supplies. The loss of reliable surface water supplies means that past investments in local and regional water systems — and the agricultural, urban and environmental water uses long supported by conjunctive management of surface water and groundwater resources — are now at risk.

To be sure, there are instances where unchecked new groundwater demands in unmanaged areas are putting new stresses on groundwater resources, sometimes with devastating effects on other users within the same

basin or even in a neighboring basin that is being well managed. Like the loss of surface water supplies, this presents an untenable situation that simply must not go unaddressed.

This document outlines ACWA’s suggested approach for achieving groundwater sustainability and identifies incentives, tools and authorities required to implement that approach. The recommendations provided here are focused primarily on basins and subbasins defined by the Department of Water Resources’ California Groundwater Bulletin 118.

Fractured bedrock and other settings that fall outside of basins and subbasins defined by Bulletin 118 are not the focus of these recommendations. Groundwater extractions in these settings typically are site-specific or condition-specific and lack connection to areas covered by a local or regional groundwater management plan. As such, they present unique issues and warrant special consideration outside the scope of this document.

ACWA’s recommendations build on the Association’s Board-adopted Groundwater Management Policy Principles (March 2009) and ACWA’s landmark document, “Sustainability from the Ground Up: A Framework for Groundwater Management in California” (April 2011), which provided an in-depth look at groundwater management in California and recommended proactive steps to advance groundwater sustainability.

ACWA recognizes that various legislative changes are needed to provide the authorities necessary to implement many of these recommendations. Given the importance and complexity of state policy in this area, any necessary changes should be proposed and considered through the normal legislative process for policy bills, as opposed to through the budget trailer bill process. The policy bill process will provide more time for thoughtful deliberation on the legislation and will allow for increased transparency and stakeholder input.

Implementing the following recommendations will significantly improve groundwater management capabilities where they are deficient, accelerate the achievement of sustainability by local and regional entities, and guide enhanced state support where needed.

# Policy Objectives for Achieving Groundwater Sustainability

The following policy objectives must be advanced simultaneously to ensure groundwater sustainability in California.

1. **Enhance Local Management.** Groundwater basins should continue to be managed by local and regional agencies with input from local stakeholders through a local or regionally-developed and administered Groundwater Management Plan (GMP).
2. **Establish Mandatory Minimum Groundwater Management Plan Requirements and Increased Authorities.** Local groundwater management planning must become uniformly consistent with or functionally equivalent to requirements laid out in SB 1938 (Machado, 2002) (Water Code Section 10753 et seq.). Additionally, Section III below identifies sustainability timeframes (Recommendation 1) and additional tools and authorities (Recommendation 5) needed to advance sustainable management.
3. **Avoid or Minimize Subsidence.** In areas where groundwater pumping is resulting in subsidence at levels causing damage or risk of damage to overlying infrastructure that affects parties outside of an existing management area, additional land use planning, engineering, capital improvement and monitoring and reporting requirements -- including possible pumping restrictions in the impacted area -- should be implemented by the local or regional groundwater management agency.
4. **Assess Groundwater Connection to Surface Waters.** GMPs should include an evaluation of the relationship the surface water source has to groundwater levels and quality in the subbasin or basin and identify the impacts, if any, on the surface water source and its related public benefits.
5. **Improve Data Availability.** Many groundwater management agencies currently monitor and collect groundwater data to implement successful groundwater management strategies to address overdraft conditions or concerns. Consistent with their GMPs, groundwater management agencies should collect appropriate management data and make it publicly available both locally and to the state through the Department of Water Resources' (DWR) California Statewide Groundwater Elevation Monitoring (CASGEM) program.
6. **Increase Groundwater Storage.** Storing surface water in underground storage basins is necessary to optimize use of the state's limited and highly variable water supplies. This need will only increase with climate change. California must take aggressive steps to develop significant new groundwater storage and conjunctive use projects, including potential state funding for local project capital costs.
7. **Remove Impediments to Recharge.** Coordinated and planned use of surface water, recycled water, stormwater and groundwater resources to maximize the availability and reliability of water supplies is an essential management method. Policies that are impediments to groundwater recharge should be evaluated and revised as necessary.
8. **Do No Harm.** In many areas of the state, sustainable local and regional groundwater management is being accomplished successfully. Contemplated changes to groundwater management statutes and other potential requirements should not impose additional undue burdens or mandates in these areas.
9. **Reassess Surface Water Reallocations.** Actions by the State Water Resources Control Board (SWRCB) to reallocate surface water supplies to dedicated instream uses and water quality certification requirements have affected and will continue to affect to a significant degree the management and sustainability of groundwater basins in areas that previously relied on that surface water. Consequently, implications for groundwater management should be considered explicitly when the SWRCB undertakes its balancing of beneficial uses of water in the broad public interest.



10. **Provide State Financial and Technical Assistance.**

The state, through DWR, should provide significant new financial assistance and technical support to local and regional agencies for improving or developing GMPs. Developing management capacity in currently unmanaged areas should be the first priority.

11. **Provide a “Backstop.”** SWRCB authority should be applied only where local agencies are unwilling or unable to sustainably manage the groundwater resource despite having the tools and authorities to do so and when an appropriate period of time has passed (considering the unique management issues and geology/hydrology of the subbasin or basin) without demonstrated progress toward sustainability. The SWRCB should intervene as a last resort, in carefully prescribed circumstances and for limited duration, and should restore local control at the earliest opportunity.

# Recommended Administrative and State Legislative Actions

ACWA recommends the following administrative and state legislative actions to help achieve the above policy objectives. Actions should be prioritized to address critical, rapidly deteriorating basins or subbasins through a combination of capacity building, technical assistance and financial support. New requirements and new local and regional authorities should be established where needed to initiate and implement effective GMPs.

## 1. Adopt State Definition of “Sustainable Groundwater Management”

The state should adopt a definition of “sustainable groundwater management” in statute. ACWA recognizes this is a complex issue that must take into account spatial and time scale considerations, multiple resource management objectives and stakeholder perspectives.

In its 2011 Groundwater Framework, ACWA developed the following definition of sustainability in the context of groundwater:

### ACWA 2011 Definition of “Sustainability”

*Actively managing the resource at the local level in a way that satisfies the needs of both the environment and the economy while ensuring the continued health of the basin.<sup>1</sup>*

ACWA also agrees with and has cited the following definition developed by the United States Geological Survey (USGS):

### United States Geological Survey: “Sustainability of Groundwater Resources”

*Development and use of groundwater in a manner that can be maintained for an indefinite time without causing unacceptable environmental, economic, or social consequences.<sup>2</sup>*

Sustainability by nature implies a perpetual timeframe. In this context, ACWA recommends the following updated definition to underscore that sustainable groundwater management requires a long-term and continuous investment in effective planning and implementation.

### Proposed State Definition of “Sustainable Groundwater Management”

*“Sustainable groundwater management” is the management and use of groundwater in a manner that can be maintained during the planning and implementation horizon without causing unacceptable related environmental, economic or social consequences through the development, implementation and updating of plans and programs based on the best available science, monitoring, forecasting and use of technological resources.*

Local or regional GMPs should be required to develop subbasin or basin-relevant indicators and performance metrics that could be used by DWR and the SWRCB to evaluate objectively the plans’ ability to achieve progress toward “sustainable groundwater management.”

## 2. Prioritize Unmanaged Basins or Subbasins

The state must identify and prioritize action based on the severity of groundwater threats in basins and subbasins that are not currently being managed by local or regional agencies. DWR should be directed to identify those basins or subbasins that are designated as “medium” or “high” priority based on the CASGEM basin prioritization study (2013) and that are not currently being managed by a local or regional groundwater management agency or that are not currently covered by a comprehensive (meaning complete coverage of the basin or subbasin) local or

<sup>1</sup> ACWA (2011). *Sustainability From the Ground Up: Groundwater Management in California – A Framework* p.7

<sup>2</sup> Alley, W.M., Reilly, T.E., and Franke, O.L. (1999). *Sustainability of Ground-Water Resources: U.S. Geological Survey Circular 1186.*

regional GMP (or functional equivalent). DWR also should identify other specific areas where groundwater use is creating damage or significant risk of damage to overlying infrastructure (conveyance, transportation, flood channels, distribution systems, etc.) external to that of the management agency that is not being addressed currently and where groundwater management assistance may be warranted.

### 3. Adopt Uniform Minimum Requirements for Groundwater Management Plans and Implementation

The state should adopt uniform minimum requirements for GMPs for all basins or subbasins (with the exception of adjudicated basins or subbasins). Existing local and regional GMPs in basins or subbasins statewide should be reviewed and updated by the local or regional groundwater management agency to meet the following requirements:

- a. **Planning Boundary.** The optimum unit for groundwater management should be a subbasin as defined by DWR Bulletin 118. Preferably, each subbasin should be covered by only one GMP. Where multiple existing plans cover different portions of a subbasin or basin, they should demonstrate coordination such that the goals and basin management objectives of respective GMPs are complementary in their contribution to basin sustainability and do not conflict or impede management activities of neighboring groundwater management agencies. All lands overlying the subbasin should be subject to the provisions of the locally-adopted GMPs. A groundwater management planning agency should be authorized to incorporate into its existing GMP neighboring areas overlying its subbasin not already covered by another GMP. A subbasin boundary may be adjusted to address hydrologic conditions and other features of the subbasin, based on a technical analysis supporting the boundary adjustment and in consultation with adjacent subbasin groundwater management agencies and DWR. If groundwater users in a portion of a subbasin outside of the jurisdictional boundary of a groundwater management agency choose not to participate in a GMP, they should be required to prepare an individual GMP and be subject to SWRCB intervention as described in Recommendation 7 in this section.
- b. **Plan Standards.** GMPs should satisfy SB 1938 (Water Code Section 10753 et seq.) standards or their functional equivalent, including basin management objectives associated with groundwater quantity and quality, as well as subsidence and monitoring programs that meet the sustainability objective discussed above. Existing GMPs that do not meet SB 1938 standards should be required to be updated to satisfy them.
- c. **Compliance Requirements.** GMPs in basins or subbasins designated by DWR as “medium” or “high” priority based on the CASGEM basin prioritization study should be updated and adopted by local and regional agencies within five years of establishment of the mandatory minimum standards. GMPs should not be required in “low” priority basins or subbasins but should be encouraged and supported. GMPs should be required if a “low” priority basin or subbasin is subsequently reclassified as “medium” or “high.” GMPs should include an implementation schedule and best management practices and tools to ensure local and regional agencies can verify progress toward achievement of quantifiable basin management objectives, resulting in sustainable groundwater management.
- d. **Sustainability Timeframe.** GMPs should be developed to ensure that sustainable groundwater management (defined above) will be achieved over a specific timeframe, which must be long enough to be feasible and provide for implementation success (groundwater moves extremely slowly), yet short enough to spur committed action. GMPs should include an analysis demonstrating that implementation of the basin management objectives should achieve sustainable groundwater management in the basin or subbasin within 20 years. GMPs should include a planning and implementation horizon of at least 50 years. Extensions beyond the 20-year sustainability timeframe may be necessary in some instances based on particular circumstances; but in no case should an extension exceed 10 years (30 years total).
- e. **Groundwater Extraction Prohibition.** Extraction of groundwater for newly developed lands (including agricultural plantings) outside of groundwater management areas is a significant issue. Unless covered by a GMP, groundwater extractions for new development (commercial,

multi-family residential or industrial) or new plantings of permanent crops should be prohibited in “medium” and “high” priority groundwater subbasins. (This provision should not apply to single-family domestic wells.) As discussed below, this requirement should be administered through a locally-administered well permitting process.

- f. **Technical Review and Approval.** GMPs should be subject to technical review for adequacy by DWR and should be approved, conditionally approved or determined to be inadequate and returned for revision within six months. GMPs that are determined to be inadequate should be revised and resubmitted to DWR within six months. For GMPs that continue to be determined to be inadequate, the SWRCB should intervene and impose an adequate GMP (after a public hearing) as necessary to ensure progress toward sustainability of the subbasin or basin. (See Recommendation 7 below.)
- g. **Performance Reporting.** Performance reports for all GMPs comparing current status to basin management objectives should be submitted to DWR annually. Summaries of monitoring data should be made available regularly to DWR’s CASGEM program and locally to basin or subbasin stakeholders through web-based applications or similar methods.
- h. **Performance Review.** GMPs and performance reports for subbasins identified through CASGEM as “medium” and “high” priority areas should be subject to review by the SWRCB on a periodic basis (every five years) to ensure that they are meeting performance metrics and are progressing toward or have achieved sustainable groundwater management.

#### 4. Develop Best Management Practices

DWR should be directed to develop a best management practices (BMPs) guidebook that would provide a “toolbox” for local and regional groundwater management agencies to facilitate completion of effective GMPs and provide a template for evaluation of their adequacy. This BMPs guidebook should be developed using a robust and inclusive stakeholder process (similar to the process already in place to develop guidance for preparation of Urban Water Management Plans or Agricultural Water Management Plans). Example BMPs from existing successful GMPs

should be considered, along with best practices proposed by groundwater management professionals, associations, academia and other sources.

GMPs would not be required to incorporate all of the identified BMPs. The local or regional groundwater management agency would select BMPs for inclusion in the GMP that would result in a sustainably-managed subbasin or basin. Additionally, the local or regional agency could develop or adopt alternative practices that would result in a sustainably-managed basin or subbasin.

The BMPs guidebook should include, but not be limited to, the following elements:

- a. **Illustrative Quantifiable Basin Management Objectives.** Methods for developing quantifiable basin management objectives relevant to the conditions of a particular subbasin, which could include but not be limited to: groundwater quantity assessment and monitoring, annual operational parameters for exercising the subbasin, drought management, aquifer recharge (both direct and indirect) and storage, groundwater quality, percolation capability or injection levels, land subsidence and characterization of surface water-groundwater relationships based on subbasin-specific hydrological analysis.
- b. **Subbasin Boundary Adjustment.** Methods for conducting subbasin interconnectivity analysis and adjusting subbasin boundaries. This could be similar to the Integrated Regional Water Management (IRWM) boundary determination and acceptance process administered by DWR.
- c. **Groundwater Monitoring.** Methods for implementing groundwater monitoring programs for groundwater elevation, extraction, aquifer recharge, change in storage and water quality.
- d. **Well Permitting.** Administrative methods for well permitting, well construction and well abandonment.
- e. **Groundwater Recharge.** Protocols for evaluating and implementing spreading basin and storage projects, for example: stormwater capture and related potential treatment and recharge projects, on-farm return systems, multi-objective flood control and habitat restoration projects and other methods to increase groundwater supplies.

- f. **Sustainability Indicators.** Methods to develop and apply locally relevant sustainability indicators that can be used to demonstrate sustainable groundwater management (as defined above).
- g. **Overdraft Measures.** Taking into account that some groundwater management agencies “exercise” their basins and utilize regular groundwater withdrawals and drawdown (“managed overdraft”) as tools within a comprehensive multi-source, multi-year planning horizon, methods should be identified to develop locally relevant measures of “overdraft” and “critical condition of overdraft.” DWR Bulletin 118 definitions provide reasonable guideposts for consideration. The definition of “overdraft” in Bulletin 118 is “the condition of a ground water basin where the amount of water extracted exceeds the amount of ground water recharging the basin over a period of time,” and “critical condition of overdraft” is defined as water management practices that “would probably result in significant adverse overdraft-related environmental, social, or economic effects.”
- h. **Public Review Process.** Protocols for conducting open, inclusive and transparent stakeholder and public review processes in the development, implementation and administration of a GMP.
- i. **Governance Structures.** Examples of governance structure options that could be used to prepare and manage GMPs based on the specific conditions and needs of the basin or subbasin, or where joint governance or coordination of multiple GMPs is necessary or preferable. In the latter instance, governance options may include, but are not limited to, a Joint Powers Authority (JPA), a Memorandum of Understanding (MOU) among existing agencies, an IRWM planning group, a newly created special district, any of which may include a locally-authorized Watermaster, or some other appropriate local or regional governance entity.
- j. **Data Collection and Reporting.** Protocols and standards for conducting adequate data collection and reporting of groundwater elevations, water quality, subsidence levels and surface water-groundwater relationships to verify progress toward basin management objectives. The BMPs should include recommended quality control and quality assurance protocols.
- k. **Demand Management.** Examples of potentially applicable demand management programs including, but not limited to, use of irrigation and water use efficiency technology, land retirement programs, conservation easements and related incentives, pumping restrictions, tiered allocation of usable groundwater and closer integration with demand management programs contained in Urban Water Management Plans or Agricultural Water Management Plans of agencies within GMP areas.

## 5. Enhance Local and Regional Agency Authority

Local and regional groundwater management agencies need enhanced authority to successfully implement their GMP basin management objectives to achieve sustainable groundwater management. Although some types of local or regional groundwater agencies or forms of governance are currently authorized and already may be using some of the following authorities, this is generally the exception rather than the rule. Local and regional groundwater management agencies statewide should be granted all of the following authorities and be empowered to select the ones they determine to be necessary and most effective to implement their GMPs.

- a. **Groundwater Management Fees.** Groundwater management agencies need to fund required planning and administrative activities, data collection and reporting, acquisition of supplemental water for replenishment, acquisition of lands or easements to reduce demand, and implementation of BMPs. Local or regional agencies should be granted authority to impose fees or assessments based on estimates or reports of groundwater use or other means in compliance with existing state law. Legislation may be needed to address current barriers to imposing local groundwater-related fees. (See Recommendation 6.)
- b. **Groundwater Allocation and Extraction Limits.** The rights of individuals to pump groundwater should be subject to responsible management regulations by groundwater management agencies in much the same way that the use of property is subject to land use regulations by cities and counties. Groundwater management agencies should be authorized to monitor or estimate groundwater use within a basin or subbasin and



impose allocation programs or pumping restrictions in time or amount, create exemptions for small or disadvantaged users, or to develop tiered pricing or other market-based means to implement basin management objectives and ensure sustainable groundwater management. Allocation and extraction limits may raise a significant issue with respect to groundwater rights and legal priorities among groundwater users. Further legal analysis and discussion of such issues is necessary to ensure these tools and authorities can be implemented in a legally defensible manner.

- c. **Well Permitting.** Some local or regional groundwater management agencies manage well permitting programs. In other cases counties manage well permitting programs that may or may not be implemented cooperatively with groundwater managers. Where well permitting programs are lacking or need significant improvement to provide essential management information to implement GMPs and basin management objectives, local or regional groundwater management agencies should be authorized to assume or cooperatively manage well permitting responsibilities. Existing well permitting programs may need to be expanded and adequately funded to ensure that location, well depth, water quality and production information is collected and well construction specifications and well abandonment standards are enforced. New well permits should be conditioned upon receiving a water availability determination and “will serve” letter (see “e” below).
- d. **New “Summary Proceeding” Enforcement Capability.** Along with new responsibilities and authorities to manage groundwater, local or regional groundwater management agencies should be granted new enforcement authority. Enforcement should be focused and limited to those instances where landowners or other groundwater users are in violation of groundwater management requirements, have been issued time-limited corrective notices and have been given a reasonable period to comply. In these cases, the landowner should be subject to a “summary proceeding” such as authorized by California Code of Civil Procedure, Part 3, Title 3 to enforce property-related violations. This provision could be amended to add a new chapter, “Summary Proceedings Associated with Violation of Basin or Subbasin Groundwater Regulation,” which would be instituted to obtain appropriate judicial review, judgment and writ of execution (with service and return by appropriate sworn law enforcement personnel in cooperation with the groundwater management agency) resulting in cessation of the groundwater extraction and use pending the completion of required corrective measures and payment of monetary damages, attorney fees and costs of the proceeding.
- e. **Water Availability Determinations.** Currently, new development projects are required to secure “will serve” letters from local water agencies, and larger projects are subject to Water Availability Determinations to show that sufficient water is available as part of the land use approval process. This requirement should be expanded. Land use agencies should be required to consider protection of prime groundwater recharge areas and consult groundwater management agencies regarding any significant groundwater-dependent development, including new permanent crop plantings, in order to obtain “will serve” letters and Water Availability Determinations.
- f. **GMP Consistency Determinations.** County and city general plans are currently required to consider the Urban Water Management Plans of water agencies within their jurisdictions. This requirement should be extended to GMPs for the basins or subbasins within their jurisdictions. In addition, groundwater management agencies should be authorized to issue “GMP Consistency Determinations” for all new proposed industrial, residential or agricultural development (including introduction of permanent crops) that may have a significant effect on groundwater resources. “GMP Consistency Determinations” should be used by the lead agency to inform project environmental impact assessments and discretionary land use approvals. Where new proposed groundwater use is determined to be inconsistent with the GMP and to impede attainment of sustainable groundwater management, it should be presumed to have a “significant adverse impact on the environment” under CEQA and either be mitigated or be subject to a Statement of Overriding Consideration by the lead agency.

- g. **Expedited LAFCO Formation Assistance.** In basins or subbasins in which there is no existing local and regional groundwater management agency, the applicable Local Area Formation Commission should be authorized to provide special technical assistance and an expedited timeline to facilitate the formation of such an agency. This process also should apply to existing groundwater management agencies that are required or seek to annex into their jurisdictions unmanaged lands overlying the subbasin or basin managed pursuant to their GMPs. The cost to provide this expedited agency formation assistance should be included in the new agency's administrative budget and assessment fees and reimbursed to the LAFCO within one year of the creation of the new agency.

## 6. Ensure Adequate Funding

The SWRCB and DWR should coordinate available funding and resources from the Governor's proposed budget to identify basins or subbasins lacking coverage by an existing comprehensive GMP (see Recommendation 2, above).

For basins or subbasins in which there are existing local or regional groundwater management agencies to prepare or revise and implement GMPs, required funding should be predominantly based on local or regional fees or assessments, assuming successful implementation of Recommendation 5a., regarding funding. Local or regional groundwater management agencies also should continue to supplement their funding through grants or loans from existing state and federal funding programs (especially if the basin or subbasin includes disadvantaged communities that are dependent upon groundwater that fails to meet public health standards).

ACWA opposes the imposition of a statewide water user fee or "public goods charge" but stands ready to work with the Administration to identify alternative ways to help ensure adequate funding for local and regional groundwater management agencies to implement their GMPs. ACWA acknowledges the constraints local agencies face in raising fees for needed groundwater management investments (e.g. Proposition 218) and is committed to a dialog about sustainable and integrated financing.

Finally, an additional funding source may be created during development of a new proposed state water

bond, if approved by California voters. Significant bond funding could be targeted to create an incentive for development of new groundwater storage projects in basins or subbasins that have adopted GMPs and sustainability indicators that demonstrate sustainable groundwater management.

## 7. Provide for State Backstop Authority When Local Action Has Not Occurred or Has Been Insufficient

In those instances where there is no groundwater management agency in a basin or subbasin and where the local or regional entity does not develop or implement a compliant GMP within defined timelines, or where the local or regional entity fails to meet performance objectives set forth in an approved GMP, the SWRCB should hold a hearing for each basin or subbasin and invite affected local, regional and other stakeholders to present information to inform SWRCB decision-making regarding whether corrective action is necessary and likely to be most effective under the specific circumstances.

Based on the results of the hearing, the SWRCB should either 1) issue an order to a qualified local or regional agency that includes a compliance schedule for completion and implementation of a GMP that will result in progress toward sustainability; or 2) assign to a qualified third party the responsibility to develop and implement a compliant GMP under contract to the SWRCB and subject to final approval by the SWRCB. In either case, the SWRCB should be given authority to assess a fee sufficient to cover the cost of SWRCB administration, and any work by a third-party contractor. The fee should be collected by the local agency, and it should be clear that the fee is a "property-related fee."

During this period of plan development, the SWRCB should order that groundwater extraction be reduced throughout the subbasin as necessary to preserve the potential for achieving sustainable groundwater management within a 30-year timeframe. The SWRCB should be required to hold a hearing to develop a protocol or allow for alternatives to achieve the same reduction in demand to facilitate recovery of the basin.

SWRCB should return management to a new or existing qualified local or regional agency as soon as practicable after a reasonable demonstration of willingness, organization and financial capacity has been made.

## **8. Remove Impediments to Water Supply Reliability**

Sustainable groundwater management in California depends on creating more opportunities for robust conjunctive management of surface water resources. Many groundwater basins facing unsustainable overdraft conditions have depended on previously reliable surface water supplies that are no longer available. A significant number of these areas have lost surface supplies that were once conjunctively managed but have now been reallocated to serve instream or other regulatory requirements in response to various judicial, state and federal mandates. Climate change will only intensify the need to recalibrate and reconcile surface and groundwater management strategies.

As an illustration, water conveyed through the Delta for delivery to areas on the west side of the San Joaquin Valley and the Tulare Basin has been greatly reduced over the past 20 years due to a variety of regulatory actions. Those deliveries — and deliveries to Southern California and parts of the Bay Area, as well — were designed in part to remedy overdraft conditions recognized many years ago. Both the state and federal governments, as operators of the State Water Project and the federal Central Valley Project, respectively, have reduced the reliability and average amount of deliveries and thus have severely diminished the supplemental supplies historically available and incorporated into plans for conjunctive use in these areas. Similar changes and resulting ramifications have occurred in some portions of the east side of the San Joaquin Valley as well. The SWRCB and the Administration cannot divorce groundwater conditions and management from overall state water policy. Any public trust balancing by the SWRCB must weigh the value of surface water for groundwater replenishment and recharge to promote the state's interest in groundwater sustainability.

The SWRCB and DWR should identify ways to reduce impediments and regulatory barriers to facilitate more water transfers, increase stormwater and recycled water recharge, and provide significant funding and technical assistance to develop projects that restore conjunctive balance by facilitating new surface and groundwater storage and conveyance projects statewide.



## IV. Statement of Commitment

ACWA and its member agencies have demonstrated a history of strong leadership in confronting and embracing needed changes to manage our groundwater resources in California. ACWA is committed to working with the state and with urban and agricultural water users, growers and landowners, environmental and disadvantaged community interests, and other stakeholders on an effective approach to promote and achieve sustainable groundwater management throughout California.

# ACWA Groundwater Sustainability Task Force

Randy Record, Chair  
David Orth, Vice Chair  
Roland Sanford  
Stan Wangberg  
Bill George  
Rob Roscoe  
Jill Duerig  
Matthew Hurley  
William Taube  
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Craig Ewing  
Gary Arant  
Greg Zlotnick  
Thad Bettner

Eastern Municipal Water District  
Kings River Conservation District  
Hidden Valley Lake Community Services District  
Anderson-Cottonwood Irrigation District  
El Dorado Irrigation District  
Sacramento Suburban Water District  
Zone 7 Water Agency  
Angiola Water District  
Wheeler Ridge-Maricopa Water Storage District  
Upper San Gabriel Valley Municipal Water District  
Desert Water Agency  
Valley Center Municipal Water District  
San Luis & Delta-Mendota Water Authority  
Glenn-Colusa Irrigation District

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Elsinore Valley MWD, Director  
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**FOR IMMEDIATE RELEASE**

ACWA News Release 14-10

April 7, 2014

**Contact:** Jennifer Persike, Deputy Ex. Dir. of External Affairs and Operations, 916/441-4545  
Lisa Lien-Mager, Director of Communications, 916/441-4545 or 530/902-3815 (cell)

## **ACWA Releases Recommendations to Improve Groundwater Management in California**

*Bold Suite of Legislative, Administrative Changes Identified to Address Overdraft, Achieve Sustainability*

**SACRAMENTO** – – The statewide Association of California Water Agencies (ACWA) today issued a suite of far-reaching recommendations for improving management of groundwater basins throughout California.

The [recommendations](#) include legislative and administrative changes that strengthen groundwater management and accountability where it is deficient, provide new tools and authorities to accelerate progress by local and regional agencies, and guide enhanced state support where needed.

“Groundwater is a significant water supply source in many parts of California, but there are serious problems with groundwater level declines, local subsidence and degraded water quality in some areas,” ACWA President John Coleman said. “Public water agencies have a strong record of leadership and expertise in managing groundwater basins, but there is a clear need for new tools and authorities and closer collaboration with state agencies to meet the challenge.

“These recommendations are groundbreaking for ACWA, but we believe California must take bold steps immediately to solve this problem and develop a comprehensive solution to long-term groundwater sustainability,” Coleman said.

ACWA’s recommendations come as discussions continue in the regulatory and legislative arenas to identify ways to address potentially unsustainable declines in groundwater levels and degraded groundwater quality in some basins of the state. The drought has brought the problem into even sharper focus.

The recommendations, approved by the ACWA Board of Directors on March 28, were developed by a special task force established by the Board in November.

David Orth, general manager of Kings River Conservation District and vice chair of the ACWA task force, said the suggested actions reflect the water community's desire to put workable solutions on the table and be part of a constructive dialog on groundwater.

"Most basins in California are being very well managed at the local level. Some, however, are not there yet," Orth said. "We need to acknowledge there are issues out there, and provide the tools and authorities that can help local and regional entities address the challenge."

The recommendations call for the following:

- New uniform requirements for groundwater management planning and performance reporting;
- Adoption of a new definition of "sustainable groundwater management" in state law;
- A menu of best management practices for implementing groundwater management plans;
- New tools and authorities for local groundwater management agencies;
- New state administrative measures to ensure local groundwater management accountability;
- A funding approach to support local capacity building and implementation;
- Comprehensive state action to remove impediments to surface water supply reliability.

Orth stressed the important role surface water deliveries have played in managing groundwater basins in the San Joaquin Valley. Those supplies have been sharply reduced in recent years due to drought, regulatory restrictions to protect species, and other factors.

"Overdraft in many areas is being exacerbated by unreliable surface water supplies, made worse by three dry years," Orth said. "Groundwater managers have lost the single best tool they have for recharging basins – reliable surface water supplies."

#### **Resources**

- [ACWA Recommendations for Achieving Groundwater Sustainability](#)
- [ACWA 2011 Groundwater Framework](#)

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*ACWA is a statewide association of public agencies whose 430 members are responsible for about 90% of the water delivered in California. For more information, visit [www.acwa.com](http://www.acwa.com).*

###

# Sustainable Groundwater Management Act

[And Related Statutory Provisions from  
SB1168 (Pavley), AB1739 (Dickinson), and SB1319 (Pavley)  
as Chaptered]

Newly added code sections are shown in black text. Where existing code sections were amended, those modifications are shown in underline and ~~strikeout~~. **BOLD-SMALL CAPS** section headings are provided for convenience and reference and are not part of the California Code.

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## Sustainable Groundwater Management Act

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convenience and reference and are not part of the  
California Code.

### UNCODIFIED FINDINGS

---

(a) The Legislature finds and declares as follows:

- (1) The people of the state have a primary interest in the protection, management, and reasonable beneficial use of the water resources of the state, both surface and underground, and that the integrated management of the state's water resources is essential to meeting its water management goals.
- (2) Groundwater provides a significant portion of California's water supply. Groundwater accounts for more than one-third of the water used by Californians in an average year and more than one-half of the water used by Californians in a drought year when other sources are unavailable.
- (3) Excessive groundwater extraction can cause overdraft, failed wells, deteriorated water quality, environmental damage, and irreversible land subsidence that damages infrastructure and diminishes the capacity of aquifers to store water for the future.
- (4) When properly managed, groundwater resources will help protect communities, farms, and the environment against prolonged dry periods and climate change, preserving water supplies for existing and potential beneficial use.
- (5) Failure to manage groundwater to prevent long-term overdraft infringes on groundwater rights.
- (6) Groundwater resources are most effectively managed at the local or regional level.
- (7) Groundwater management will not be effective unless local actions to sustainably manage groundwater basins and subbasins are taken.
- (8) Local and regional agencies need to have the necessary support and authority to manage groundwater sustainably.
- (9) In those circumstances where a local groundwater management agency is not managing its groundwater sustainably, the state needs to protect the resource until it is determined that a local groundwater management agency can sustainably manage the groundwater basin or subbasin.

(10) Information on the amount of groundwater extraction, natural and artificial recharge, and groundwater evaluations are critical for effective management of groundwater.

(11) Sustainable groundwater management in California depends upon creating more opportunities for robust conjunctive management of surface water and groundwater resources. Climate change will intensify the need to recalibrate and reconcile surface water and groundwater management strategies.

*(12) Sustainability groundwater management is part of implementation of the California Water Action Plan.*<sup>†</sup>

(b) It is, therefore, the intent of the Legislature to do all of the following:

(1) To provide local and regional agencies the authority to sustainably manage groundwater.

(2) To provide that if no local groundwater agency or agencies provide sustainable groundwater management for a groundwater basin or subbasin, the state has the authority to develop and implement an interim plan until the time the local groundwater sustainability agency or agencies can assume management of the basin or subbasin.

(3) To require the development and reporting of those data necessary to support sustainable groundwater management, including those data that help describe the basin's geology, the short- and long-term trends of the basin's water balance, and other measures of sustainability, and those data necessary to resolve disputes regarding sustainable yield, beneficial uses, and water rights.

(4) To respect overlying and other proprietary rights to groundwater, *consistent with Section 1200 of the Water Code.*<sup>†</sup>

(5) To recognize and preserve the authority of cities and counties to manage groundwater pursuant to their police powers.

## Government Code

### **65350.5. REVIEW AND CONSIDERATION OF GROUNDWATER REQUIREMENTS**

---

Before the adoption or any substantial amendment of a city's or county's general plan, the planning agency shall review and consider all of the following:

(a) An adoption of, or update to, a groundwater sustainability plan or groundwater management plan pursuant to Part 2.74 (commencing with Section 10720) or Part 2.75 (commencing with Section 10750) of Division 6 of the Water Code or groundwater management court order, judgment, or decree.

(b) An adjudication of water rights.

<sup>†</sup> *Italicized findings language represents finding language included in AB1739 (Dickinson) that does not appear in SB1168 (Pavley).*

(c) An order or interim plan by the State Water Resources Control Board pursuant to Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6 of the Water Code.

#### **65352. REFERRAL OF PROPOSED GENERAL PLAN UPDATES TO OTHER AGENCIES**

---

(a) ~~Prior to action by~~ **Before** a legislative body **takes action** to adopt or substantially amend a general plan, the planning agency shall refer the proposed action to all of the following entities:

(1) A city or county, within or abutting the area covered by the proposal, and any special district that may be significantly affected by the proposed action, as determined by the planning agency.

(2) An elementary, high school, or unified school district within the area covered by the proposed action.

(3) The local agency formation commission.

(4) An areawide planning agency whose operations may be significantly affected by the proposed action, as determined by the planning agency.

(5) A federal agency, if its operations or lands within its jurisdiction may be significantly affected by the proposed action, as determined by the planning agency.

(6) (A) The branches of the United States Armed Forces that have provided the Office of Planning and Research with a California mailing address pursuant to subdivision (d) of Section 65944 ~~when, if~~ the proposed action is within 1,000 feet of a military installation, or lies within special use airspace, or beneath a low-level flight path, as defined in Section 21098 of the Public Resources Code, ~~provided that and if~~ the United States Department of Defense provides electronic maps of low-level flight paths, special use airspace, and military installations at a scale and in an electronic format that is acceptable to the Office of Planning and Research.

(B) Within 30 days of a determination by the Office of Planning and Research that the information provided by the Department of Defense is sufficient and in an acceptable scale and format, the office shall notify cities, counties, and cities and counties of the availability of the information on the Internet. Cities, counties, and cities and counties shall comply with subparagraph (A) within 30 days of receiving this notice from the office.

(7) A public water system, as defined in Section 116275 of the Health and Safety Code, with 3,000 or more service connections, that serves water to customers within the area covered by the proposal. The public water system shall have at least 45 days to comment on the proposed plan, in accordance with subdivision (b), and to provide the planning agency with the information set forth in Section 65352.5.

(8) **Any groundwater sustainability agency that has adopted a groundwater sustainability plan pursuant to Part 2.74 (commencing with Section 10720) of Division 6 of the Water Code or local agency that otherwise manages groundwater pursuant to other provisions of law or a court order, judgment, or decree within the planning area of the proposed general plan.**

(9) The State Water Resources Control Board, if it has adopted an interim plan pursuant to Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6 of the Water Code that includes territory within the planning area of the proposed general plan.

(10) The Bay Area Air Quality Management District for a proposed action within the boundaries of the district.

~~(9) On and after March 1, 2005, a~~ (11) A California Native American tribe that is on the contact list maintained by the Native American Heritage Commission, ~~with~~ and that has traditional lands located within the city's or county's jurisdiction.

~~(11)~~ (12) The Central Valley Flood Protection Board for a proposed action within the boundaries of the Sacramento and San Joaquin Drainage District, as set forth in Section 8501 of the Water Code.

(b) ~~Each~~ An entity receiving a proposed general plan or amendment of a general plan pursuant to this section shall have 45 days from the date the referring agency mails it or delivers it ~~in which~~ to comment unless a longer period is specified by the planning agency.

(c) (1) This section is directory, not mandatory, and the failure to refer a proposed action to the ~~other~~ entities specified in this section does not affect the validity of the action, if adopted.

(2) To the extent that the requirements of this section conflict with the requirements of Chapter 4.4 (commencing with Section 65919), the requirements of Chapter 4.4 shall prevail.

#### **65352.5. REQUIREMENT TO PROVIDE WATER-RELATED DOCUMENTS TO GENERAL PLAN AGENCY**

---

(a) The Legislature finds and declares that it is vital that there be close coordination and consultation between California's water supply or management agencies and California's land use approval agencies to ensure that proper water supply and management planning occurs to accommodate projects that will result in increased demands on water supplies or impact water resource management.

(b) It is, therefore, the intent of the Legislature to provide a standardized process for determining the adequacy of existing and planned future water supplies to meet existing and planned future demands on these water supplies and the impact of land use decisions on the management of California's water supply resources.

(c) Upon receiving, pursuant to Section 65352, notification of a city's or a county's proposed action to adopt or substantially amend a general plan, a public water system, as defined in Section 116275 of the Health and Safety Code, with 3,000 or more service connections, shall provide the planning agency with the following information, as is appropriate and relevant:

(1) The current version of its urban water management plan, adopted pursuant to Part 2.6 (commencing with Section 10610) of Division 6 of the Water Code.

(2) The current version of its capital improvement program or plan, as reported pursuant to Section 31144.73 of the Water Code.



(3) A description of the source or sources of the total water supply currently available to the water supplier by water right or contract, taking into account historical data concerning wet, normal, and dry runoff years.

(4) A description of the quantity of surface water that was purveyed by the water supplier in each of the previous five years.

(5) A description of the quantity of groundwater that was purveyed by the water supplier in each of the previous five years.

(6) A description of all proposed additional sources of water supplies for the water supplier, including the estimated dates by which these additional sources should be available and the quantities of additional water supplies that are being proposed.

(7) A description of the total number of customers currently served by the water supplier, as identified by the following categories and by the amount of water served to each category:

(A) Agricultural users.

(B) Commercial users.

(C) Industrial users.

(D) Residential users.

(8) Quantification of the expected reduction in total water demand, identified by each customer category set forth in paragraph (7), associated with future implementation of water use reduction measures identified in the water supplier's urban water management plan.

(9) Any additional information that is relevant to determining the adequacy of existing and planned future water supplies to meet existing and planned future demands on these water supplies.

**(d) Upon receiving, pursuant to Section 65352, notification of a city's or a county's proposed action to adopt or substantially amend a general plan, a groundwater sustainability agency, as defined in Section 10721 of the Water Code, or an entity that submits an alternative under Section 10733.6 shall provide the planning agency with the following information, as is appropriate and relevant:**

**(1) The current version of its groundwater sustainability plan or alternative adopted pursuant to Part 2.74 (commencing with Section 10720) of Division 6 of the Water Code.**

**(2) If the groundwater sustainability agency manages groundwater pursuant to a court order, judgment, decree, or agreement among affected water rights holders, or if the State Water Resources Control Board has adopted an interim plan pursuant to Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6 of the Water Code, the groundwater sustainability agency shall provide the planning agency with maps of recharge basins and percolation ponds, extraction limitations, and other relevant information, or the court order, judgment, or decree.**

[\(3\) A report on the anticipated effect of proposed action to adopt or substantially amend a general plan on implementation of a groundwater sustainability plan pursuant to Part 2.74 \(commencing with Section 10720\) of Division 6 of the Water Code.](#)

## Water Code

### **113. STATE POLICY OF SUSTAINABLE, LOCAL GROUNDWATER MANAGEMENT**

---

It is the policy of the state that groundwater resources be managed sustainably for long-term reliability and multiple economic, social, and environmental benefits for current and future beneficial uses. Sustainable groundwater management is best achieved locally through the development, implementation, and updating of plans and programs based on the best available science.

### **348. EMERGENCY REGULATIONS FOR ELECTRONIC FILING**

---

(a) The department or the board may adopt emergency regulations providing for the electronic filing of reports of [water extraction or](#) water diversion or use required to be filed with the department or board under this code, including, but not limited to, any report required to be filed under Part 5.1 (commencing with Section 5100) [or Part 5.2 \(commencing with Section 5200\)](#) of Division 2 and any report required to be filed by a water right permittee or licensee.

(b) Emergency regulations adopted pursuant to this section, or any amendments thereto, shall be adopted by the department or the board in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations or amendments to those regulations adopted under this section shall remain in effect until revised by the department or the board that adopted the regulations or amendments.

### **1120. RECONSIDERATION OF STATE WATER BOARD DECISIONS AND ORDERS**

---

This chapter applies to any decision or order issued under this part or Section 275, Part 2 (commencing with Section 1200), Part 2 (commencing with Section 10500) of Division 6, [Chapter 11 \(commencing with Section 10735\) of Part 2.74 of Division 6,](#) Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, or the public trust doctrine.

### **1529.5. FEES FOR GROUNDWATER EXTRACTION REPORTS FILED WITH THE STATE WATER BOARD**

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(a) The board shall adopt a schedule of fees pursuant to Section 1530 to recover costs incurred in administering Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6. Recoverable costs include, but are not limited to, costs incurred in connection with investigations, facilitation, monitoring, hearings, enforcement, and administrative costs in carrying out these actions.

(b) The fee schedule adopted under this section may include, but is not limited to, the following:

(1) A fee for participation as a petitioner or party to an adjudicative proceeding.

(2) A fee for the filing of a report pursuant to Part 5.2 (commencing with Section 5200) of Division 2.

(c) Consistent with Section 3 of Article XIII A of the California Constitution, the board shall set the fees under this section in an amount sufficient to cover all costs incurred and expended from the Water Rights Fund for the purposes of Part 5.2 (commencing with Section 5200) and Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6. In setting these fees, the board is not required to fully recover these costs in the year or the year immediately after the costs are incurred, but the board may provide for recovery of these costs over a period of years.

**1552. AUTHORIZED EXPENDITURES FOR THE WATER RIGHTS FUND**

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The money in the Water Rights Fund is available for expenditure, upon appropriation by the Legislature, for the following purposes:

(a) For expenditure by the State Board of Equalization in the administration of this chapter and the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code) in connection with any fee or expense subject to this chapter.

(b) For the payment of refunds, pursuant to Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code, of fees or expenses collected pursuant to this chapter.

(c) For expenditure by the board for the purposes of carrying out this division, Division 1 (commencing with Section 100), Part 2 (commencing with Section 10500) [and Chapter 11 \(commencing with Section 10735\) of Part 2.74](#) of Division 6, and Article 7 (commencing with Section 13550) of Chapter 7 of Division 7.

(d) For expenditures by the board for the purposes of carrying out Sections 13160 and 13160.1 in connection with activities involving hydroelectric power projects subject to licensing by the Federal Energy Regulatory Commission.

(e) For expenditures by the board for the purposes of carrying out Sections 13140 and 13170 in connection with plans and policies that address the diversion or use of water.

**1831. CEASE AND DESIST ORDERS**

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(a) When the board determines that any person is violating, or threatening to violate, any requirement described in subdivision (d), the board may issue an order to that person to cease and desist from that violation.

(b) The cease and desist order shall require that person to comply forthwith or in accordance with a time schedule set by the board.

(c) The board may issue a cease and desist order only after notice and an opportunity for hearing pursuant to Section 1834.

(d) The board may issue a cease and desist order in response to a violation or threatened violation of any of the following:

(1) The prohibition set forth in Section 1052 against the unauthorized diversion or use of water subject to this division.

(2) Any term or condition of a permit, license, certification, or registration issued under this division.

(3) Any decision or order of the board issued under this part, Section 275, [Chapter 11 \(commencing with Section 10735\) of Part 2.74 of Division 6](#), or Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, in which decision or order the person to whom the cease and desist order will be issued, or a predecessor in interest to that person, was named as a party directly affected by the decision or order.

(4) A regulation adopted under Section 1058.5.

[\(5\) Any extraction restriction, limitation, order, or regulation adopted or issued under Chapter 11 \(commencing with Section 10735\) of Part 2.74 of Division 6.](#)

(e) This article ~~shall~~does not authorize the board to regulate in any manner, the diversion or use of water not otherwise subject to regulation of the board under this part.

## **PART 5.2. Groundwater Extraction Reporting for Probationary Basins and Basins Without a Groundwater Sustainability Agency**

### **5200. FINDINGS**

The Legislature finds and declares that this part establishes groundwater reporting requirements for the purposes of subdivision (b) of Section 10724 and Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6.

### **5201. DEFINITIONS**

As used in this part:

(a) "Basin" has the same meaning as defined in Section 10721.

(b) "Board-designated local area" has the same meaning as defined in Section 5009.

(c) "De minimis extractor" has the same meaning as defined in Section 10721.

(d) "Groundwater" has the same meaning as defined in Section 10721.

(e) "Groundwater extraction facility" has the same meaning as defined in Section 10721.

(f) "Groundwater sustainability agency" has the same meaning as defined in Section 10721.

(g) "Person" has the same meaning as defined in Section 10735.

(h) "Personal information" has the same meaning as defined in Section 1798.3 of the Civil Code.

(i) "Probationary basin" has the same meaning as defined in Section 10735.

(j) "Water year" has the same meaning as defined in Section 10721.

**5202. APPLICABILITY OF EXTRACTION REPORTING REQUIREMENTS**

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(a) This section applies to a person who does either of the following:

(1) Extracts groundwater from a probationary basin 90 days or more after the board designates the basin as a probationary basin pursuant to Section 10735.2.

(2) Extracts groundwater on or after July 1, 2017, in an area within a basin that is not within the management area of a groundwater sustainability agency and where the county does not assume responsibility to be the groundwater sustainability agency, as provided in subdivision (b) of Section 10724.

(b) Except as provided in subdivision (c), a person subject to this section shall file a report of groundwater extraction by December 15 of each year for extractions made in the preceding water year.

(c) Unless reporting is required pursuant to paragraph (2) of subdivision (c) of Section 10735.2, this section does not apply to any of the following:

(1) An extraction by a de minimis extractor.

(2) An extraction excluded from reporting pursuant to paragraph (1) of subdivision (c) of Section 10735.2.

(3) An extraction reported pursuant to Part 5 (commencing with Section 4999).

(4) An extraction that is included in annual reports filed with a court or the board by a watermaster appointed by a court or pursuant to statute to administer a final judgment determining rights to water. The reports shall identify the persons who have extracted water and give the general place of use and the quantity of water that has been extracted from each source.

(d) Except as provided in Section 5209, the report shall be filed with the board.

(e) The report may be filed by the person extracting water or on that person's behalf by an agency that person designates and that maintains a record of the water extracted.

(f) Each report shall be accompanied by the fee imposed pursuant to Section 1529.5.

**5203. EXTRACTION REPORTING REQUIREMENTS**

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Each report shall be prepared on a form provided by the board. The report shall include all of the following information:

(a) The name and address of the person who extracted groundwater and of the person filing the report.

(b) The name of the basin from which groundwater was extracted.

(c) The place of groundwater extraction. The location of the groundwater extraction facilities shall be depicted on a specific United States Geological Survey topographic map or shall be identified using the California Coordinate System or a latitude and longitude measurement. If assigned, the public land description to the nearest 40-acre subdivision and the assessor's parcel number shall be provided.

(d) The capacity of the groundwater extraction facilities.

(e) Monthly records of groundwater extractions. The measurements of the extractions shall be made by a methodology, water-measuring device, or combination thereof satisfactory to the board.

(f) The purpose of use.

(g) A general description of the area in which the water was used. The location of the place of use shall be depicted on a specific United States Geological Survey topographic map or on any other maps with identifiable landmarks. If assigned, the public land description to the nearest 40-acre subdivision and the assessor's parcel number shall also be provided.

(h) As near as is known, the year in which the groundwater extraction was commenced.

(i) Any information required pursuant to paragraph (3) of subdivision (c) of Section 10735.2.

(j) Any other information that the board may require by regulation and that is reasonably necessary for purposes of this division or Part 2.74 (commencing with Section 10720) of Division 6.

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**5204. FAILURE TO FILE EXTRACTION REPORT; AUTHORITY OF THE BOARD TO INVESTIGATE**

(a) If a person fails to file a report as required by this part, the board may, at the expense of that person, investigate and determine the information required to be reported pursuant to this part.

(b) The board shall give a person described in subdivision (a) notice of its intention to investigate and determine the information required to be reported pursuant to this part and 60 days in which to file a required report without penalty.

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**5205. REPORT IS NOT EVIDENCE OF RIGHT TO DIVERT OR USE**

A report submitted under this part or a determination of facts by the board pursuant to Section 5104 shall not establish or constitute evidence of a right to divert or use water.

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**5206. PERSONAL INFORMATION TREATED LIKE UTILITY INFORMATION**

Personal information included in a report of groundwater extraction shall have the same protection from disclosure as is provided for information concerning utility customers of local agencies pursuant to Section 6254.16 of the Government Code.

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**5207. LIMITATIONS ON CLAIMS OF PERSONS NOT FILING REQUIRED EXTRACTION REPORTS**

A right to extract groundwater that may otherwise occur shall not arise or accrue to, and a statute of limitations shall not operate in favor of, a person required to file a report pursuant to this part until the person files the report.



#### **5208. ENFORCEMENT**

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Section 5107 applies to a report or measuring device required pursuant to this part. For purposes of Section 5107, a report of groundwater extraction, measuring device, or misstatement required, used, or made pursuant to this part shall be considered the equivalent of a statement, measuring device, or misstatement required, used, or made pursuant to Part 5.1 (commencing with Section 5100).

#### **5209. SUBMITTAL OF REPORTS TO LOCAL ENTITIES IN CERTAIN CIRCUMSTANCES**

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For groundwater extractions in a board-designated local area, reports required pursuant to this part shall be submitted to the entity designated pursuant to subdivision (e) of Section 5009 if both of the following occur:

(a) The board determines that the requirements of subdivision (e) of Section 5009 have been satisfied with respect to extractions subject to reporting pursuant to this part, in addition to any groundwater extractions subject to Part 5 (commencing with Section 4999).

(b) The designated entity has made satisfactory arrangements to collect and transmit to the board any fees imposed pursuant to paragraph (2) of subdivision (b) of Section 1529.5.

## **PART 2.74. Sustainable Groundwater Management**

### **CHAPTER 1. General Provisions**

#### **10720. TITLE**

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This part shall be known, and may be cited, as the "Sustainable Groundwater Management Act."

#### **10720.1. LEGISLATIVE INTENT**

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In enacting this part, it is the intent of the Legislature to do all of the following:

- (a) To provide for the sustainable management of groundwater basins.
- (b) To enhance local management of groundwater consistent with rights to use or store groundwater and Section 2 of Article X of the California Constitution. It is the intent of the Legislature to preserve the security of water rights in the state to the greatest extent possible consistent with the sustainable management of groundwater.
- (c) To establish minimum standards for sustainable groundwater management.
- (d) To provide local groundwater agencies with the authority and the technical and financial assistance necessary to sustainably manage groundwater.
- (e) To avoid or minimize subsidence.
- (f) To improve data collection and understanding about groundwater.
- (g) To increase groundwater storage and remove impediments to recharge.

(h) To manage groundwater basins through the actions of local governmental agencies to the greatest extent feasible, while minimizing state intervention to only when necessary to ensure that local agencies manage groundwater in a sustainable manner.

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**10720.3. APPLICABILITY OF PART AND PARTICIPATION OF OTHER SOVEREIGNS**

(a) This part applies to all groundwater basins in the state.

(b) To the extent authorized under federal or tribal law, this part applies to an Indian tribe and to the federal government, including, but not limited to, the United States Department of Defense.

(c) The federal government or any federally recognized Indian tribe, appreciating the shared interest in assuring the sustainability of groundwater resources, may voluntarily agree to participate in the preparation or administration of a groundwater sustainability plan or groundwater management plan under this part through a joint powers authority or other agreement with local agencies in the basin. A participating tribe shall be eligible to participate fully in planning, financing, and management under this part, including eligibility for grants and technical assistance, if any exercise of regulatory authority, enforcement, or imposition and collection of fees is pursuant to the tribe's independent authority and not pursuant to authority granted to a groundwater sustainability agency under this part.

(d) In an adjudication of rights to the use of groundwater, and in the management of a groundwater basin or subbasin by a groundwater sustainability agency or by the board, federally reserved water rights to groundwater shall be respected in full. In case of conflict between federal and state law in that adjudication or management, federal law shall prevail. The voluntary or involuntary participation of a holder of rights in that adjudication or management shall not subject that holder to state law regarding other proceedings or matters not authorized by federal law. This subdivision is declaratory of existing law.

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**10720.5. NO MODIFICATION OF WATER RIGHTS OR PRIORITIES, AND NO DETERMINATION OF WATER RIGHTS PURSUANT TO THIS PART**

(a) Groundwater management pursuant to this part shall be consistent with Section 2 of Article X of the California Constitution. Nothing in this part modifies rights or priorities to use or store groundwater consistent with Section 2 of Article X of the California Constitution, except that in basins designated medium- or high-priority basins by the department, no extraction of groundwater between January 1, 2015, and the date of adoption of a groundwater sustainability plan pursuant to this part, whichever is sooner, may be used as evidence of, or to establish or defend against, any claim of prescription.

(b) Nothing in this part, or in any groundwater management plan adopted pursuant to this part, determines or alters surface water rights or groundwater rights under common law or any provision of law that determines or grants surface water rights.

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**10720.7. PLANNING DEADLINES**

(a) (1) By January 31, 2020, all basins designated as high- or medium-priority basins by the department that have been designated in Bulletin 118, as may be updated or revised on or before January 1, 2017, as basins that are subject to critical conditions of overdraft shall be managed under a

groundwater sustainability plan or coordinated groundwater sustainability plans pursuant to this part.

(2) By January 31, 2022, all basins designated as high- or medium-priority basins by the department that are not subject to paragraph (1) shall be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans pursuant to this part.

(b) The Legislature encourages and authorizes basins designated as low- and very low priority basins by the department to be managed under groundwater sustainability plans pursuant to this part. Chapter 11 (commencing with Section 10735) does not apply to a basin designated as a low- or very low priority basin.

**10720.8. INAPPLICABILITY OF PART TO ADJUDICATED BASINS; REPORTING REQUIREMENTS FOR ENTITY ADMINISTERING ADJUDICATION**

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(a) Except as provided in subdivision (e), this part does not apply to the following adjudicated areas or a local agency that conforms to the requirements of an adjudication of water rights for one of the following adjudicated areas:

- (1) Beaumont Basin.
- (2) Brite Basin.
- (3) Central Basin.
- (4) Chino Basin.
- (5) Cucamonga Basin.
- (6) Cummings Basin.
- (7) Goleta Basin.
- (8) Lytle Basin.
- (9) Main San Gabriel Basin.
- (10) Mojave Basin Area.
- (11) Puente Basin.
- (12) Raymond Basin.
- (13) Rialto-Colton Basin.
- (14) Riverside Basin.
- (15) San Bernardino Basin Area.

- (16) San Jacinto Basin.
- (17) Santa Margarita River Watershed.
- (18) Santa Maria Valley Basin.
- (19) Santa Paula Basin.
- (20) Scott River Stream System.
- (21) Seaside Basin.
- (22) Six Basins.
- (23) Tehachapi Basin.
- (24) Upper Los Angeles River Area.
- (25) Warren Valley Basin.
- (26) West Coast Basin.

(b) The Antelope Valley basin at issue in the Antelope Valley Groundwater Cases (Judicial Council Coordination Proceeding Number 4408) shall be treated as an adjudicated basin pursuant to this section if the superior court issues a final judgment, order, or decree.

(c) Any groundwater basin or portion of a groundwater basin in Inyo County managed pursuant to the terms of the stipulated judgment in City of Los Angeles v. Board of Supervisors of the County of Inyo, et al. (Inyo County Case No. 12908) shall be treated as an adjudicated area pursuant to this section.

(d) The Los Osos Groundwater Basin at issue in Los Osos Community Service District v. Southern California Water Company [Golden State Water Company] et al. (San Luis Obispo County Superior Court Case No. CV 040126) shall be treated as an adjudicated basin pursuant to this section if the superior court issues a final judgment, order, or decree.

(e) If an adjudication action has determined the rights to extract groundwater for only a portion of a basin, subdivisions (a), (b), (c), and (d) apply only within the area for which the adjudication action has determined those rights.

(f) The watermaster or a local agency within a basin identified in subdivision (a) shall do all of the following:

- (1) By April 1, 2016, submit to the department a copy of a governing final judgment, or other judicial order or decree, and any amendments entered before April 1, 2016.
- (2) Within 90 days of entry by a court, submit to the department a copy of any amendment made and entered by the court to the governing final judgment or other judicial order or decree on or after April 1, 2016.

(3) By April 1, 2016, and annually thereafter, submit to the department a report containing the following information to the extent available for the portion of the basin subject to the adjudication:

- (A) Groundwater elevation data unless otherwise submitted pursuant to Section 10932.
- (B) Annual aggregated data identifying groundwater extraction for the preceding water year.
- (C) Surface water supply used for or available for use for groundwater recharge or in-lieu use.
- (D) Total water use.
- (E) Change in groundwater storage.
- (F) The annual report submitted to the court.

**10720.9. REQUIREMENT OF STATE AGENCIES TO CONSIDER THIS PART AND PLANS DEVELOPED UNDER THIS PART**

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All relevant state agencies, including, but not limited to, the board, the regional water quality control boards, the department, and the Department of Fish and Wildlife, shall consider the policies of this part, and any groundwater sustainability plans adopted pursuant to this part, when revising or adopting policies, regulations, or criteria, or when issuing orders or determinations, where pertinent.

## CHAPTER 2. Definitions

**10721. DEFINITIONS**

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Unless the context otherwise requires, the following definitions govern the construction of this part:

- (a) "Adjudication action" means an action filed in the superior or federal district court to determine the rights to extract groundwater from a basin or store water within a basin, including, but not limited to, actions to quiet title respecting rights to extract or store groundwater or an action brought to impose a physical solution on a basin.
- (b) "Basin" means a groundwater basin or subbasin identified and defined in Bulletin 118 or as modified pursuant to Chapter 3 (commencing with Section 10722).
- (c) "Bulletin 118" means the department's report entitled "California's Groundwater: Bulletin 118" updated in 2003, as it may be subsequently updated or revised in accordance with Section 12924.
- (d) "Coordination agreement" means a legal agreement adopted between two or more groundwater sustainability agencies that provides the basis for coordinating multiple agencies or groundwater sustainability plans within a basin pursuant to this part.
- (e) "De minimis extractor" means a person who extracts, for domestic purposes, two acre-feet or less per year.
- (f) "Governing body" means the legislative body of a groundwater sustainability agency.

(g) "Groundwater" means water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water, but does not include water that flows in known and definite channels.

(h) "Groundwater extraction facility" means a device or method for extracting groundwater from within a basin.

(i) "Groundwater recharge" means the augmentation of groundwater, by natural or artificial means.

(j) "Groundwater sustainability agency" means one or more local agencies that implement the provisions of this part. For purposes of imposing fees pursuant to Chapter 8 (commencing with Section 10730) or taking action to enforce a groundwater sustainability plan, "groundwater sustainability agency" also means each local agency comprising the groundwater sustainability agency if the plan authorizes separate agency action.

(k) "Groundwater sustainability plan" or "plan" means a plan of a groundwater sustainability agency proposed or adopted pursuant to this part.

(l) "Groundwater sustainability program" means a coordinated and ongoing activity undertaken to benefit a basin, pursuant to a groundwater sustainability plan.

(m) "Local agency" means a local public agency that has water supply, water management, or land use responsibilities within a groundwater basin.

(n) "Operator" means a person operating a groundwater extraction facility. The owner of a groundwater extraction facility shall be conclusively presumed to be the operator unless a satisfactory showing is made to the governing body of the groundwater sustainability agency that the groundwater extraction facility actually is operated by some other person.

(o) "Owner" means a person owning a groundwater extraction facility or an interest in a groundwater extraction facility other than a lien to secure the payment of a debt or other obligation.

(p) "Personal information" has the same meaning as defined in Section 1798.3 of the Civil Code.

(q) "Planning and implementation horizon" means a 50-year time period over which a groundwater sustainability agency determines that plans and measures will be implemented in a basin to ensure that the basin is operated within its sustainable yield.

(r) "Public water system" has the same meaning as defined in Section 116275 of the Health and Safety Code.

(s) "Recharge area" means the area that supplies water to an aquifer in a groundwater basin.

(t) "Sustainability goal" means the existence and implementation of one or more groundwater sustainability plans that achieve sustainable groundwater management by identifying and causing the



implementation of measures targeted to ensure that the applicable basin is operated within its sustainable yield.

(u) “Sustainable groundwater management” means the management and use of groundwater in a manner that can be maintained during the planning and implementation horizon without causing undesirable results.

(v) “Sustainable yield” means the maximum quantity of water, calculated over a base period representative of long-term conditions in the basin and including any temporary surplus, that can be withdrawn annually from a groundwater supply without causing an undesirable result.

(w) “Undesirable result” means one or more of the following effects caused by groundwater conditions occurring throughout the basin:

(1) Chronic lowering of groundwater levels indicating a significant and unreasonable depletion of supply if continued over the planning and implementation horizon. Overdraft during a period of drought is not sufficient to establish a chronic lowering of groundwater levels if extractions and recharge are managed as necessary to ensure that reductions in groundwater levels or storage during a period of drought are offset by increases in groundwater levels or storage during other periods.

(2) Significant and unreasonable reduction of groundwater storage.

(3) Significant and unreasonable seawater intrusion.

(4) Significant and unreasonable degraded water quality, including the migration of contaminant plumes that impair water supplies.

(5) Significant and unreasonable land subsidence that substantially interferes with surface land uses.

(6) Depletions of interconnected surface water that have significant and unreasonable adverse impacts on beneficial uses of the surface water.

(x) “Water budget” means an accounting of the total groundwater and surface water entering and leaving a basin including the changes in the amount of water stored.

(y) “Watermaster” means a watermaster appointed by a court or pursuant to other law.

(z) “Water year” means the period from October 1 through the following September 30, inclusive.

(aa) “Wellhead protection area” means the surface and subsurface area surrounding a water well or well field that supplies a public water system through which contaminants are reasonably likely to migrate toward the water well or well field.

### CHAPTER 3. Basin Boundaries

## **10722. USE OF BULLETIN 118 BASIN BOUNDARIES**

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Unless other basin boundaries are established pursuant to this chapter, a basin's boundaries shall be as identified in Bulletin 118.

### **10722.2. PROCESS FOR REQUESTING AND APPROVING BASIN BOUNDARY REVISIONS**

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(a) A local agency may request that the department revise the boundaries of a basin, including the establishment of new subbasins. A local agency's request shall be supported by the following information:

(1) Information demonstrating that the proposed adjusted basin can be the subject of sustainable groundwater management.

(2) Technical information regarding the boundaries of, and conditions in, the proposed adjusted basin.

(3) Information demonstrating that the entity proposing the basin boundary adjustment consulted with interested local agencies and public water systems in the affected basins before filing the proposal with the department.

(4) Other information the department deems necessary to justify revision of the basin's boundary.

(b) By January 1, 2016, the department shall adopt regulations regarding the information required to comply with subdivision (a), including the methodology and criteria to be used to evaluate the proposed revision. The department shall adopt the regulations, including any amendments thereto, authorized by this section as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding the Administrative Procedure Act, emergency regulations adopted by the department pursuant to this section shall not be subject to review by the Office of Administrative Law and shall remain in effect until revised by the department.

(c) Methodology and criteria established pursuant to subdivision (b) shall address all of the following:

(1) How to assess the likelihood that the proposed basin can be sustainably managed.

(2) How to assess whether the proposed basin would limit the sustainable management of adjacent basins.

(3) How to assess whether there is a history of sustainable management of groundwater levels in the proposed basin.

(d) Prior to adopting and finalizing the regulations, the department shall conduct three public meetings to consider public comments. The department shall publish the draft regulations on its Internet Web site at least 30 days before the public meetings. One meeting shall be conducted at a location in northern

California, one meeting shall be conducted at a location in the central valley of California, and one meeting shall be conducted at a location in southern California.

(e) The department shall provide a copy of its draft revision of a basin's boundaries to the California Water Commission. The California Water Commission shall hear and comment on the draft revision within 60 days after the department provides the draft revision to the commission.

#### **10722.4. PRIORITIZATION OF BASINS**

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(a) Pursuant to Section 10933, for the purposes of this part the department shall categorize each basin as one of the following priorities:

- (1) High priority.
- (2) Medium priority.
- (3) Low priority.
- (4) Very low priority.

(b) The initial priority for each basin shall be established by the department pursuant to Section 10933 no later than January 31, 2015.

(c) Any time the department updates Bulletin 118 boundaries pursuant to subdivision (b) of Section 12924, the department shall reassess the prioritization pursuant to Section 10933.

(d) Any time the department changes the basin priorities pursuant to Section 10933, if a basin is elevated to a medium- or high-priority basin after January 31, 2015, a local agency shall have two years from the date of reprioritization to either establish a groundwater sustainability agency pursuant to Chapter 4 (commencing with Section 10723) and five years from the date of reprioritization to adopt a groundwater sustainability plan pursuant to Chapter 6 (commencing with Section 10727) or two years to satisfy the requirements of Section 10733.6.

## **CHAPTER 4. Establishing Groundwater Sustainability Agencies**

### **10723. ELECTION OF GROUNDWATER SUSTAINABILITY AGENCY; STATUTORILY DESIGNATED AGENCIES AND OPT OUT PROVISION**

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(a) Except as provided in subdivision (c), any local agency or combination of local agencies overlying a groundwater basin may elect to be a groundwater sustainability agency for that basin.

(b) Before electing to be a groundwater sustainability agency, and after publication of notice pursuant to Section 6066 of the Government Code, the local agency or agencies shall hold a public hearing in the county or counties overlying the basin.

(c) (1) Except as provided in paragraph (2), the following agencies created by statute to manage groundwater shall be deemed the exclusive local agencies within their respective statutory boundaries with powers to comply with this part:

(A) Alameda County Flood Control and Water Conservation District, Zone 7.

(B) Alameda County Water District.

(C) Desert Water Agency.

(D) Fox Canyon Groundwater Management Agency.

(E) Honey Lake Valley Groundwater Management District.

(F) Long Valley Groundwater Management District.

(G) Mendocino City Community Services District.

(H) Mono County Tri-Valley Groundwater Management District.

(I) Monterey Peninsula Water Management District.

(J) Ojai Groundwater Management Agency.

(K) Orange County Water District.

(L) Pajaro Valley Water Management Agency.

(M) Santa Clara Valley Water District.

(N) Sierra Valley Water District.

(O) Willow Creek Groundwater Management Agency.

(2) An agency identified in this subdivision may elect to opt out of being the exclusive groundwater management agency within its statutory boundaries by sending a notice to the department, which shall be posted pursuant to Section 10733.3. If an agency identified in paragraph (1) elects to opt out of being the exclusive groundwater management agency, any other local agency or combination of local agencies operating within the statutory boundaries of the agency that has elected to opt out may notify the department pursuant to subdivision (d) of its election to be the groundwater sustainability agency.

(3) A local agency listed in paragraph (1) may comply with this part by meeting the requirements of Section 10733.6 or electing to become a groundwater sustainability agency pursuant to this section. A local agency with authority to implement a basin-specific management plan pursuant to its principal act shall not exercise any authorities granted in this part in a manner inconsistent with any prohibitions or limitations in its principal act unless the governing board of the local agency makes a finding that the agency is unable to sustainably manage the basin without the prohibited authority.

(d) A local agency or combination of local agencies that elects to be the groundwater sustainability agency shall submit a notice of intent to the department, which shall be posted pursuant to Section 10733.3. The notice of intent shall include a description of the proposed boundaries of the basin or

portion of the basin that the local agency or combination of local agencies intends to manage pursuant to this part.

#### **10723.2. CONSIDERATION OF ALL INTERESTS OF ALL BENEFICIAL USES AND USERS OF GROUNDWATER**

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The groundwater sustainability agency shall consider the interests of all beneficial uses and users of groundwater, as well as those responsible for implementing groundwater sustainability plans. These interests include, but are not limited to, all of the following:

- (a) Holders of overlying groundwater rights, including:
  - (1) Agricultural users.
  - (2) Domestic well owners.
- (b) Municipal well operators.
- (c) Public water systems.
- (d) Local land use planning agencies.
- (e) Environmental users of groundwater.
- (f) Surface water users, if there is a hydrologic connection between surface and groundwater bodies.
- (g) The federal government, including, but not limited to, the military and managers of federal lands.
- (h) California Native American tribes.
- (i) Disadvantaged communities, including, but not limited to, those served by private domestic wells or small community water systems.
- (j) Entities listed in Section 10927 that are monitoring and reporting groundwater elevations in all or a part of a groundwater basin managed by the groundwater sustainability agency.

#### **10723.4. MAINTENANCE OF INTERESTED PERSONS LIST**

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The groundwater sustainability agency shall establish and maintain a list of persons interested in receiving notices regarding plan preparation, meeting announcements, and availability of draft plans, maps, and other relevant documents. Any person may request, in writing, to be placed on the list of interested persons.

#### **10723.6. COLLECTIVE ACTION TO SERVE AS GROUNDWATER SUSTAINABILITY AGENCY; PARTICIPATION BY PUC-REGULATED WATER COMPANIES**

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- (a) A combination of local agencies may form a groundwater sustainability agency by using any of the following methods:
  - (1) A joint powers agreement.

(2) A memorandum of agreement or other legal agreement.

(b) A water corporation regulated by the Public Utilities Commission may participate in a groundwater sustainability agency if the local agencies approve.

**10723.8. NOTIFICATION OF DEPARTMENT AND POSTING BY DEPARTMENT**

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(a) Within 30 days of electing to be or forming a groundwater sustainability agency, the groundwater sustainability agency shall inform the department of its election or formation and its intent to undertake sustainable groundwater management. The notification shall include the following information, as applicable:

(1) The service area boundaries, the basin the agency is managing, and the other groundwater sustainability agencies operating within the basin.

(2) A copy of the resolution forming the new agency.

(3) A copy of any new bylaws, ordinances, or new authorities adopted by the local agency.

(4) A list of interested parties developed pursuant to Section 10723.2 and an explanation of how their interests will be considered in the development and operation of the groundwater sustainability agency and the development and implementation of the agency's sustainability plan.

(b) Except as provided in subdivision (d), 90 days following the posting of the notice pursuant to this section, the groundwater sustainability agency shall be presumed the exclusive groundwater sustainability agency within the area of the basin the agency is managing as described in the notice, provided that no other notice was submitted.

(c) A groundwater sustainability agency may withdraw from managing a basin by notifying the department in writing of its intent to withdraw.

(d) This section does not preclude the board from taking an action pursuant to Section 10735.6.

(e) The department shall post all notices received under this section in accordance with Section 10733.3.

**10724. PRESUMPTION THAT COUNTY WILL MANAGE AREAS NOT COVERED BY A GROUNDWATER SUSTAINABILITY AGENCY; EXTRACTION REPORTING TO STATE BOARD IF COUNTY DOES NOT MANAGE THOSE AREAS**

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(a) In the event that there is an area within a basin that is not within the management area of a groundwater sustainability agency, the county within which that unmanaged area lies will be presumed to be the groundwater sustainability agency for that area.

(b) A county described in subdivision (a) shall provide notification to the department pursuant to Section 10723.8 unless the county notifies the department that it will not be the groundwater sustainability agency for the area. Extractions of groundwater made on or after July 1, 2017, in that area shall be subject to reporting in accordance with Part 5.2 (commencing with Section 5200) of Division 2 if the county does either of the following:



- (1) Notifies the department that it will not be the groundwater sustainability agency for an area.
- (2) Fails to provide notification to the department pursuant to Section 10723.8 for an area on or before June 30, 2017.

## CHAPTER 5. Powers and Authorities

### **10725. AUTHORITY PURSUANT TO THIS PART SUPPLEMENTARY TO EXISTING POWERS**

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(a) A groundwater sustainability agency may exercise any of the powers described in this chapter in implementing this part, in addition to, and not as a limitation on, any existing authority, if the groundwater sustainability agency adopts and submits to the department a groundwater sustainability plan or prescribed alternative documentation in accordance with Section 10733.6.

(b) A groundwater sustainability agency has and may use the powers in this chapter to provide the maximum degree of local control and flexibility consistent with the sustainability goals of this part.

### **10725.2. AUTHORITY OF GROUNDWATER SUSTAINABILITY AGENCY; NOTICE**

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(a) A groundwater sustainability agency may perform any act necessary or proper to carry out the purposes of this part.

(b) A groundwater sustainability agency may adopt rules, regulations, ordinances, and resolutions for the purpose of this part, in compliance with any procedural requirements applicable to the adoption of a rule, regulation, ordinance, or resolution by the groundwater sustainability agency.

(c) In addition to any other applicable procedural requirements, the groundwater sustainability agency shall provide notice of the proposed adoption of the groundwater sustainability plan on its Internet Web site and provide for electronic notice to any person who requests electronic notification.

### **10725.4. INVESTIGATIONS**

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(a) A groundwater sustainability agency may conduct an investigation for the purposes of this part, including, but not limited to, investigations for the following:

- (1) To determine the need for groundwater management.
- (2) To prepare and adopt a groundwater sustainability plan and implementing rules and regulations.
- (3) To propose and update fees.
- (4) To monitor compliance and enforcement.

(b) An investigation may include surface waters and surface water rights as well as groundwater and groundwater rights.

(c) In connection with an investigation, a groundwater sustainability agency may inspect the property or facilities of a person or entity to ascertain whether the purposes of this part are being met and compliance with this part. The local agency may conduct an inspection pursuant to this section upon

obtaining any necessary consent or obtaining an inspection warrant pursuant to the procedure set forth in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure.

**10725.6. REGISTRATION OF EXTRACTION FACILITIES**

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A groundwater sustainability agency may require registration of a groundwater extraction facility within the management area of the groundwater sustainability agency.

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

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(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.

**10726. REPORTING OF DIVERSION OF SURFACE WATER TO UNDERGROUND STORAGE**

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An entity within the area of a groundwater sustainability plan shall report the diversion of surface water to underground storage to the groundwater sustainability agency for the relevant portion of the basin.

**10726.2. ADDITIONAL AUTHORITIES OF GROUNDWATER SUSTAINABILITY AGENCY RELATING TO ACQUISITIONS; AUGMENTATION OF LOCAL WATER SUPPLIES; TRANSFERS AND EXCHANGES OF WATER; AND TREATMENT**

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A groundwater sustainability agency may do the following:

(a) Acquire by grant, purchase, lease, gift, devise, contract, construction, or otherwise, and hold, use, enjoy, sell, let, and dispose of, real and personal property of every kind, including lands, water rights, structures, buildings, rights-of-way, easements, and privileges, and construct, maintain, alter, and operate any and all works or improvements, within or outside the agency, necessary or proper to carry out any of the purposes of this part.

(b) Appropriate and acquire surface water or groundwater and surface water or groundwater rights, import surface water or groundwater into the agency, and conserve and store within or outside the agency that water for any purpose necessary or proper to carry out the provisions of this part, including, but not limited to, the spreading, storing, retaining, or percolating into the soil of the waters for subsequent use or in a manner consistent with the provisions of Section 10727.2. As part of this authority, the agency shall not alter another person's or agency's existing groundwater conjunctive use or storage program except upon a finding that the conjunctive use or storage program interferes with implementation of the agency's groundwater sustainability plan.

(c) Provide for a program of voluntary fallowing of agricultural lands or validate an existing program.

(d) Perform any acts necessary or proper to enable the agency to purchase, transfer, deliver, or exchange water or water rights of any type with any person that may be necessary or proper to carry out any of the purposes of this part, including, but not limited to, providing surface water in exchange for a groundwater extractor's agreement to reduce or cease groundwater extractions. The agency shall not deliver retail water supplies within the service area of a public water system without either the consent of that system or authority under the agency's existing authorities.

(e) Transport, reclaim, purify, desalinate, treat, or otherwise manage and control polluted water, wastewater, or other waters for subsequent use in a manner that is necessary or proper to carry out the purposes of this part.

(f) Commence, maintain, intervene in, defend, compromise, and assume the cost and expenses of any and all actions and proceedings.

#### **10726.4. ADDITIONAL AUTHORITIES OF GROUNDWATER SUSTAINABILITY AGENCY**

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(a) A groundwater sustainability agency shall have the following additional authority and may regulate groundwater extraction using that authority:

(1) To impose spacing requirements on new groundwater well construction to minimize well interference and impose reasonable operating regulations on existing groundwater wells to minimize well interference, including requiring extractors to operate on a rotation basis.

(2) To control groundwater extractions by regulating, limiting, or suspending extractions from individual groundwater wells or extractions from groundwater wells in the aggregate, construction of new groundwater wells, enlargement of existing groundwater wells, or reactivation of abandoned groundwater wells, or otherwise establishing groundwater extraction allocations. Those actions shall be consistent with the applicable elements of the city or county general plan, unless there is insufficient sustainable yield in the basin to serve a land use designated in the city or county general plan. A limitation on extractions by a groundwater sustainability agency shall not be construed to be a final determination of rights to extract groundwater from the basin or any portion of the basin.

(3) To authorize temporary and permanent transfers of groundwater extraction allocations within the agency's boundaries, if the total quantity of groundwater extracted in any water year is

consistent with the provisions of the groundwater sustainability plan. The transfer is subject to applicable city and county ordinances.

(4) To establish accounting rules to allow unused groundwater extraction allocations issued by the agency to be carried over from one year to another and voluntarily transferred, if the total quantity of groundwater extracted in any five-year period is consistent with the provisions of the groundwater sustainability plan.

(b) This section does not authorize a groundwater sustainability agency to issue permits for the construction, modification, or abandonment of groundwater wells, except as authorized by a county with authority to issue those permits. A groundwater sustainability agency may request of the county, and the county shall consider, that the county forward permit requests for the construction of new groundwater wells, the enlarging of existing groundwater wells, and the reactivation of abandoned groundwater wells to the groundwater sustainability agency before permit approval.

#### **10726.6. VALIDATION PROCEEDINGS; VENUE; TIME LIMITATIONS FOR BRINGING CERTAIN ACTIONS**

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(a) A groundwater sustainability agency that adopts a groundwater sustainability plan may file an action to determine the validity of the plan pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure no sooner than 180 days following the adoption of the plan.

(b) Subject to Sections 394 and 397 of the Code of Civil Procedure, the venue for an action pursuant to this section shall be the county in which the principal office of the groundwater management agency is located.

(c) Any judicial action or proceeding to attack, review, set aside, void, or annul the ordinance or resolution imposing a new, or increasing an existing, fee imposed pursuant to Section 10730, 10730.2, or 10730.4 shall be commenced within 180 days following the adoption of the ordinance or resolution.

(d) Any person may pay a fee imposed pursuant to Section 10730, 10730.2, or 10730.4 under protest and bring an action against the governing body in the superior court to recover any money that the governing body refuses to refund. Payments made and actions brought under this section shall be made and brought in the manner provided for the payment of taxes under protest and actions for refund of that payment in Article 2 (commencing with Section 5140) of Chapter 5 of Part 9 of Division 1 of the Revenue and Taxation Code, as applicable.

(e) Except as otherwise provided in this section, actions by a groundwater sustainability agency are subject to judicial review pursuant to Section 1085 of the Code of Civil Procedure.

#### **10726.8. RELATIONSHIP OF THIS PART TO OTHER LAWS**

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(a) This part is in addition to, and not a limitation on, the authority granted to a local agency under any other law. The local agency may use the local agency's authority under any other law to apply and enforce any requirements of this part, including, but not limited to, the collection of fees.

(b) Nothing in this part shall be construed as authorizing a local agency to make a binding determination of the water rights of any person or entity.

(c) Nothing in this part is a limitation on the authority of the board, the department, or the State Department of Public Health.

(d) Notwithstanding Section 6103 of the Government Code, a state or local agency that extracts groundwater shall be subject to a fee imposed under this part to the same extent as any nongovernmental entity.

(e) Except as provided in subdivision (d), this part does not authorize a local agency to impose any requirement on the state or any agency, department, or officer of the state. State agencies and departments shall work cooperatively with a local agency on a voluntary basis.

(f) Nothing in this chapter or a groundwater sustainability plan shall be interpreted as superseding the land use authority of cities and counties, including the city or county general plan, within the overlying basin.

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**10726.9. REQUIREMENT OF PLAN TO TAKE ACCOUNT OF GENERAL PLAN ASSUMPTIONS**

A groundwater sustainability plan shall take into account the most recent planning assumptions stated in local general plans of jurisdictions overlying the basin.

## CHAPTER 6. Groundwater Sustainability Plans

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**10727. REQUIREMENT TO DEVELOP GROUNDWATER SUSTAINABILITY PLAN FOR MEDIUM- AND HIGH-PRIORITY BASINS; FORM OF PLAN**

(a) A groundwater sustainability plan shall be developed and implemented for each medium- or high-priority basin by a groundwater sustainability agency to meet the sustainability goal established pursuant to this part. The groundwater sustainability plan may incorporate, extend, or be based on a plan adopted pursuant to Part 2.75 (commencing with Section 10750).

(b) A groundwater sustainability plan may be any of the following:

(1) A single plan covering the entire basin developed and implemented by one groundwater sustainability agency.

(2) A single plan covering the entire basin developed and implemented by multiple groundwater sustainability agencies.

(3) Subject to Section 10727.6, multiple plans implemented by multiple groundwater sustainability agencies and coordinated pursuant to a single coordination agreement that covers the entire basin.

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**10727.2. REQUIRED PLAN ELEMENTS**

A groundwater sustainability plan shall include all of the following:

(a) A description of the physical setting and characteristics of the aquifer system underlying the basin that includes the following:

(1) Historical data, to the extent available.

(2) Groundwater levels, groundwater quality, subsidence, and groundwater-surface water interaction.

(3) A general discussion of historical and projected water demands and supplies.

(4) A map that details the area of the basin and the boundaries of the groundwater sustainability agencies that overlie the basin that have or are developing groundwater sustainability plans.

(5) A map identifying existing and potential recharge areas for the basin. The map or maps shall identify the existing recharge areas that substantially contribute to the replenishment of the groundwater basin. The map or maps shall be provided to the appropriate local planning agencies after adoption of the groundwater sustainability plan.

(b) (1) Measurable objectives, as well as interim milestones in increments of five years, to achieve the sustainability goal in the basin within 20 years of the implementation of the plan.

(2) A description of how the plan helps meet each objective and how each objective is intended to achieve the sustainability goal for the basin for long-term beneficial uses of groundwater.

(3) (A) Notwithstanding paragraph (1), at the request of the groundwater sustainability agency, the department may grant an extension of up to 5 years beyond the 20-year sustainability timeframe upon a showing of good cause. The department may grant a second extension of up to five years upon a showing of good cause if the groundwater sustainability agency has begun implementation of the work plan described in clause (iii) of subparagraph (B).

(B) The department may grant an extension pursuant to this paragraph if the groundwater sustainability agency does all of the following:

(i) Demonstrates a need for an extension.

(ii) Has made progress toward meeting the sustainability goal as demonstrated by its progress at achieving the milestones identified in its groundwater sustainability plan.

(iii) Adopts a feasible work plan for meeting the sustainability goal during the extension period.

(4) The plan may, but is not required to, address undesirable results that occurred before, and have not been corrected by, January 1, 2015. Notwithstanding paragraphs (1) to (3), inclusive, a groundwater sustainability agency has discretion as to whether to set measurable objectives and the timeframes for achieving any objectives for undesirable results that occurred before, and have not been corrected by, January 1, 2015.

(c) A planning and implementation horizon.

(d) Components relating to the following, as applicable to the basin:

(1) The monitoring and management of groundwater levels within the basin.



(2) The monitoring and management of groundwater quality, groundwater quality degradation, inelastic land surface subsidence, and changes in surface flow and surface water quality that directly affect groundwater levels or quality or are caused by groundwater extraction in the basin.

(3) Mitigation of overdraft.

(4) How recharge areas identified in the plan substantially contribute to the replenishment of the basin.

(5) A description of surface water supply used or available for use for groundwater recharge or in-lieu use.

(e) A summary of the type of monitoring sites, type of measurements, and the frequency of monitoring for each location monitoring groundwater levels, groundwater quality, subsidence, streamflow, precipitation, evaporation, and tidal influence. The plan shall include a summary of monitoring information such as well depth, screened intervals, and aquifer zones monitored, and a summary of the type of well relied on for the information, including public, irrigation, domestic, industrial, and monitoring wells.

(f) Monitoring protocols that are designed to detect changes in groundwater levels, groundwater quality, inelastic surface subsidence for basins for which subsidence has been identified as a potential problem, and flow and quality of surface water that directly affect groundwater levels or quality or are caused by groundwater extraction in the basin. The monitoring protocols shall be designed to generate information that promotes efficient and effective groundwater management.

(g) A description of the consideration given to the applicable county and city general plans and a description of the various adopted water resources-related plans and programs within the basin and an assessment of how the groundwater sustainability plan may affect those plans.

#### **10727.4. ADDITIONAL PLAN ELEMENTS**

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In addition to the requirements of Section 10727.2, a groundwater sustainability plan shall include, where appropriate and in collaboration with the appropriate local agencies, all of the following:

(a) Control of saline water intrusion.

(b) Wellhead protection areas and recharge areas.

(c) Migration of contaminated groundwater.

(d) A well abandonment and well destruction program.

(e) Replenishment of groundwater extractions.

(f) Activities implementing, opportunities for, and removing impediments to, conjunctive use or underground storage.

- (g) Well construction policies.
- (h) Measures addressing groundwater contamination cleanup, recharge, diversions to storage, conservation, water recycling, conveyance, and extraction projects.
- (i) Efficient water management practices, as defined in Section 10902, for the delivery of water and water conservation methods to improve the efficiency of water use.
- (j) Efforts to develop relationships with state and federal regulatory agencies.
- (k) Processes to review land use plans and efforts to coordinate with land use planning agencies to assess activities that potentially create risks to groundwater quality or quantity.
- (l) Impacts on groundwater dependent ecosystems.

**10727.6. REQUIREMENTS FOR COORDINATED PLANS, WHEN MULTIPLE PLANS COVER A BASIN**

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Groundwater sustainability agencies intending to develop and implement multiple groundwater sustainability plans pursuant to paragraph (3) of subdivision (b) of Section 10727 shall coordinate with other agencies preparing a groundwater sustainability plan within the basin to ensure that the plans utilize the same data and methodologies for the following assumptions in developing the plan:

- (a) Groundwater elevation data.
- (b) Groundwater extraction data.
- (c) Surface water supply.
- (d) Total water use.
- (e) Change in groundwater storage.
- (f) Water budget.
- (g) Sustainable yield.

**10727.8. PUBLIC NOTIFICATION AND PARTICIPATION; ADVISORY COMMITTEE**

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(a) Prior to initiating the development of a groundwater sustainability plan, the groundwater sustainability agency shall make available to the public and the department a written statement describing the manner in which interested parties may participate in the development and implementation of the groundwater sustainability plan. The groundwater sustainability agency shall provide the written statement to the legislative body of any city, county, or city and county located within the geographic area to be covered by the plan. The groundwater sustainability agency may appoint and consult with an advisory committee consisting of interested parties for the purposes of developing and implementing a groundwater sustainability plan. The groundwater sustainability agency shall encourage the active involvement of diverse social, cultural, and economic elements of the

population within the groundwater basin prior to and during the development and implementation of the groundwater sustainability plan.

(b) For purposes of this section, interested parties include entities listed in Section 10927 that are monitoring and reporting groundwater elevations in all or a part of a groundwater basin managed by the groundwater sustainability agency.

**10728. ANNUAL REPORTING BY GROUNDWATER SUSTAINABILITY AGENCY TO DEPARTMENT**

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On the April 1 following the adoption of a groundwater sustainability plan and annually thereafter, a groundwater sustainability agency shall submit a report to the department containing the following information about the basin managed in the groundwater sustainability plan:

(a) Groundwater elevation data.

(b) Annual aggregated data identifying groundwater extraction for the preceding water year.

(c) Surface water supply used for or available for use for groundwater recharge or in-lieu use.

(d) Total water use.

(e) Change in groundwater storage.

**10728.2. PERIODIC REVIEW AND ASSESSMENT**

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A groundwater sustainability agency shall periodically evaluate its groundwater sustainability plan, assess changing conditions in the basin that may warrant modification of the plan or management objectives, and may adjust components in the plan. An evaluation of the plan shall focus on determining whether the actions under the plan are meeting the plan's management objectives and whether those objectives are meeting the sustainability goal in the basin.

**10728.4. ADOPTION OR AMENDMENT OF PLAN FOLLOWING PUBLIC HEARING**

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A groundwater sustainability agency may adopt or amend a groundwater sustainability plan after a public hearing, held at least 90 days after providing notice to a city or county within the area of the proposed plan or amendment. The groundwater sustainability agency shall review and consider comments from any city or county that receives notice pursuant to this section and shall consult with a city or county that requests consultation within 30 days of receipt of the notice. Nothing in this section is intended to preclude an agency and a city or county from otherwise consulting or commenting regarding the adoption or amendment of a plan.

**10728.6. CEQA NOT APPLICABLE TO PLAN PREPARATION AND ADOPTION**

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Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the preparation and adoption of plans pursuant to this chapter. Nothing in this part shall be interpreted as exempting from Division 13 (commencing with Section 21000) of the Public Resources Code a project that would implement actions taken pursuant to a plan adopted pursuant to this chapter.

## CHAPTER 7. Technical Assistance

**10729. TECHNICAL ASSISTANCE BY DEPARTMENT AND GROUNDWATER SUSTAINABILITY AGENCY; DEPARTMENT ESTIMATE OF WATER AVAILABLE FOR REPLENISHMENT; DEPARTMENT BEST MANAGEMENT PRACTICES**

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(a) The department or a groundwater sustainability agency may provide technical assistance to entities that extract or use groundwater to promote water conservation and protect groundwater resources.

(b) The department may provide technical assistance to any groundwater sustainability agency in response to that agency's request for assistance in the development and implementation of a groundwater sustainability plan. The department shall use its best efforts to provide the requested assistance.

(c) The department shall prepare and publish a report by December 31, 2016, on its Internet Web site that presents the department's best estimate, based on available information, of water available for replenishment of groundwater in the state.

(d) (1) By January 1, 2017, the department shall publish on its Internet Web site best management practices for the sustainable management of groundwater.

(2) The department shall develop the best management practices through a public process involving one public meeting conducted at a location in northern California, one public meeting conducted at a location in the San Joaquin Valley, one public meeting conducted at a location in southern California, and one public meeting of the California Water Commission.

## CHAPTER 8. Financial Authority

**10730. REGULATORY FEES AUTHORITY; LIMITED EXCEPTION FOR DE MINIMIS EXTRACTORS**

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(a) A groundwater sustainability agency may impose fees, including, but not limited to, permit fees and fees on groundwater extraction or other regulated activity, to fund the costs of a groundwater sustainability program, including, but not limited to, preparation, adoption, and amendment of a groundwater sustainability plan, and investigations, inspections, compliance assistance, enforcement, and program administration, including a prudent reserve. A groundwater sustainability agency shall not impose a fee pursuant to this subdivision on a de minimis extractor unless the agency has regulated the users pursuant to this part.

(b) (1) Prior to imposing or increasing a fee, a groundwater sustainability agency shall hold at least one public meeting, at which oral or written presentations may be made as part of the meeting.

(2) Notice of the time and place of the meeting shall include a general explanation of the matter to be considered and a statement that the data required by this section is available. The notice shall be provided by publication pursuant to Section 6066 of the Government Code, by posting notice on the Internet Web site of the groundwater sustainability agency, and by mail to any interested party who files a written request with the agency for mailed notice of the meeting on new or increased fees. A written request for mailed notices shall be valid for one year from the date that the request is made and may be renewed by making a written request on or before April 1 of each year.

(3) At least 10 days prior to the meeting, the groundwater sustainability agency shall make available to the public data upon which the proposed fee is based.

(c) Any action by a groundwater sustainability agency to impose or increase a fee shall be taken only by ordinance or resolution.

(d) (1) As an alternative method for the collection of fees imposed pursuant to this section, a groundwater sustainability agency may adopt a resolution requesting collection of the fees in the same manner as ordinary municipal ad valorem taxes.

(2) A resolution described in paragraph (1) shall be adopted and furnished to the county auditor-controller and board of supervisors on or before August 1 of each year that the alternative collection of the fees is being requested. The resolution shall include a list of parcels and the amount to be collected for each parcel.

(e) The power granted by this section is in addition to any powers a groundwater sustainability agency has under any other law.

#### **10730.2. ADDITIONAL FEE AUTHORITY FOLLOWING ADOPTION OF A PLAN**

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(a) A groundwater sustainability agency that adopts a groundwater sustainability plan pursuant to this part may impose fees on the extraction of groundwater from the basin to fund costs of groundwater management, including, but not limited to, the costs of the following:

(1) Administration, operation, and maintenance, including a prudent reserve.

(2) Acquisition of lands or other property, facilities, and services.

(3) Supply, production, treatment, or distribution of water.

(4) Other activities necessary or convenient to implement the plan.

(b) Until a groundwater sustainability plan is adopted pursuant to this part, a local agency may impose fees in accordance with the procedures provided in this section for the purposes of Part 2.75 (commencing with Section 10750) as long as a groundwater management plan adopted before January 1, 2015, is in effect for the basin.

(c) Fees imposed pursuant to this section shall be adopted in accordance with subdivisions (a) and (b) of Section 6 of Article XIII D of the California Constitution.

(d) Fees imposed pursuant to this section may include fixed fees and fees charged on a volumetric basis, including, but not limited to, fees that increase based on the quantity of groundwater produced annually, the year in which the production of groundwater commenced from a groundwater extraction facility, and impacts to the basin.

(e) The power granted by this section is in addition to any powers a groundwater sustainability agency has under any other law.

#### **10730.4. AUTHORITY TO USE FEES FOR ACTIVITIES PURSUANT TO PART 2.75**

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A groundwater sustainability agency may fund activities pursuant to Part 2.75 (commencing with Section 10750) and may impose fees pursuant to Section 10730.2 to fund activities undertaken by the agency pursuant to Part 2.75 (commencing with Section 10750).

#### **10730.6. FEE COLLECTION AND ENFORCEMENT**

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(a) A groundwater fee levied pursuant to this chapter shall be due and payable to the groundwater sustainability agency by each owner or operator on a day established by the groundwater sustainability agency.

(b) If an owner or operator knowingly fails to pay a groundwater fee within 30 days of it becoming due, the owner or operator shall be liable to the groundwater sustainability agency for interest at the rate of 1 percent per month on the delinquent amount of the groundwater fee and a 10-percent penalty.

(c) The groundwater sustainability agency may bring a suit in the court having jurisdiction against any owner or operator of a groundwater extraction facility within the area covered by the plan for the collection of any delinquent groundwater fees, interest, or penalties imposed under this chapter. If the groundwater sustainability agency seeks an attachment against the property of any named defendant in the suit, the groundwater sustainability agency shall not be required to furnish a bond or other undertaking as provided in Title 6.5 (commencing with Section 481.010) of Part 2 of the Code of Civil Procedure.

(d) In the alternative to bringing a suit pursuant to subdivision (c), a groundwater sustainability agency may collect any delinquent groundwater charge and any civil penalties and interest on the delinquent groundwater charge pursuant to the laws applicable to the local agency or, if a joint powers authority, to the entity designated pursuant to Section 6509 of the Government Code. The collection shall be in the same manner as it would be applicable to the collection of delinquent assessments, water charges, or tolls.

(e) As an additional remedy, a groundwater sustainability agency, after a public hearing, may order an owner or operator to cease extraction of groundwater until all delinquent fees are paid. The groundwater sustainability agency shall give notice to the owner or operator by certified mail not less than 15 days in advance of the public hearing.

(f) The remedies specified in this section for collecting and enforcing fees are cumulative and may be pursued alternatively or may be used consecutively as determined by the governing body.

#### **10730.8. NO LIMITATION ON OTHER AUTHORITIES; PERSONAL INFORMATION TREATED LIKE UTILITY INFORMATION**

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(a) Nothing in this chapter shall affect or interfere with the authority of a groundwater sustainability agency to levy and collect taxes, assessments, charges, and tolls as otherwise provided by law.

(b) Personal information included in a report or record pursuant to this chapter has the same protection from disclosure as is provided for information concerning utility customers of local agencies pursuant to Section 6254.16 of the Government Code.



### **10731. AUTHORITY TO DETERMINE AMOUNTS EXTRACTED**

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(a) Following an investigation pursuant to Section 10725.4, the governing body may make a determination fixing the amount of groundwater production from the groundwater extraction facility at an amount not to exceed the maximum production capacity of the facility for purposes of levying a groundwater charge. If a water-measuring device is permanently attached to the groundwater extraction facility, the record of production as disclosed by the water-measuring device shall be presumed to be accurate unless the contrary is established by the groundwater sustainability agency after investigation.

(b) After the governing body makes a determination fixing the amount of groundwater production pursuant to subdivision (a), a written notice of the determination shall be mailed to the owner or operator of the groundwater extraction facility at the address as shown by the groundwater sustainability agency's records. A determination made by the governing body shall be conclusive on the owner or operator and the groundwater charges, based on the determination together with any interest and penalties, shall be payable immediately unless within 20 days after the mailing of the notice the owner or operator files with the governing body a written protest setting forth the ground for protesting the amount of production or the groundwater charges, interest, and penalties. If a protest is filed pursuant to this subdivision, the governing body shall hold a hearing to determine the total amount of the groundwater production and the groundwater charges, interest, and penalties. Notice of the hearing shall be mailed to each protestant at least 20 days before the date fixed for the hearing. Notice of the determination of the governing body hearing shall be mailed to each protestant. The owner or operator shall have 20 days from the date of mailing of the determination to pay the groundwater charges, interest, and penalties determined by the governing body.

## **CHAPTER 9. Groundwater Sustainability Agency Enforcement Powers**

### **10732. CIVIL PENALTIES**

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(a) (1) A person who extracts groundwater in excess of the amount that person is authorized to extract under a rule, regulation, ordinance, or resolution adopted pursuant to Section 10725.2, shall be subject to a civil penalty not to exceed five hundred dollars (\$500) per acre-foot extracted in excess of the amount that person is authorized to extract. Liability under this subdivision is in addition to any liability imposed under paragraph (2) and any fee imposed for the extraction.

(2) A person who violates any rule, regulation, ordinance, or resolution adopted pursuant to Section 10725.2 shall be liable for a civil penalty not to exceed one thousand dollars (\$1,000) plus one hundred dollars (\$100) for each additional day on which the violation continues if the person fails to comply within 30 days after the local agency has notified the person of the violation.

(b) (1) A groundwater sustainability agency may bring an action in the superior court to determine whether a violation occurred and to impose a civil penalty described in subdivision (a).

(2) A groundwater sustainability agency may administratively impose a civil penalty described in subdivision (a) after providing notice and an opportunity for a hearing.

(3) In determining the amount of the penalty, the superior court or the groundwater sustainability agency shall take into consideration all relevant circumstances, including, but not limited to, the nature and persistence of the violation, the extent of the harm caused by the violation, the length of time over which the violation occurs, and any corrective action taken by the violator.

(c) A penalty imposed pursuant to this section shall be paid to the groundwater sustainability agency and shall be expended solely for purposes of this part.

(d) Penalties imposed pursuant to this section are in addition to any civil penalty or criminal fine under any other law.

## CHAPTER 10. State Evaluation and Assessment

### **10733. DEPARTMENT REVIEW OF PLANS**

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(a) The department shall periodically review the groundwater sustainability plans developed by groundwater sustainability agencies pursuant to this part to evaluate whether a plan conforms with Sections 10727.2 and 10727.4 and is likely to achieve the sustainability goal for the basin covered by the groundwater sustainability plan.

(b) If a groundwater sustainability agency develops multiple groundwater sustainability plans for a basin, the department shall evaluate whether the plans conform with Sections 10727.2, 10727.4, and 10727.6 and are together likely to achieve the sustainability goal for the basin covered by the groundwater sustainability plans.

(c) The department shall evaluate whether a groundwater sustainability plan adversely affects the ability of an adjacent basin to implement their groundwater sustainability plan or impedes achievement of sustainability goals in an adjacent basin.

### **10733.2. DEPARTMENT TO ADOPT EMERGENCY REGULATIONS CONCERNING PLAN REVIEW AND IMPLEMENTATION**

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(a) (1) By June 1, 2016, the department shall adopt regulations for evaluating groundwater sustainability plans, the implementation of groundwater sustainability plans, and coordination agreements pursuant to this chapter.

(2) The regulations shall identify the necessary plan components specified in Sections 10727.2, 10727.4, and 10727.6 and other information that will assist local agencies in developing and implementing groundwater sustainability plans and coordination agreements.

(b) (1) The department may update the regulations, including to incorporate the best management practices identified pursuant to Section 10729.

(2) The regulations adopted pursuant to paragraph (1) of subdivision (a) shall identify appropriate methodologies and assumptions for baseline conditions concerning hydrology, water demand, regulatory restrictions that affect the availability of surface water, and unreliability of, or reductions in, surface water deliveries to the agency or water users in the basin, and the impact of those conditions on achieving sustainability. The baseline for measuring unreliability and reductions shall

include the historic average reliability and deliveries of surface water to the agency or water users in the basin.

(c) By June 1, 2016, the department shall adopt regulations for evaluating alternatives submitted pursuant to Section 10733.6.

(d) The department shall adopt the regulations, including any amendments thereto, authorized by this section as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding the Administrative Procedure Act, emergency regulations adopted by the department pursuant to this section shall not be subject to review by the Office of Administrative Law and shall remain in effect until revised by the department.

(e) Before adopting and finalizing the regulations, the department shall conduct three public meetings to consider public comments. The department shall publish the draft regulations on its Internet Web site at least 30 days before the public meetings. One meeting shall be conducted at a location in northern California, one meeting shall be conducted at a location in the central valley of California, and one meeting shall be conducted at a location in southern California.

#### **10733.3. NOTICE REQUIREMENTS**

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The department shall post all notices it receives pursuant to Section 10723 or 10723.8 on its Internet Web site within 15 days of receipt.

#### **10733.4. SUBMITTAL OF PLANS TO DEPARTMENT FOR EVALUATION**

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(a) Upon adoption of a groundwater sustainability plan, a groundwater sustainability agency shall submit the groundwater sustainability plan to the department for review pursuant to this chapter.

(b) If groundwater sustainability agencies develop multiple groundwater sustainability plans for a basin, the submission required by subdivision (a) shall not occur until the entire basin is covered by groundwater sustainability plans. When the entire basin is covered by groundwater sustainability plans, the groundwater sustainability agencies shall jointly submit to the department all of the following:

(1) The groundwater sustainability plans.

(2) An explanation of how the groundwater sustainability plans implemented together satisfy Sections 10727.2, 10727.4, and 10727.6 for the entire basin.

(3) A copy of the coordination agreement between the groundwater sustainability agencies to ensure the coordinated implementation of the groundwater sustainability plans for the entire basin.

(c) Upon receipt of a groundwater sustainability plan, the department shall post the plan on the department's Internet Web site and provide 60 days for persons to submit comments to the department about the plan.

(d) The department shall evaluate the groundwater sustainability plan within two years of its submission by a groundwater sustainability agency and issue an assessment of the plan. The assessment may include recommended corrective actions to address any deficiencies identified by the department.

#### **10733.6. ALTERNATIVE SUBMITTALS**

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(a) If a local agency believes that an alternative described in subdivision (b) satisfies the objectives of this part, the local agency may submit the alternative to the department for evaluation and assessment of whether the alternative satisfies the objectives of this part for the basin.

(b) An alternative is any of the following:

(1) A plan developed pursuant to Part 2.75 (commencing with Section 10750) or other law authorizing groundwater management.

(2) Management pursuant to an adjudication action.

(3) An analysis of basin conditions that demonstrates that the basin has operated within its sustainable yield over a period of at least 10 years. The submission of an alternative described by this paragraph shall include a report prepared by a registered professional engineer or geologist who is licensed by the state and submitted under that engineer's or geologist's seal.

(c) A local agency shall submit an alternative pursuant to this section no later than January 1, 2017, and every five years thereafter.

(d) The assessment required by subdivision (a) shall include an assessment of whether the alternative is within a basin that is in compliance with Part 2.11 (commencing with Section 10920). If the alternative is within a basin that is not in compliance with Part 2.11 (commencing with Section 10920), the department shall find the alternative does not satisfy the objectives of this part.

#### **10733.8. DEPARTMENT REVIEW OF PLANS AT LEAST EVERY FIVE YEARS**

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At least every five years after initial submission of a plan pursuant to Section 10733.4, the department shall review any available groundwater sustainability plan or alternative submitted in accordance with Section 10733.6, and the implementation of the corresponding groundwater sustainability program for consistency with this part, including achieving the sustainability goal. The department shall issue an assessment for each basin for which a plan or alternative has been submitted in accordance with this chapter, with an emphasis on assessing progress in achieving the sustainability goal within the basin. The assessment may include recommended corrective actions to address any deficiencies identified by the department.

## **CHAPTER 11. State Intervention**

#### **10735. DEFINITIONS**

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As used in this chapter, the following terms have the following meanings:

(a) "Condition of long-term overdraft" means the condition of a groundwater basin where the average annual amount of water extracted for a long-term period, generally 10 years or more, exceeds the long-term average annual supply of water to the basin, plus any temporary surplus. Overdraft during a period of drought is not sufficient to establish a condition of long-term overdraft if extractions and recharge are managed as necessary to ensure that reductions in groundwater levels or storage during a period of drought are offset by increases in groundwater levels or storage during other periods.

(b) "Person" means any person, firm, association, organization, partnership, business, trust, corporation, limited liability company, or public agency, including any city, county, city and county, district, joint powers authority, state, or any agency or department of those entities. "Person" includes, to the extent authorized by federal or tribal law and subject to the limitations described in subdivisions (c) and (d) of Section 10720.3, the United States, a department, agency or instrumentality of the federal government, an Indian tribe, an authorized Indian tribal organization, or interstate body.

(c) "Probationary basin" means a basin for which the board has issued a determination under Section 10735.2.

(d) "Significant depletions of interconnected surface waters" means reductions in flow or levels of surface water that is hydrologically connected to the basin such that the reduced surface water flow or levels have a significant and unreasonable adverse impact on beneficial uses of the surface water.

#### **10735.2. DESIGNATION OF PROBATIONARY BASINS BY STATE WATER BOARD**

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(a) The board, after notice and a public hearing, may designate a basin as a probationary basin, if the board finds one or more of the following applies to the basin:

(1) After June 30, 2017, none of the following have occurred:

(A) A local agency has elected to be a groundwater sustainability agency that intends to develop a groundwater sustainability plan for the entire basin.

(B) A collection of local agencies has formed a groundwater sustainability agency or prepared agreements to develop one or more groundwater sustainability plans that will collectively serve as a groundwater sustainability plan for the entire basin.

(C) A local agency has submitted an alternative that has been approved or is pending approval pursuant to Section 10733.6. If the department disapproves an alternative pursuant to Section 10733.6, the board shall not act under this paragraph until at least 180 days after the department disapproved the alternative.

(2) The basin is subject to paragraph (1) of subdivision (a) of Section 10720.7, and after January 31, 2020, none of the following have occurred:

(A) A groundwater sustainability agency has adopted a groundwater sustainability plan for the entire basin.

(B) A collection of local agencies has adopted groundwater sustainability plans that collectively serve as a groundwater sustainability plan for the entire basin.

(C) The department has approved an alternative pursuant to Section 10733.6.

(3) The basin is subject to paragraph (1) of subdivision (a) of Section 10720.7 and after January 31, 2020, the department, in consultation with the board, determines that a groundwater sustainability plan is inadequate or that the groundwater sustainability program is not being implemented in a manner that will likely achieve the sustainability goal.

(4) The basin is subject to paragraph (2) of subdivision (a) of Section 10720.7, and after January 31, 2022, none of the following have occurred:

(A) A groundwater sustainability agency has adopted a groundwater sustainability plan for the entire basin.

(B) A collection of local agencies has adopted groundwater sustainability plans that collectively serve as a groundwater sustainability plan for the entire basin.

(C) The department has approved an alternative pursuant to Section 10733.6.

(5) The basin is subject to paragraph (2) of subdivision (a) of Section 10720.7, and either of the following have occurred:

(A) After January 31, 2022, both of the following have occurred:

(i) The department, in consultation with the board, determines that a groundwater sustainability plan is inadequate or that the groundwater sustainability plan is not being implemented in a manner that will likely achieve the sustainability goal.

(ii) The board determines that the basin is in a condition of long-term overdraft.

(B) After January 31, 2025, both of the following have occurred:

(i) The department, in consultation with the board, determines that a groundwater sustainability plan is inadequate or that the groundwater sustainability plan is not being implemented in a manner that will likely achieve the sustainability goal.

(ii) The board determines that the basin is in a condition where groundwater extractions result in significant depletions of interconnected surface waters.

(b) In making the findings associated with paragraph (3) or (5) of subdivision (a), the department and board may rely on periodic assessments the department has prepared pursuant to Chapter 10 (commencing with Section 10733). The board may request that the department conduct additional assessments utilizing the regulations developed pursuant to Chapter 10 (commencing with Section 10733) and make determinations pursuant to this section. The board shall post on its Internet Web site



and provide at least 30 days for the public to comment on any determinations provided by the department pursuant to this subdivision.

(c) (1) The determination may exclude a class or category of extractions from the requirement for reporting pursuant to Part 5.2 (commencing with Section 5200) of Division 2 if those extractions are subject to a local plan or program that adequately manages groundwater within the portion of the basin to which that plan or program applies, or if those extractions are likely to have a minimal impact on basin withdrawals.

(2) The determination may require reporting of a class or category of extractions that would otherwise be exempt from reporting pursuant to paragraph (1) of subdivision (c) of Section 5202 if those extractions are likely to have a substantial impact on basin withdrawals or requiring reporting of those extractions is reasonably necessary to obtain information for purposes of this chapter.

(3) The determination may establish requirements for information required to be included in reports of groundwater extraction, for installation of measuring devices, or for use of a methodology, measuring device, or both, pursuant to Part 5.2 (commencing with Section 5200) of Division 2.

(4) The determination may modify the water year or reporting date for a report of groundwater extraction pursuant to Section 5202.

(d) If the board finds that litigation challenging the formation of a groundwater sustainability agency prevented its formation before July 1, 2017, pursuant to paragraph (1) of subdivision (a) or prevented a groundwater sustainability program from being implemented in a manner likely to achieve the sustainability goal pursuant to paragraph (3), (4), or (5) of subdivision (a), the board shall not designate a basin as a probationary basin for a period of time equal to the delay caused by the litigation.

(e) The board shall exclude from probationary status any portion of a basin for which a groundwater sustainability agency demonstrates compliance with the sustainability goal.

**10735.4. OPPORTUNITY FOR REMEDY OF ABSENCE OF LOCAL GOVERNANCE BEFORE STATE WATER BOARD PREPARES INTERIM PLAN**

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(a) If the board designates a basin as a probationary basin pursuant to paragraph (1) or (2) of subdivision (a) of Section 10735.2, a local agency or groundwater sustainability agency shall have 180 days to remedy the deficiency. The board may appoint a mediator or other facilitator, after consultation with affected local agencies, to assist in resolving disputes, and identifying and implementing actions that will remedy the deficiency.

(b) After the 180-day period provided by subdivision (a), the board may provide additional time to remedy the deficiency if it finds that a local agency is making substantial progress toward remedying the deficiency.

(c) The board may develop an interim plan pursuant to Section 10735.8 for the probationary basin at the end of the period provided by subdivision (a) or any extension provided pursuant to subdivision (b), if

the board, in consultation with the department, determines that a local agency has not remedied the deficiency that resulted in designating the basin as a probationary basin.

**10735.6. OPPORTUNITY FOR REMEDY OF PLAN INADEQUACY OR LACK OF PLAN IMPLEMENTATION BEFORE STATE WATER BOARD PREPARES INTERIM PLAN**

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(a) If the board designates a basin as a probationary basin pursuant to paragraph (3) of subdivision (a) of Section 10735.2, the board shall identify the specific deficiencies and identify potential actions to address the deficiencies. The board may request the department to provide local agencies, within 90 days of the designation of a probationary basin, with technical recommendations to remedy the deficiencies.

(b) The board may develop an interim plan pursuant to Section 10735.8 for the probationary basin one year after the designation of the basin pursuant to paragraph (3) of subdivision (a) of Section 10735.2, if the board, in consultation with the department, determines that a local agency has not remedied the deficiency that resulted in designating the basin a probationary basin.

**10735.8. INTERIM PLANS**

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(a) The board, after notice and a public hearing, may adopt an interim plan for a probationary basin.

(b) The interim plan shall include all of the following:

(1) Identification of the actions that are necessary to correct a condition of long-term overdraft or a condition where groundwater extractions result in significant depletions of interconnected surface waters, including recommendations for appropriate action by any person.

(2) A time schedule for the actions to be taken.

(3) A description of the monitoring to be undertaken to determine effectiveness of the plan.

(c) The interim plan may include the following:

(1) Restrictions on groundwater extraction.

(2) A physical solution.

(3) Principles and guidelines for the administration of rights to surface waters that are connected to the basin.

(d) Except as provided in subdivision (e), the interim plan shall be consistent with water right priorities, subject to Section 2 of Article X of the California Constitution.

(e) The board shall include in its interim plan a groundwater sustainability plan, or any element of a plan, that the board finds complies with the sustainability goal for that portion of the basin or would help meet the sustainability goal for the basin. Where, in the judgment of the board, an adjudication action can be relied on as part of the interim plan, either throughout the basin or in an area within the basin,

the board may rely on, or incorporate elements of, that adjudication into the interim plan adopted by the board.

(f) In carrying out activities that may affect the probationary basin, state entities shall comply with an interim plan adopted by the board pursuant to this section unless otherwise directed or authorized by statute and the state entity shall indicate to the board in writing the authority for not complying with the interim plan.

(g) (1) After the board adopts an interim plan under this section, the board shall determine if a groundwater sustainability plan or an adjudication action is adequate to eliminate the condition of long-term overdraft or condition where groundwater extractions result in significant depletions of interconnected surface waters, upon petition of either of the following:

(A) A groundwater sustainability agency that has adopted a groundwater sustainability plan for the probationary basin or a portion thereof.

(B) A person authorized to file the petition by a judicial order or decree entered in an adjudication action in the probationary basin.

(2) The board shall act on a petition filed pursuant to paragraph (1) within 90 days after the petition is complete. If the board, in consultation with the department, determines that the groundwater sustainability plan or adjudication action is adequate, the board shall rescind the interim plan adopted by the board for the probationary basin, except as provided in paragraphs (3) and (4).

(3) Upon request of the petitioner, the board may amend an interim plan adopted under this section to eliminate portions of the interim plan, while allowing other portions of the interim plan to continue in effect.

(4) The board may decline to rescind an interim plan adopted pursuant to this section if the board determines that the petitioner has not provided adequate assurances that the groundwater sustainability plan or judicial order or decree will be implemented.

(5) This subdivision is not a limitation on the authority of the board to stay its proceedings under this section or to rescind or amend an interim plan adopted pursuant to this section based on the progress made by a groundwater sustainability agency or in an adjudication action, even if the board cannot make a determination of adequacy in accordance with paragraph (1).

(h) Before January 1, 2025, the state board shall not establish an interim plan under this section to remedy a condition where the groundwater extractions result in significant depletions of interconnected surface waters.

(i) The board's authority to adopt an interim plan under this section does not alter the law establishing water rights priorities or any other authority of the board.

**10736. PROCEDURES APPLICABLE TO DESIGNATING PROBATIONARY BASINS AND ADOPTING INTERIM PLANS**

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(a) The board shall adopt or amend a determination or interim plan under Section 10735.2 or 10735.8 in accordance with procedures for quasi-legislative action.

(b) The board shall provide notice of a hearing described in subdivision (a) of Section 10735.2 or subdivision (a) of Section 10735.8 as follows:

(1) At least 90 days before the hearing, the board shall publish notice of the hearing on its Internet Web site.

(2) At least 90 days before the hearing, the board shall notify the department and each city, county, or city and county in which any part of the basin is situated.

(3) (A) For the purposes of this paragraph, the terms “board-designated local area” and “local agency” have the same meaning as defined in Section 5009.

(B) At least 60 days before the hearing, the board shall mail or send by electronic mail notice to all persons known to the board who extract or who propose to extract water from the basin, or who have made written or electronic mail requests to the board for special notice of hearing pursuant to this part. If any portion of the basin is within a board-designated local area, the records made available to the board by the local agency in accordance with paragraph (4) of subdivision (d) of Section 5009 shall include the names and addresses of persons and entities known to the local agency who extract water from the basin, and the board shall mail or send by electronic mail notice to those persons.

(c) The board shall provide notice of proceedings to amend or repeal a determination or plan under Section 10735.2 or 10735.8 as appropriate to the proceedings, taking into account the nature of the proposed revision and the person likely to be affected.

(d) (1) Except as provided in paragraphs (2) and (3), Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 2 of Title 2 of the Government Code does not apply to any action authorized pursuant to Section 10735.2 or 10735.8.

(2) The board may adopt a regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 2 of Title 2 of the Government Code setting procedures for adopting a determination or plan.

(3) The board may adopt a regulation applying or interpreting this part pursuant to Section 1530 if the board determines that the emergency regulation is reasonably necessary for the allocation, administration, or collection of fees authorized pursuant to Section 1529.5.

**10736.2. CEQA APPLICABILITY**

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Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to any action or failure to act by the board under this chapter, other than the adoption or amendment of an interim plan pursuant to Section 10735.8.

**10736.4. EXTRACTION IN VIOLATION OF AN INTERIM PLAN SHALL NOT BE RELIED UPON TO SUPPORT A WATER RIGHT CLAIM**

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The extraction or use of water extracted in violation of an interim plan under this part shall not be relied upon as a basis for establishing the extraction or use of water to support a claim in an action or proceeding for determination of water rights.

**10736.6. REPORTS AND INSPECTIONS**

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(a) The board may order a person that extracts or uses water from a basin that is subject to an investigation or proceeding under this chapter to prepare and submit to the board any technical or monitoring program reports related to that person's or entity's extraction or use of water as the board may specify. The costs incurred by the person in the preparation of those reports shall bear a reasonable relationship to the need for the report and the benefit to be obtained from the report. If the preparation of individual reports would result in a duplication of effort, or if the reports are necessary to evaluate the cumulative effect of several diversions or uses of water, the board may order any person subject to this subdivision to pay a reasonable share of the cost of preparing reports.

(b) (1) An order issued pursuant to this section shall be served by personal service or registered mail on the party to submit technical or monitoring program reports or to pay a share of the costs of preparing reports. Unless the board issues the order after a hearing, the order shall inform the party of the right to request a hearing within 30 days after the party has been served. If the party does not request a hearing within that 30-day period, the order shall take effect as issued. If the party requests a hearing within that 30-day period, the board may adopt a decision and order after conducting a hearing.

(2) In lieu of adopting an order directed at named persons in accordance with the procedures specified in paragraph (1), the board may adopt a regulation applicable to a category or class of persons in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 2 of Title 2 of the Government Code.

(c) Upon application of a person or upon its own motion, the board may review and revise an order issued or regulation adopted pursuant to this section in accordance with the procedures set forth in subdivision (b).

(d) In conducting an investigation or proceeding pursuant to this part, the board may inspect the property or facilities of a person to ascertain whether the purposes of this part are being met and to ascertain compliance with this part. The board may obtain an inspection warrant pursuant to the procedures set forth in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure for the purposes of an inspection pursuant to this subdivision.

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**[PART 2.75. Groundwater Management]**

### **10750.1. LIMITATION ON AUTHORITY TO ADOPT NEW PLANS**

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(a) Beginning January 1, 2015, a new plan shall not be adopted and an existing plan shall not be renewed pursuant to this part, except as provided in subdivision (b). A plan adopted before January 1, 2015, shall remain in effect until a groundwater sustainability plan is adopted pursuant to Part 2.74 (commencing with Section 10720).

(b) This section does not apply to a low- or very low priority basin as categorized for the purposes of Part 2.74 (commencing with Section 10720).

(c) This section does not apply to a plan submitted as an alternative pursuant to Section 10733.6, unless the department has not determined that the alternative satisfies the objectives of Part 2.74 (commencing with Section 10720) on or before January 31, 2020, or the department later determines that the plan does not satisfy the objectives of that part.

## **[PART 2.11. Groundwater Monitoring]**

### **10927. ENTITIES AUTHORIZED TO ASSUME RESPONSIBILITY FOR MONITORING AND REPORTING**

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Any of the following entities may assume responsibility for monitoring and reporting groundwater elevations in all or a part of a basin or subbasin in accordance with this part:

(a) A watermaster or water management engineer appointed by a court or pursuant to statute to administer a final judgment determining rights to groundwater.

(b) (1) A groundwater management agency with statutory authority to manage groundwater pursuant to its principal act that is monitoring groundwater elevations in all or a part of a groundwater basin or subbasin on or before January 1, 2010.

(2) A water replenishment district established pursuant to Division 18 (commencing with Section 60000). This part does not expand or otherwise affect the authority of a water replenishment district relating to monitoring groundwater elevations.

**(3) A groundwater sustainability agency with statutory authority to manage groundwater pursuant to Part 2.74 (commencing with Section 10720).**

(c) A local agency that is managing all or part of a groundwater basin or subbasin pursuant to Part 2.75 (commencing with Section 10750) and that was monitoring groundwater elevations in all or a part of a groundwater basin or subbasin on or before January 1, 2010, or a local agency or county that is managing all or part of a groundwater basin or subbasin pursuant to any other legally enforceable groundwater management plan with provisions that are substantively similar to those described in that part and that was monitoring groundwater elevations in all or a part of a groundwater basin or subbasin on or before January 1, 2010.

(d) A local agency that is managing all or part of a groundwater basin or subbasin pursuant to an integrated regional water management plan prepared pursuant to Part 2.2 (commencing with Section

10530) that includes a groundwater management component that complies with the requirements of Section 10753.7.

(e) A local agency that has been collecting and reporting groundwater elevations and that does not have an adopted groundwater management plan, if the local agency adopts a groundwater management plan in accordance with Part 2.75 (commencing with Section 10750) by January 1, 2014. The department may authorize the local agency to conduct the monitoring and reporting of groundwater elevations pursuant to this part on an interim basis, until the local agency adopts a groundwater management plan in accordance with Part 2.75 (commencing with Section 10750) or until January 1, 2014, whichever occurs first.

(f) A county that is not managing all or a part of a groundwater basin or subbasin pursuant to a legally enforceable groundwater management plan with provisions that are substantively similar to those described in Part 2.75 (commencing with Section 10750).

(g) A voluntary cooperative groundwater monitoring association formed pursuant to Section 10935.

### **10933. GROUNDWATER ELEVATION MONITORING; PRIORITIZATION OF BASINS BY THE DEPARTMENT**

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(a) ~~On or before January 1, 2012, the~~ The department shall commence to identify the extent of monitoring of groundwater elevations that is being undertaken within each basin and subbasin.

(b) The department shall prioritize groundwater basins and subbasins for the purpose of implementing this section. In prioritizing the basins and subbasins, the department shall, to the extent data are available, consider all of the following:

- (1) The population overlying the basin or subbasin.
- (2) The rate of current and projected growth of the population overlying the basin or subbasin.
- (3) The number of public supply wells that draw from the basin or subbasin.
- (4) The total number of wells that draw from the basin or subbasin.
- (5) The irrigated acreage overlying the basin or subbasin.
- (6) The degree to which persons overlying the basin or subbasin rely on groundwater as their primary source of water.
- (7) Any documented impacts on the groundwater within the basin or subbasin, including overdraft, subsidence, saline intrusion, and other water quality degradation.
- (8) Any other information determined to be relevant by the department, including adverse impacts on local habitat and local streamflows.

(c) If the department determines that all or part of a basin or subbasin is not being monitored pursuant to this part, the department shall do all of the following:



- (1) Attempt to contact all well owners within the area not being monitored.
- (2) Determine if there is an interest in establishing any of the following:
  - (A) A groundwater management plan pursuant to Part 2.75 (commencing with Section 10750).
  - (B) An integrated regional water management plan pursuant to Part 2.2 (commencing with Section 10530) that includes a groundwater management component that complies with the requirements of Section 10753.7.
  - (C) A voluntary groundwater monitoring association pursuant to Section 10935.
- (d) If the department determines that there is sufficient interest in establishing a plan or association described in paragraph (2) of subdivision (c), or if the county agrees to perform the groundwater monitoring functions in accordance with this part, the department shall work cooperatively with the interested parties to comply with the requirements of this part within two years.
- (e) If the department determines, with regard to a basin or subbasin, that there is insufficient interest in establishing a plan or association described in paragraph (2) of subdivision (c), and if the county decides not to perform the groundwater monitoring and reporting functions of this part, the department shall do all of the following:
  - (1) Identify any existing monitoring wells that overlie the basin or subbasin that are owned or operated by the department or any other state or federal agency.
  - (2) Determine whether the monitoring wells identified pursuant to paragraph (1) provide sufficient information to demonstrate seasonal and long-term trends in groundwater elevations.
  - (3) If the department determines that the monitoring wells identified pursuant to paragraph (1) provide sufficient information to demonstrate seasonal and long-term trends in groundwater elevations, the department shall not perform groundwater monitoring functions pursuant to Section 10933.5.
  - (4) If the department determines that the monitoring wells identified pursuant to paragraph (1) provide insufficient information to demonstrate seasonal and long-term trends in groundwater elevations, the department shall perform groundwater monitoring functions pursuant to Section 10933.5.

## **[PART 6. Water Development Projects]**

### **[Chapter 7.5. Protection of Groundwater Basins]**

#### **12924. IDENTIFICATION OF GROUNDWATER BASINS**

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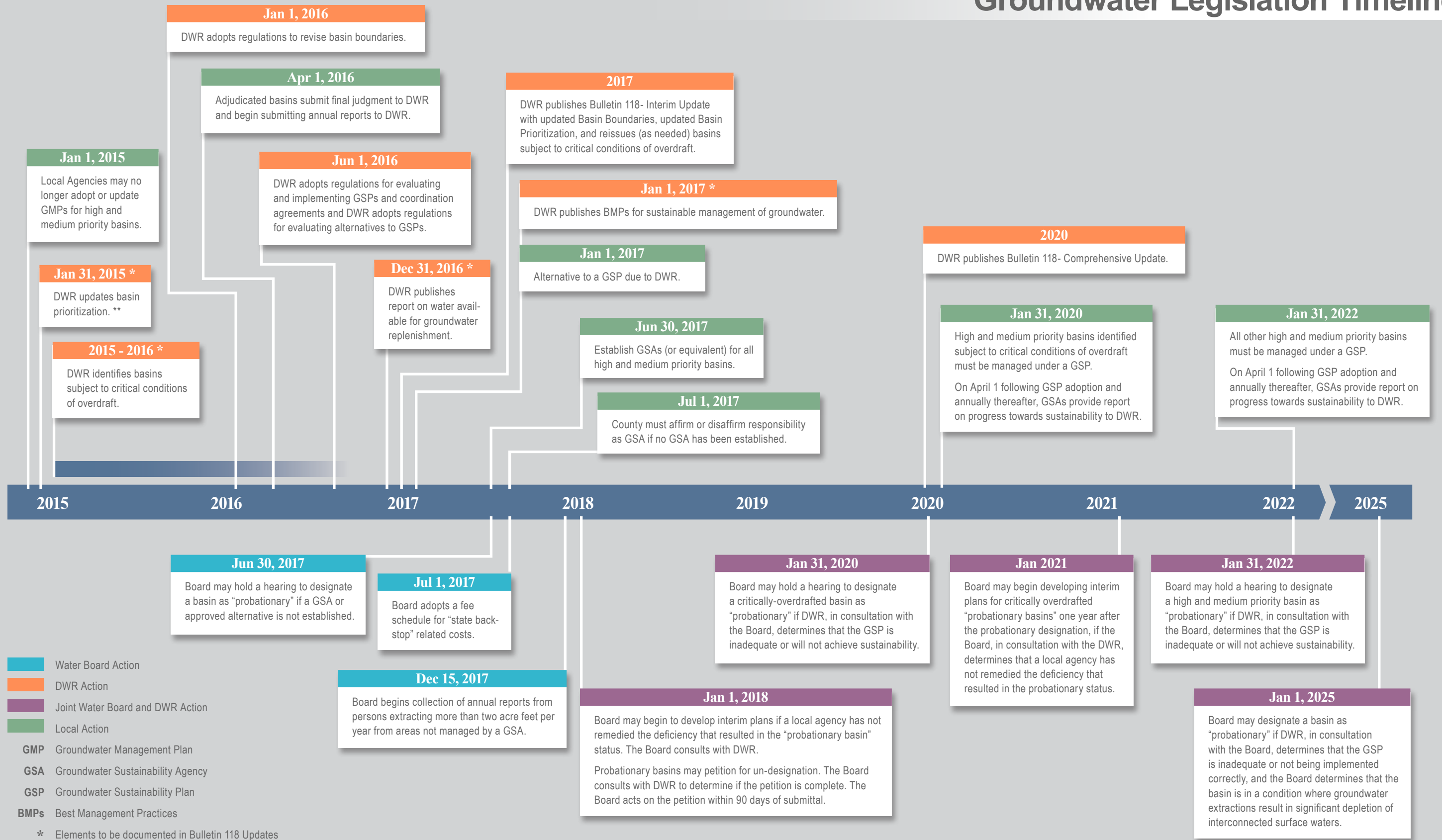
- (a) The department, in conjunction with other public agencies, shall conduct an investigation of the state's groundwater basins. The department shall identify the state's groundwater basins on the basis of geological and hydrological conditions and consideration of political boundary lines whenever practical.

The department shall also investigate existing general patterns of groundwater ~~pumping~~extraction and groundwater recharge within those basins to the extent necessary to identify basins that are subject to critical conditions of overdraft.

(b) The department may revise the boundaries of groundwater basins identified in subdivision (a) based on its own investigations or information provided by others.

(c) The department shall report its findings to the Governor and the Legislature not later than January 1, 2012, and thereafter in years ending in 5 or 0.

# Groundwater Legislation Timeline



- Water Board Action
- DWR Action
- Joint Water Board and DWR Action
- Local Action
- GMP** Groundwater Management Plan
- GSA** Groundwater Sustainability Agency
- GSP** Groundwater Sustainability Plan
- BMPs** Best Management Practices
- \* Elements to be documented in Bulletin 118 Updates
- \*\* Basin prioritization will be updated prior to each Bulletin 118 Update (estimated to be every 5 years)



## **DWR develops Draft Strategic Plan for Implementing Historic Groundwater Laws**

March 13, 2015

DWR has developed a Draft *Strategic Plan* (the plan) for its Sustainable Groundwater Program. The draft plan describes DWR's responsibilities and vision for carrying out the Sustainable Groundwater Management Act, a package of laws that aim to protect the groundwater basins that provide more than half of the water Californians use in dry years. The draft plan outlines key actions DWR will undertake over the next several years to position itself to better support local agencies across California to achieve sustainable groundwater management.

The Sustainable Groundwater Management Act directs DWR to complete multiple activities, including but not limited to, adoption of regulations for local agency proposed revisions to groundwater basin boundaries, adoption of regulations for evaluating and implementing local agency prepared groundwater sustainability plans, update the prioritization of basins, and conduct groundwater assessments into the next decade.

DWR's Groundwater Sustainability Program Draft Strategic Plan, available [here](#),

- describes current groundwater conditions in California;
- outlines the requirements of the new laws, including a timeline;
- describes related actions under the California Water Action Plan, the governor's five-year strategy for more resilient and reliable water resources;
- lists key intended outcomes and benefits of implementation of the Sustainable Groundwater Management Act;
- identifies DWR's goals, objectives, and corresponding actions; and
- describes potential challenges and factors that will be key to success, including public outreach and communication.

The public and stakeholders are invited to send comments and suggestions about the Draft Strategic Plan to [sgmps@water.ca.gov](mailto:sgmps@water.ca.gov), mail comments to P.O. Box 942836, Sacramento, CA, 94236, Attn: Lauren Bisnett. DWR will consider all comments before finalizing the plan.

For more information on groundwater, please visit <http://www.water.ca.gov/groundwater/index.cfm>

For Sustainable Groundwater Management Program contact information, please visit: <http://www.water.ca.gov/groundwater/sgm/contacts.cfm>

For more information on the Sustainable Groundwater Management Act and its implementation, please visit <http://www.water.ca.gov/cagroundwater/>. To sign up for email updates, please visit <http://www.water.ca.gov/groundwater/sgm/subscribe.cfm>.

September 5, 2015

Delivered by e-mail to: [sgmps@water.ca.gov](mailto:sgmps@water.ca.gov)

California Department of Water Resources  
Attn: Sustainable Groundwater Management Section  
P.O. Box 942836  
Sacramento, California 94236

Subject: Comments on Draft Emergency Regulation for Basin Boundary Modifications

The Association of California Water Agencies (ACWA) appreciates this opportunity to provide comments to the California Department of Water Resources (DWR) on the Draft Emergency Regulation for Basin Boundary Modifications (draft regulation), released for comment on July 17, 2015.

ACWA represents over 430 public water agencies which are responsible for delivery of over 90% of the water that serves residential, commercial and agricultural needs throughout California. Many ACWA member agencies are "local agencies" which may need to request basin boundary modifications as one means to successful implementation of the Sustainable Groundwater Management Act (SGMA).

We are providing general comments on the draft regulation, and then specific comments and recommendations on a section-by-section basis which we believe will improve the draft regulation.

### **General Comments**

#### **Support for regulatory process**

We appreciate the process that DWR staff used to frame the scope of these regulations and solicit early input from a wide variety of stakeholders of several weeks before preparing the draft proposal. ACWA has been engaged and has provided recommendations to inform this drafting process. We believe this early consultation has resulted in a well-crafted and generally supportable draft, that is a valuable starting point for the process of considering public comments and finalizing the regulations.

#### **Use of the terms "basin" and "basin or subbasin"**

The slightly different ways that the term "basin" is used in the SGMA and in Bulletin 118, create some confusion in the draft regulation. The terms "basin" and "basin or subbasin" are inconsistently used throughout the draft regulation. DWR should clarify throughout that the provisions of the draft regulation apply to all basins and subbasins in Bulletin 118 (i.e. "basins" in SGMA).

#### **Principle of deference to local agencies**

The draft regulation includes important recognition of the role of local public agencies in implementing SGMA. This is reflected, for example, in Section 344.8, which acknowledges that local support will be

based on the support of other local agencies, rather than individuals or special interest groups. Similarly, Section 343.12, which requires that protests be held to the same standards as the original request, properly protects the interests of local agencies in the process. However, we believe the draft regulation needs to more fully defer to local agencies' determinations that a revised basin boundary will lead to more effective and timely sustainable management of groundwater. Local agencies are in the best position to adequately consider the technical, legal, political, and institutional issues that will present either opportunities or obstacles.

The draft regulation contains a number of provisions that may be unnecessarily burdensome to local agencies requesting a boundary modification. Specific examples (presented in more detail below) include Section 343.6, requiring all boundary revision requests affecting a basin to be combined, and Section 344.8, requiring unanimous support, as demonstrated by resolutions from the governing boards of all affected agencies and water systems. Local agencies are governed by boards of elected officials that are accountable to the public. Local agencies are also ultimately responsible for the successful implementation of SGMA. The basin boundary adjustment regulations should avoid being unnecessarily prescriptive but instead be viewed as a tool to empower local agencies to meet this challenge.

### **Specific Comments and Recommendations**

#### **1. Affected Basin (Page 2 -§341(d))**

The definition of “affected basin” in 341(d) does not clearly include the basin that is actually proposed for revision.

Recommendation:

Rewrite to read, “‘affected basin’ means a basin or subbasin that is the subject of a basin boundary revision request and any a basin where the ability to achieve...”

#### **2. Clarify eligibility to request a boundary modification (Page 7 - §343.2)**

The draft lacks clarity on an agency’s eligibility to request a boundary modification. An agency outside the basin or subbasin should not be entitled to request a change.

Recommendation:

Change the language to read, “A request for a boundary modification may be initiated by a local agency whose jurisdiction lies within or borders the existing or proposed basin or subbasin for which boundary modification is sought.”

#### **3. Make combination of requests discretionary for requesting agencies (Page 7 - §343.6)**

The requirement to combine all boundary modification requests affecting a basin or subbasin is overly burdensome, and the statute (Water Code Section 10722.2) does not contemplate the need for such a requirement. There may be a number of reasons that requests could be submitted independently, for

example, the requests may be geographically separated at the extremes of a large basin, one request may be ready to be presented before another, or there may be potentially conflicting requests. DWR has the ability to consider the degree of coordination with others in evaluating and approving boundary modification requests (for example in §344.8. Local Support).

**Recommendation:**

Revise the language to read “Requesting agencies *may* combine all two or more boundary modification requests that affect the same basin or subbasin, and in so doing shall coordinate...”

**4. Clarify limits to DWR authority to approve or disapprove all or part of combined requests (Page 7 - §343.6)**

In the case of combined requests, the draft specifies that DWR *may* adopt all or any part of the combined request and yet provides no criteria to inform such a decision. Water Code Section 10722 clearly envisioned a local agency-driven boundary modification process in which requesting agencies could expect either an approval or disapproval of the request but not a piecemeal decision left entirely to the discretion of DWR.

**Recommendation:**

The draft regulation should clarify that basin boundary revision process under Water Code Section 10722 et seq, is entirely separate from DWR authority under Water Code Section 12924 to revise boundaries, and therefore DWR will either approve or disapprove the request, giving its grounds for disapproval.

**5. Establish annual review periods (Page 8 - §343.8)**

The draft language improperly conflates the process of local agency-driven boundary revision requests (the subject of this regulation) with planned updates of Bulletin 118. Additionally, the draft contains no clarity about when local agencies could be expected to have opportunities to submit requests.

**Recommendation:**

Strike language referring to Bulletin 118 and add language requiring at least annual review periods. Rewrite as follows: “Prior to updating or revising Bulletin 118, DWR shall establish at least one review periods each calendar year during which boundary modification requests will be accepted and evaluated.”

**6. Clarify that DWR is not subject to the 60-day window (Page 8 - §343.10(b))**

The draft regulation provides for DWR to request additional information based on a review of the completeness of the request. The draft is silent, however, on the time allowed for DWR to make such a request or the time provided for responding.



**Recommendation:**

Draft additional language that clarifies that additional information requested by DWR is not subject to the 60-day window in §343.8.

**7. Eliminate reference to “interested” local agencies (Page 8 - §343.10(d) and page 10 - §344.4 (b))**

The draft regulation refers to “interested” local agencies and public water systems. However, there is no indication of how “interest” will be documented.

**Recommendation:**

Eliminate the modifier “interested” and replace with the defined terms “affected agency” and “affected system”.

**8. Clarify the scope of protests (Page 9 - §343.12)**

The draft lacks needed clarity concerning the scope of protests. The language needs to clarify that the content of the modification request remains under the control of the local agency, that protests should articulate objections to the proposal but are not a vehicle to propose a different boundary than that proposed by the requesting agency, and that the DWR role is to approve or disapprove this proposal.

**Recommendation:**

Rewrite §343.12(d) to read: “DWR shall give the requesting agency a reasonable opportunity to respond to protests, which may include, at the requesting agency’s discretion, providing additional information or changing the details of the request to address objections.”

**9. Clarify that all supporting information is required (Page 10 - §343)**

The draft refers to information that the requesting agency is “encouraged” to provide; however there is no indication that any of the supporting information specified in §343 is optional.

**Recommendation:**

Strike the words “or encouraged,” so that the regulation refers only to required elements.

**10. Eliminate requirement for unanimity for demonstration of local support (Page 12 - §344.8)**

The requirement of the draft regulation that the proposed boundary modification be supported by *each* affected agency and affected system is needlessly onerous and burdensome and is not required by SGMA. Unanimity is an unrealistic and unprecedented standard for local support and will likely to doom many proposed boundary modifications to failure before they are submitted, even if they widely supported and broadly beneficial to sustainable groundwater management. The regulations should be

revised to require notification of each affected agency or system and the lack of any significant opposition.

**Recommendation:**

Rewrite §344.8 as follows:

(a) A requesting agency shall demonstrate local support for a proposed jurisdictional boundary modification pursuant to Section 342.4 as follows:

(1) A request ~~that involves an internal boundary modification~~ shall provide information demonstrating that ~~the modification is supported by~~ each affected agency and affected system has been provided with information regarding the modification and provided with an opportunity to comment in support or opposition.

(2) A request that involves a basin consolidation, ~~or~~ county basin consolidation, or internal boundary modification shall provide information demonstrating that ~~the requesting agency notified each affected agency and affected system and that a~~ majority of affected agencies and affected systems that provided comments support the boundary modification.

(3) A request that involves basin subdivision shall provide information demonstrating that the boundary modification is supported by three-fourths or more of the each local agencies ~~and by each~~ public water systems in the affected basin(s) that provided comments.

(4) The standards of local support in subsection (2) and (3) shall be measured on the basis of both:

(i) the number of responses in support or opposition, and

(ii) the population represented by the responding local agency or affected system.

(b) Evidence of local support or opposition from any local agency or public water system shall consist of one or more of the following:

(1) a copy of a resolution formally adopted by the decision-making body of the agency.

~~(c) Evidence of local support from any public water system shall consist of a copy of a resolution formally adopted by the decision-making body of the system or~~

(2) a letter of support or opposition signed by an ~~executive officer~~ official with appropriate delegated authority.

**11. Modify requirement for water management plan (Page 15 - §344.16)**

The draft regulation requires submittal of a “water management plan” that meets the requirements of Water Code Section 10753.7(a) or 10727. The purpose of a jurisdictional modification may be to more

expeditiously develop a groundwater sustainability agency and groundwater sustainability plan. The expectation that a water management plan already exists that meets certain standards should not be a requirement for a boundary modification. This requirement should be modified to provide for submission of any available water management plans that demonstrate water management capacity and will support achieving groundwater sustainability.

**Recommendation:**

Rewrite as follows:

(a) Each request for a boundary modification that involves a jurisdictional modification pursuant to Section 342.4 shall include the following:

(1) Any available water management plan(s) that cover all or a portion ~~or is in the immediate vicinity of the proposed basin or portion of the proposed basin and satisfies the requirement of that could contribute to meeting the requirements of Water Code Section 10753.7(a) or 10727, through one of including~~ the following:

(A) An adopted groundwater management plan, a basin wide management plan, or other integrated regional water management program or plan that meets the requirements of Water Code section 10753.7(a).

(B) Management pursuant to an adjudication action.

(C) One or more technical studies that cover the relevant portion of a basin or subbasin and adjacent areas.

(D) A valid Groundwater Sustainability Plan or alternative adopted pursuant to the Act.

**12. Provide for additional justification for a proposed basin boundary modification (Page 15 - §344.16)**

The draft regulation should provide an opportunity for the local agency to demonstrate that a jurisdictional boundary revision may provide opportunities or overcome obstacles without precluding sustainable management in an adjacent basin.

**Recommendation:**

The following language should be added as Section 344.16(a)(2): "A statement identifying any political, legal, institutional or other opportunities that would arise from or obstacles that would be overcome by the requested boundary modification."

In addition, move and renumber Section 344.16(b)(6) to 344.16(a)(3) so that it applies to all jurisdictional boundary change requests, not just subdivisions.

### **13. Clarify CEQA Compliance requirement (Page 16 - §344.18)**

The Draft presupposes that DWR will be a responsible agency for CEQA purposes on a basin boundary revision. The local agency making a boundary modification request should determine for itself whether and to what extent CEQA applies, and to provide the information necessary to DWR to serve as a responsible agency only if the local agency determines that an environmental document is required (i.e., the request is non-exempt).

#### **Recommendation:**

Rewrite § 344.18. to read: “CEQA Compliance - A local agency requesting to modify a basin or subbasin shall satisfy all requirements of the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.), including, if required, providing information necessary to enable the Department to satisfy the requirements of a responsible agency.”

### **14. Eliminate unnecessarily restrictive grounds for denial (Page 17 - §345.2)**

Some of the conditions under which DWR could deny a boundary modification request are too restrictive and not supported by statute. Specifically, §345.2(a)(4) identifies limiting the “use of consistent data and methodologies,” as grounds for denial. This provision of the statute (in Water Code Section 10727.6) specifically applies to multiple GSAs managing a basin or subbasin. It should not be applied for the purpose of evaluating basin boundaries.

Additionally §345.2(b) of the draft regulation indicates a request may be denied if “the requesting agency is unable to demonstrate a history of sustainable management of groundwater levels in the existing or proposed basin.” While the statute cites this criterion, it should be used as one line of evidence for supporting and approving a boundary modification, rather than the basis for denial. The condition would preclude a boundary modification that may be beneficial in moving a basin toward sustainability.

#### **Recommendation:**

Rewrite §345.2(a)(4) as follows: (4) Coordination of management activities and the sharing of data and information across basin boundaries. ~~and use of consistent data and methodologies by local agencies to evaluate groundwater elevation data, groundwater extraction data, surface water supply, total water use, change in groundwater storage, water budget, or sustainable yield.~~

Eliminate §345.2(b) as it is already included in §345.4.

### **15. Clarify hydrologic model evaluation criteria (Page 18 - §345.4(a)(1) and §345.4(c))**

The draft regulation in §345.4(a)(1) identifies “hydrogeologic models”, which seems to refer to “hydrogeologic conceptual model” required under §344.12. This standard for evaluation is rather circular and unenforceable. The draft refers to “the degree to which the models align with the *known* geologic framework, the *known* direction and movement of groundwater flow, and the *general understanding* of water budget components for the basin or subbasin,” (emphasis added). While the requesting agency will provide substantial technical information supporting the request, it is unclear who will provide the “known” conditions and “general understanding” to which it will be compared.

**Recommendation:**

Modify §345.4(a)(1) to read,

“(1) Hydrogeologic conceptual models will be evaluated to determine the degree to which they apply technical information to the models align with the known describe the geologic framework, the ~~known~~ direction and movement of groundwater flow, and the components of the general understanding of water budget ~~components~~ for the basin or subbasin.

**16. Provide for a local public meeting in the basin that is the subject of the boundary modification request (Page 21 - §346.2(a))**

The draft regulation specifies that the department will hold at least one public meeting to solicit comments on the draft boundaries. DWR should provide for the opportunity to hold this public meeting in or in a location proximate to the basin that is the subject of the boundary modification request.

**Recommendation:**

Modify §346.2(a) to provide for the opportunity to hold a public meeting in or in a location proximate to the basin that is the subject of the boundary modification request.

**17. Modify language referring to “substantial changes to a proposed boundary modification” (Page 21 - §346.2(d))**

The draft refers to DWR making “substantial changes to a proposed boundary modification,” and resubmitting the proposed changes to the Water Commission. This again points to the need for clarification of the basin boundary changes made pursuant to Water Code Section 10722 vs. those made pursuant to Water Code Section 12924 and the process and requirements for each.

The intent of SGMA was to promote local groundwater management by providing a process for local agencies to request boundary revisions. If a proposed boundary changes as a result of the evaluation process, it should be with the concurrence of the requesting agency, or pursued under the Department's independent authority.

**Recommendation:**

Change §346.2(d) to read:

(d) If the Department ~~makes~~ determines that substantial changes to a proposed boundary modification are necessary after presentation to the Commission, the requesting local agency shall be entitled to modify the boundary modification request and resubmit it for consideration. ~~the Department shall resubmit the proposed changes to the Commission for further review consistent with the Act.~~

Thank you for your consideration of these comments. ACWA looks forward to working with DWR as the Department refines this draft regulation as necessary so that it serves as a viable tool for local agencies to modify basin boundaries where necessary and facilitate the needed planning and management of local groundwater resources as envisioned by SGMA.

If you have any questions, please contact me at [daveb@acwa.com](mailto:daveb@acwa.com) or (916) 441-4545.

Sincerely,



David Bolland  
Special Projects Manager



**Beaumont-Cherry Valley Water District  
Public Hearing  
And Engineering Workshop  
June 1<sup>st</sup>, 2017**

**DATE:** May 25, 2017

**TO:** Board of Directors

**FROM:** Eric Fraser, General Manager

**SUBJECT:** Consideration of Resolution No. 2017-04 – Election to Become a Groundwater Sustainability Agency Pursuant to the Sustainable Groundwater Management Act for the San Timoteo Sub-Basin

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**Recommendation:**

Consider Formation of a Groundwater Sustainability Agency (GSA) for the San Timoteo Sub-Basin and Consider Adoption of Resolution 2017-04, creating the San Timoteo Sub-Basin GSA with the Yucaipa Valley Water District, the City of Redlands, and the San Gorgonio Pass Water Agency.

**Background:**

BCVWD Staff has worked over the last four months with the Yucaipa Valley Water District (YVWD), the City of Redlands (Redlands), the San Gorgonio Pass Water Agency (SGPWA), and Eastern Municipal Water District (EMWD), who provide wholesale or retail water service to the unadjudicated portion of the San Timoteo Sub-Basin and who intend to participate in the San Timoteo Sub-Basin GSA (ST-GSA). As part of these meetings, the entities coordinated with the Eastern Municipal Water District (EMWD) representative, who identified that EMWD intends to file a separate GSA within the San Timoteo Sub-Basin which will encompass EMWD's Sphere of Influence within the San Timoteo Sub-Basin. It should be noted that EMWD's proposed a separate San Timoteo Sub-Basin area that would be managed by their proposed GSA, which has been identified by EMWD to consist of land within the "Badlands" south of the 10 freeway and 60 Freeway which EMWD believes do not include significant alluvial deposits within the proposed area and is therefore not necessarily a groundwater basin as defined by DWR.

The results of these meetings was the definition of boundaries between ST-GSA members and EMWD and GSA's related to the San Timoteo Basin and the crafting of the "Memorandum of Agreement to Form a Grounwater Sustainability Agency for Portion of the San Timoteo Sub-Basin and to Coordinate with Other Groundwater Sustainability Agencies" and associated map attached as Exhibit "A" to Resolution 2017-04.

The Memorandum of Agreement (MOA) does not include the Beaumont Basin, the adjudicated basin that is located partially within the San Timoteo Sub-Basin and partially in the San Gorgonio Pass Sub-Basin.





There are also small portions (areas) of the Sub-Basin that are not included in the boundaries (“Sphere of Influences”) of the members of the GSA. Most of these areas are located in the Oak Glen area. Since the County of San Bernardino chose not to participate in any GSAs, these small areas will not have a member of the GSA that has governmental powers within their boundaries. However, the members of the GSA will note in our application to the California Department of Water Resources (DWR) that these areas are deemed minimal, are separated by significant faulting from the main portions of the San Timoteo Sub-Basin, and therefore, represent an isolated minimal portion of all pumping from the basin, and therefore should not be considered as a “hole” in the basin for the purposes of SGMA.

It is important to note that submittal of the GSA proposal must be made to the DWR by June 30, 2017.

**Fiscal Impact:**

There will be no significant fiscal impact to the District at this time due to the filing of the Memorandum of Agreement to the Department of Water Resources.

There most likely will be future financial impact to implementing SGMA. A Groundwater Sustainability Plan (GSP) will be required, which will likely involve the hiring of a consultant and preparation of a water budget, a model, and several other best management practices. This will occur over the next several years. A GSP is due for this basin by 2022. The members of the GSA have not yet decided when to proceed on the GSP. Information related to the future financial impacts will be presented to the Board by Staff as it becomes available.

Prepared by Daniel K. Jaggers, Director of Engineering

## RESOLUTION No. 2017-04

### A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BEAUMONT-CHERRY VALLEY WATER DISTRICT TO APPROVE THE MEMORANDUM OF AGREEMENT TO JOINTLY FORM THE SAN TIMOTEO GROUNDWATER SUSTAINABILITY AGENCY FOR A PORTION OF THE SAN TIMOTEO SUBBASIN AND TO COORDINATE WITH OTHER GROUNDWATER SUSTAINABILITY AGENCIES

**WHEREAS**, the Sustainable Groundwater Management Act of 2014 (SGMA) was signed into law on September 16, 2014, went into effect on January 1, 2015, and has been subject to various amendments; and

**WHEREAS**, SGMA provides for the sustainable management of groundwater basins at the local level through the formation of Groundwater Sustainability Agencies (GSAs) and through preparation and implementation of Groundwater Sustainability Plans (GSPs); and

**WHEREAS**, the San Timoteo Sub-Basin (Basin) is identified by the California Department of Water Resources (DWR) Bulletin 118 as Sub-Basin No. 8-02.08 of the Upper Santa Ana Valley Groundwater Basin, and is designated by DWR as medium priority, and therefore, except as provided by SGMA, the Basin is subject to the requirements of SGMA; and

**WHEREAS**, the Beaumont-Cherry Valley Water District (District) is an Irrigation District of the State of California, organized and operating pursuant to the California Water Code Section 20500 et seq. and accordingly the District constitutes a local agency for all purposes under SGMA; and

**WHEREAS**, SGMA authorizes a combination of local agencies as defined by SGMA to form a GSA pursuant to a joint powers agreement, or other legal agreement, and SGMA also authorizes a water corporation regulated by the California Public Utilities Commission or a mutual water company to participate in a GSA through a memorandum of agreement or other legal agreement; and

**WHEREAS**, in accordance with SGMA, the District, Yucaipa Valley Water District (YVWD), the City of Redlands (Redlands), and the San Geronio Pass Water Agency (SGPWA) have prepared a Memorandum of Agreement (MOA), attached hereto as **Exhibit A**, to jointly form a GSA that is referred to in the MOA as the ST-GSA to cover a portion of the Basin, the members of which ST-GSA are the District, YVWD, Redlands, and SGPWA; and

**WHEREAS**, in addition to establishing the ST-GSA for a portion of the Basin, the MOA provides that the efforts of the ST-GSA will be coordinated with the efforts of the Eastern Municipal Water District (EMWD) to carry out the policy, purposes, and requirements of SGMA in the Basin, wherein EMWD intends to form a separate GSA for another portion of the Basin within EMWD's services area; and

**WHEREAS**, the MOA provides that the members of the ST-GSA desire and intend that the ST-GSA and the separate GSA that EMWD intends to form for another portion of the Basin will cooperate and coordinate in subsequently preparing and implementing one or more GSPs for sustainable management of the Basin in accordance with SGMA; and

**RESOLUTION No. 2017-04**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
BEAUMONT-CHERRY VALLEY WATER DISTRICT  
TO APPROVE THE MEMORANDUM OF AGREEMENT TO JOINTLY FORM THE SAN  
TIMOTEO GROUNDWATER SUSTAINABILITY AGENCY FOR A PORTION OF THE  
SAN TIMOTEO SUBBASIN AND TO COORDINATE WITH OTHER GROUNDWATER  
SUSTAINABILITY AGENCIES**

**WHEREAS**, the District is committed to the sustainable management of groundwater resources within the Basin in accordance with SGMA; and

**WHEREAS**, pursuant to the requirements of SGMA, the District held a public hearing on this date after publications of notice pursuant to California Government Code Section 6066 to consider adoption of this Resolution; and

**WHEREAS**, pursuant to SGMA Section 10728.6 and Public Resources Code Section 21065, neither this Resolution, nor the MOA, nor the preparation or adoption of a GSP constitutes a project or approval of a project under the California Environmental Quality Act (CEQA) or the State CEQA Guidelines.

**NOW THEREFORE, BE IT RESOLVED** by the Board of Directors of the Beaumont-Cherry Valley Water District as follows:

1. The Beaumont-Cherry Valley Water District hereby approves the Memorandum of Agreement to Jointly Form the San Timoteo Groundwater Sustainability Agencies (MOA), a copy of which is attached hereto as **Exhibit A**.
2. Pursuant to the MOA and as authorized by SGMA, the Beaumont-Cherry Valley Water District elects to jointly form and participate as a member of the San Timoteo Groundwater Sustainability Agency (ST-GSA) for a portion of the Basin as further set forth and depicted in the MOA.
3. The General Manager of the Beaumont-Cherry Valley Water District is hereby authorized and directed to coordinate with other members of the ST-GSA to submit a copy of this Resolution and other applicable information to the California Department of Water Resources regarding the formation of the ST-GSA.

**RESOLUTION No. 2017-04**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
BEAUMONT-CHERRY VALLEY WATER DISTRICT  
TO APPROVE THE MEMORANDUM OF AGREEMENT TO JOINTLY FORM THE SAN  
TIMOTEO GROUNDWATER SUSTAINABILITY AGENCY FOR A PORTION OF THE  
SAN TIMOTEO SUBBASIN AND TO COORDINATE WITH OTHER GROUNDWATER  
SUSTAINABILITY AGENCIES**

**I HEREBY CERTIFY** that the foregoing is a true, full and correct copy of Resolution 2017-04 that was duly introduced, passed and adopted at a special/Engineering Workshop meeting of the Board of Directors of the Beaumont-Cherry Valley Water District on June 1, 2017.

**ADOPTED, SIGNED AND APPROVED**, THIS 1<sup>st</sup> DAY OF JUNE 2017 BY THE FOLLOWING VOTES:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

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Daniel Slawson, President of the  
Board of Directors of the  
Beaumont-Cherry Valley Water District

(seal)

ATTEST:

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Claudeen C. Diaz, Secretary to the  
Board of Directors of the  
Beaumont-Cherry Valley Water District