

# WARNER VALLEY GROUNDWATER BASIN

## Sustainable Groundwater Management Act Process Assessment

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## ACRONYMS AND ABBREVIATIONS

Acronym/Abbreviation	Definition
BBM	basin boundary modification
City	City of Escondido
County	County of San Diego
DMS	Data Management System
DWR	California Department of Water Resources
GSA	Groundwater Sustainability Agency
GSP	Groundwater Sustainability Plan
SB	Senate Bill
SGMA	Sustainable Groundwater Management Act
VID	Vista Irrigation District
Warner Valley Basin	Warner Valley Groundwater Basin
WSRR	Warner Springs Ranch Resort

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# 1 STEPS NECESSARY TO FORM AND MAINTAIN A GROUNDWATER SUSTAINABILITY AGENCY

## 1.1 Sustainable Groundwater Management Act Groundwater Sustainability Agency Requirements

The objective of this Process Assessment is to document the data needs, procedures, potential costs and benefits, and other considerations to assist the Vista Irrigation District (VID) in evaluating the possibility of forming a Groundwater Sustainability Agency (GSA) and preparing a Groundwater Sustainability Plan (GSP). For the purposes of preparing this Process Assessment, it is presumed that VID would choose to form a GSA and develop and maintain a GSP consistent with the Sustainable Groundwater Management Act (SGMA). The City of Escondido (City) is coordinating closely with VID on this SGMA process and considering its potential role. Considerations relevant to GSA formation include the eligibility, interest, and respective roles of VID, the City, and the County of San Diego (County) in forming a GSA and the required and beneficial components of the GSA formation process. Basin boundary modification (BBM) considerations include the effect of including Lake Henshaw and “fringe” areas (areas outside of VID property) within the Bulletin 118 California Department of Water Resources (DWR)—recognized Warner Valley Groundwater Basin (9-008) (Warner Valley Basin). Considerations regarding GSP preparation include the long-term commitment and cost requirement and the effects of a broad and public process. The process is evaluated in terms of achieving VID and City objectives compared to other potential actions.

The GSA is the agency required to prepare a GSP and carry out the requirements of SGMA. Requirements for GSA formation and a description of GSA powers are included as Chapters 4 and 5 of the SGMA Legislation (Appendix A). The act limits GSA member eligibility to local agencies overlying the groundwater basin as defined in DWR Bulletin 118. Warner Valley Basin is such a defined basin (Appendix B, Warner Valley Groundwater Basin Bulletin 118 Description). A local agency is defined in the legislation as a “local public agency that has water supply, water management, or land use responsibilities within a groundwater basin” (Chapter 2, Section 10721[n], Appendix A). VID should gain confirmation from its legal counsel that it is a local public agency with regard to Warner Valley Basin and communicate that to DWR; online DWR maps (DWR n.d.) do not show VID as a local agency in the Warner Valley Basin. This Process Assessment assumes that VID is a local public agency and is an eligible GSA for the Warner Valley Basin.

The GSA is not required to include all eligible entities. A single eligible entity, or multiple entities, may act as the GSA for a basin even if other eligible entities are present within the basin. The GSA formation includes a process by which other eligible entities must be notified and given the opportunity to apply to be the GSA or coordinate with the other eligible entities that have also applied (see Section 1.2, GSA Formation Process). DWR will not approve a GSA for the basin until conflicts between eligible entities are resolved.

The federal government and federally recognized Native American tribes are not required to participate in SGMA but may do so voluntarily (California Water Code, Section 10720.3).

DWR requires that, in implementing SGMA, the GSA consider all beneficial uses and users of the groundwater within the basin. Such users include all holders of overlying groundwater rights, environmental users of groundwater, California Native American tribes, and disadvantaged communities. The GSA is required to establish and maintain a list of interested persons. Those on the list are to receive information relevant to SGMA implementation within the basin, including meeting announcements and GSP developments.

## 1.2 GSA Formation Process

The general steps for GSA formation are summarized as follows, followed by considerations specific to the Warner Valley Basin. The entities desiring to form a GSA are required to hold a publicly noticed meeting at which a resolution of intent to form the GSA is adopted. Within 30 days of this meeting, the proposed GSA is to notify DWR using the DWR SGMA portal (DWR 2018a). Information required for submittal includes a description of proposed GSA members eligibility in accordance with SGMA, proof of publication of notice of the publicly held meeting (California Government Code, Section 6066), a copy of the signed GSA resolution, any other legal instruments related to GSA function or participation, and maps and geographic information system files showing the proposed GSA area and member service areas in relation to the basin boundary. Note that the basin boundary is as described in DWR Bulletin 118; through SGMA, DWR provides a process for modifying the basin boundary (see Section 6, Warner Valley Basin Boundary Modification Evaluation). Other required information includes a list of interested parties (California Water Code, Section 10723.2) and an explanation of how their interests will be considered throughout the SGMA process and a description or copy of new bylaws, ordinances, or authorities adopted by the local agency (see Section 1.3, Steps to GSA Formation in the Warner Valley Groundwater Basin).

DWR will review the information submitted through the portal for completeness and post the application within 15 days of receipt. If no other entity submits notification to become the GSA of any part of the same area within 90 days of posting, the original entity will be designated as the “exclusive” GSA within the basin. If another eligible entity submits notification of intent to undertake groundwater management, the conflict must be resolved before a GSA can be formed. Note that for medium- and high-priority basins only, the county in which the basin is located is presumed to manage groundwater in those areas where no GSA is formed. Nonetheless, a county can opt out of that role with written notification to DWR (California Water Code, Section 10724[b]). In the event that no eligible entity agrees to manage groundwater within the basin, the State Water Resources Control Board may assume that role at the expense of the water users for medium- and high-priority basins only.

### 1.2.1 Powers and Authorities of GSAs

SGMA provides GSAs with specific powers and authorities. These powers are contingent on the GSA adopting and submitting to DWR a plan or alternative in accordance with the legislation. Powers and authorities granted to a GSA in accordance with Chapter 5 of the SGMA regulations include the investigations for the purpose of determining the need for groundwater management, preparation of a GSP, the need for fees for groundwater management and monitoring, and compliance and enforcement (California Water Code, Section 10725.4).

A GSA is empowered to require that groundwater extractions be monitored using water-measuring devices installed and maintained at the cost of the well owner and that the owner monitor and report groundwater extractions to the GSA (California Water Code, Section 10725.8). A GSA may charge fees for groundwater management; limit groundwater extractions, timing, or amounts from wells; limit or prohibit construction of new wells; impose spacing requirements on new wells; or establish extraction allocations (California Water Code, Section 10726.4 and 10726.8). The legislation exempts “de minimis” extractors (those extracting less than 2 acre-feet per year for domestic use) from these requirements (California Water Code, Section 10725.8[e]). Broader powers of the GSA include the ability to acquire surface water or groundwater rights, import surface water, and conduct water supply and treatment projects (California Water Code, Section 10726.2).

### 1.2.2 Water Rights

An area of some ambiguity within the SGMA Legislation is how SGMA interacts with existing groundwater rights. Legal analysis of the issue is beyond the scope of this assessment. However, SGMA does not authorize a GSA to make “a binding determination of water rights of any person or entity ...” and states that “nothing ... determines or alters surface water rights or groundwater rights under common law or any provision of law that determines or grants surface water rights” (California Water Code, Sections 10726.8 and 10720.5[b]). A key state-wide issue—to be resolved in the future—is how this statement coexists with provisions allowing GSAs to limit or regulate pumping or to create pumping allocations.

## 1.3 Steps to GSA Formation in the Warner Valley Groundwater Basin

As a basin designated as very low priority by DWR, the Warner Valley Basin entities are under no obligation at this time to comply with SGMA requirements, including GSA formation. According to SGMA, low-priority basins are encouraged to voluntarily implement the SGMA provisions, and it is thought by some that most basins will eventually be required to implement some form of the SGMA requirements.

Eligible entities for the Warner Valley Basin GSA could include VID as a local public agency with water management responsibility within the basin and the County as a local public agency entity with land use responsibility across the basin. We note that no eligible entity is required to participate as a GSA member and moreover, that there are multiple possibilities. The County could be the GSA for the entire basin, or

each entity (County and VID) could be a GSA (with the County addressing non-VID areas) and agree to prepare a single GSP or two GSPs, or the County and VID could create a new entity to be GSA (options are discussed below). However, for the purposes of this discussion, it is assumed that VID and the County would jointly form a GSA, and if they choose to proceed, prepare a single GSP.

The Warner Valley Basin has relatively few in-basin groundwater users and limited potential for future in-basin development. Similarly, there are likely few, if any, identified undesirable results now occurring. However, SGMA requires use of best available data to evaluate the relevant sustainability indicators. That requirement may result in substantial analysis and monitoring for applicable basin indicators, such as groundwater dependent ecosystems). Overall, the decision of whether to form a GSA and prepare a GSP may depend largely on the existing water balance and potential for future conditions that result in increased water demand or reduced groundwater supply. If there is increased development and groundwater extraction for the Warner Springs Ranch Resort (WSRR), which when combined with other basin extractions, exceeds the sustainable yield of the basin, SGMA provides tools by which a GSA may set extraction allocations or implement other management actions to bring the basin into balance. Similarly, a GSA may require monitoring and reporting of groundwater extractions, thereby allowing for proactive basin analysis and management.

It is presumed that VID and the County will have conducted initial discussions among staff about GSA formation with preliminary agreement to begin this process. It is also presumed for costing purposes that the process would include outreach to other agencies and stakeholders. A high level of stakeholder interest is assumed from those with rights from Lake Henshaw. Table 1 summarizes required and suggested steps in a GSA formation process for the Warner Valley Basin. Each task is discussed in greater detail in Table 1.

**Table 1. Warner Valley Basin GSA Formation Tasks**

DWR Required Tasks	Task Description	Optional Tasks
1. Decision to Become a GSA	Public notification of the decision to become a GSA identifying the member agencies. At a minimum, this must include a publicly noticed meeting at which a resolution is adopted forming a GSA.	1A. A preliminary workshop to educate the public regarding the general requirements of SGMA, GSA formation, GSP preparation, and information specific to the basin and member agencies. 1B. A meeting of prospective GSA members to develop cooperative agreements and a governance structure that may be included in the GSA formation documentation to be adopted at the formation meeting.
2. Consideration of Interests of Stakeholders and Beneficial Users	Creation and maintenance of required interested parties list. The legislation specifies the parties to be considered and encourages a more comprehensive outreach.	2A. Development and implementation of a communication and engagement plan (required for GSP preparation). 2B. Preparation and distribution of

**Table 1. Warner Valley Basin GSA Formation Tasks**

DWR Required Tasks	Task Description	Optional Tasks
		educational materials.
		2C. Creation and maintenance of a SGMA dedicated website or webpage.
3. Compile and Submit the Required Documentation to DWR	Within 30 days of the decision to become a GSA, a prospective GSA must submit the required documentation to DWR. This is done using the DWR SGMA portal ( <a href="https://sgma.water.ca.gov/portal/#gsa">https://sgma.water.ca.gov/portal/#gsa</a> ).	—

**Notes:** DWR = California Department of Water Resources; GSA = Groundwater Sustainability Agency; GSP = Groundwater Sustainability Plan; SGMA = Sustainable Groundwater Management Act

**Task 1. Decision to Become a GSA**

The prospective GSA members are required to notify the public of their decision to become a GSA for a basin. This requires a public hearing within the basin and has specific noticing requirements according to California Government Code, Section 1066. This may consist of the adoption of a resolution (or resolutions) and may include governance or cooperative agreements. Each prospective GSA member (VID and the County) and the newly formed GSA would execute a resolution for the participation in, and formation of, the GSA. An example GSA formation resolution is included in Appendix C.

***Optional Task 1***

**1A. Public Workshop** – As noted previously, it is assumed for the purposes of discussion that VID and the County would form a GSA and prepare a single GSP. To inform interested parties early in the process, a preliminary meeting may be held by the eligible entities to discuss SGMA planning, identify the eligible GSAs, and inform the public of the process. This meeting would occur prior to the meeting formally adopting the resolution to form a GSA.

**1B. Prospective GSA Coordination Meeting** – An additional meeting is anticipated to determine and implement the governance structure of the GSA. For transparency, this would likely be publicly noticed with the agenda, meeting materials, and minutes made available to stakeholders. The GSA would establish and adopt the mechanisms by which it would accomplish the goal of groundwater sustainability. This would address the procedures by which the GSA will function, including mutual and respective responsibilities, selection of representatives and alternative representatives, voting procedures, cost sharing, dispute resolution, and other contractual arrangements. It is anticipated that action from the respective boards, as well as the services of the respective legal counsel, would also be required.

Selection of a suitable governance structure depends on multiple factors, including the number and function of GSA participants. For Warner Valley Basin, with its current basin priority and two potential GSAs, a

relatively simple memorandum of understanding may be the best choice to form a GSA. An alternative would be a joint powers authority that creates a separate public entity, enables GSAs to issue bonds for projects, is subject to Ralph M. Brown Act requirements, and offers more legal protections of GSA members. A memorandum of understanding memorializes agreement between parties, does not create a new public entity, does not enable the GSA to issue bonds, is not subject to the Ralph M. Brown Act, and is less protective of its members (Kincaid and Stager 2015). An example of each is included in Appendix D, Example Governance Documents. Legal counsel for each entity would help determine which instrument is most appropriate and would develop any agreement.

GSA formation itself can be a relatively straightforward process involving notification to DWR, adoption of a resolution to be a GSA, development of an interested parties list, explanation of how interested parties will be engaged, upload to the SGMA portal of specified information, and a 90-day waiting period to see if another GSA is proposed and is overlapping.

## **Task 2. Consideration of Interests of Stakeholders and Beneficial Users**

This task consists of identifying stakeholders and compiling an interested parties list. Anybody with an interest in water management in the basin is considered a stakeholder under SGMA. In the Warner Valley Basin, stakeholders include not only those entities operating within the basin but those that receive water or benefit from water originating there, including the out-of-basin City of Escondido and parties to the San Luis Rey Water Rights Settlement. Following is a list of potentially interested stakeholders for the Warner Valley Basin:

- WSRR
- Rincon Band of Luiseño Indians
- La Jolla Band of Luiseño Indians
- Pauma Band of Luiseño Indians
- Pala Band of Mission Indians
- San Pasqual Band of Mission Indians
- San Luis Rey Indian Water Authority
- City of Escondido
- Warner Union School District
- Mataguay Scout Ranch, Boy Scouts of America
- California Department of Forestry and Fire Prevention
- California Department of Transportation
- Cleveland National Forest
- U.S. Navy



Additional landowners may be identified using County parcel data. Well owners may be identified using the state well database and County well permit records.

### *Optional Task 2*

**2A. Communication and Engagement Plan** – A GSA may consider initiating an early outreach program to promote collaboration and engender trust, noting that public outreach and stakeholder inclusion are required components of GSP preparation and implementation anyway. The SGMA requirements and DWR’s *GSP Stakeholder Communication and Engagement Guidance Document* allow for flexibility regarding how the process is conducted (DWR 2018b).

A Communication and Engagement Plan is required for GSP preparation but may be beneficial if prepared during the GSA formation phase, since it provides a blueprint for disseminating information and receiving stakeholder input. It is a step toward complying with the requirement that “the GSA 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 GSP” (California Water Code, Section 10727.8).

**2B. Creation and Distribution of Information Materials** – Educational materials may provide an effective means of educating the public on the requirements of SGMA and the issues specific to the basin (see Appendix E for example educational materials).

**2C. Dedicated Website or Webpage** – A GSA website or webpage is an effective tool for providing notice of meetings, SGMA status, relevant contact information, and links to additional information (see County SGMA website as an example: <https://www.sandiegocounty.gov/pds/SGMA.html>).

### **Task 3. Compile and Submit the Required Documentation to DWR**

Required information would be submitted through the SGMA portal, starting the timeline described in Section 1.2, GSA Formation Process (DSW 2018d). The information to be submitted through the SGMA portal would include a description of each GSA member’s water management or land use responsibilities in the basin; proof of publication for public meetings; copies of executed resolutions and other formation- or governance-related documents; individual point-of-contact information; maps and geographic information system shapefiles showing the Warner Valley Basin, GSA member jurisdictional boundaries, and the GSA boundary; the list of interested parties; a description of how the interested parties’ interests will be included in the SGMA process; and a list of other agencies that manage groundwater in the basin.

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## 2 PROJECTED GSA TIMELINE AND COST ESTIMATE

As a very-low-priority basin, the Warner Valley Basin is not currently required to comply with SGMA. Furthermore, there is no timeline requirement if basin interests choose to voluntarily implement SGMA. However, because the process is highly stakeholder dependent and will be evaluated by DWR, it is important to implement a consistent GSA process without excessive delays during which stakeholder interests may dwindle. For medium- and high-priority basins, GSAs were to be formed by June 30, 2017, to avoid potential state intervention. For SGMA timeline requirements for basin reprioritization, see Section 6.2. Figure 1, Warner Valley Groundwater Basin GSA Formation Process Timeline, presents a reasonable time frame that allows adequate time but does not unnecessarily extend the process. The timeline assumes an arbitrary start date of November 1, 2018. Table 2 presents a process cost estimate. There are not currently, and it is not anticipated that there will be, any additional grant opportunities for GSA formation, because the process deadline has passed.

Table 2. Warner Valley Basin GSA Formation Estimated Costs (Required and Optional Tasks)

Task	Task Description	Subtask Description	Quantity	Hours/ Quantity	Consultant Rate (\$200/hour)	Legal Counsel Rate (\$450.00/hour)	Cost/Task
					<i>Hours/Team Member</i>		
GSA Public Outreach	Identify and engage stakeholders and develop a plan for assessing interested parties	Compile stakeholders and contacts	1	16	16	—	\$3,200
		Produce stakeholder outreach and engagement plan	1	18	18	—	\$3,600
		Develop and implement a plan for addressing interested party concerns and address ongoing concerns <sup>a</sup>	1	28	28	—	\$5,600
		Create and distribute informational materials <sup>b</sup>	1	22	22	—	\$4,400
		Create and maintain a dedicated website (optional) <sup>c</sup>	1	42	42	—	\$8,400
	Conduct stakeholder and agency planning meetings	Prepare and conduct two public workshops <sup>d</sup>	2	18	36	—	\$7,200
		Conduct two board meetings to provide updates and answer questions <sup>e</sup>	2	12	24	—	\$4,800
		Compile and respond to public comments	1	24	24	—	\$4,800
	GSA Formation and Governance	Determine and implement a governance structure for the GSA	Conduct one meeting to determine governance structure	2	12	24	—
Produce and adopt necessary governance documents <sup>f</sup>			1	14	14	16	\$10,000
Develop bylaws and		Develop necessary bylaws and ordinances	1	34	34	20	\$15,800

Table 2. Warner Valley Basin GSA Formation Estimated Costs (Required and Optional Tasks)

Task	Task Description	Subtask Description	Quantity	Hours/ Quantity	Consultant Rate (\$200/hour)	Legal Counsel Rate (\$450.00/hour)	Cost/Task
					<i>Hours/Team Member</i>		
	ordinances to be adopted by the GSA	Use attorney review services	1	10	10	10	\$6,500
	Prepare and execute the necessary resolutions forming the GSA	Compile and submit notification materials to DWR	1	34	34	—	\$6,800
<b>Total</b>							<b>\$85,900</b>

**Notes:** DWR = California Department of Water Resources; GSA = Groundwater Sustainability Agency

**Cost Table Assumptions:** GSA formation tasks will be completed with the help of a consultant.

Only VID and County compose the GSA.

- a This is a GSA requirement. It assumes high level of stakeholder interest from those with rights from Lake Henshaw.
- b This is not a GSA requirement but is useful for educating stakeholders on process and requirements.
- c This is not a GSA requirement but is the most efficacious way of providing stakeholder access to GSA information.
- d There is no requirement for the number of stakeholder meetings. Two is assumed to provide adequate outreach for the Warner Valley Basin.
- e This is primarily an effort by VID and County staff for their respective boards. It is assumed that a consultant would be present to answer questions.
- f This assumes that a simple memorandum of understanding would be the appropriate form of legal document for GSA formation.

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### 3 STEPS TO DEVELOPING A GSP

The GSPs required by SGMA are multifaceted documents, the implementation of which is required to result in groundwater basin sustainability. Medium- and high-priority basins are required to be managed under a GSP by 2020 for critically overdrafted basins and 2022 for non-critically overdrafted basins; achievement of sustainability is mandated by 2040 and 2042, respectively. Basins of low or very low priority are currently not required to meet these or any specified deadlines. If a basin is reprioritized as medium or high priority, there is a timeline required, as discussed in Section 6.3, Reanalysis of Warner Valley Basin Prioritization.

For the purposes of SGMA, “sustainable groundwater management” is defined as “the management and use of groundwater in a manner that can be maintained during the planning and implementation horizon without causing undesirable results” (California Water Code, Section 10721). Undesirable results are defined as any of the following occurring throughout the basin:

1. Chronic lowering of groundwater levels
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

SGMA emphasizes “local” management of groundwater basins, which enables GSAs with flexibility to define components of groundwater management, including sustainability indicators, minimum thresholds, measurable objectives, and projects and management actions. Sustainability indicators are the basin conditions that may cause undesirable results, and minimum thresholds are the numeric values that locally define undesirable results. For example, a specific groundwater elevation in a particular well may be used to define significant and unreasonable reduction in groundwater storage. Measurable objectives refer to quantifiable goals for the maintenance or improvement of groundwater related conditions. A measurable objective may be a groundwater level in a well above that of the minimum objective, which allows for minimal extraction costs or maintenance of a groundwater dependent ecosystem. Although undesirable results are defined within the legislation, there is flexibility to interpret what “significant and unreasonable” means at the local level.

After the submittal and acceptance of a GSP, the GSA is responsible for reporting annually to DWR, providing data pertinent to GSP implementation. Such data include groundwater elevations, groundwater production, surface water supply, total water use, and change in groundwater storage over the preceding

year (California Water Code, Section 10728). In addition, each GSA is required to submit to DWR a written assessment of the plan progress toward sustainability, including progress toward implementing projects and management actions (23 CCR 356.4).

DWR is responsible for implementing SGMA, including interpreting the legislation, providing tools and guidance for GSP preparation, and evaluating GSPs, including outreach and related processes. Therefore, DWR has prepared several SGMA-related guidance documents, such as best management practices and mapping tools (DWR 2018c). For medium- or high-priority basins where the eligible GSA entities are unable or unwilling to conduct the SGMA process, in accordance with Chapter 11 of the SGMA Legislation, the State Water Resources Control Board may develop a groundwater management plan at the expense of the basin’s groundwater users.

The tasks required for GSP development are summarized in Table 3.

**Table 3. Summary of Tasks for GSP Development**

Main Task	Subtasks
Compile and Review Data	<ul style="list-style-type: none"> <li>• Compile/review climate and hydrologic data; groundwater data: well locations, levels, quality, pumping</li> <li>• Compile/review hydrogeologic information: soils, geology, topography, aquifer parameters</li> <li>• Compile/review land use maps, regional water supply sources and water demand</li> <li>• Compile and review critical habitat for threatened and endangered species, California Special-Status Species, California Protected Areas, Areas of Conservation Emphasis, and Natural Communities datasets commonly associated with groundwater</li> </ul>
Develop Introductory and Administrative Information	<ul style="list-style-type: none"> <li>• Describe GSA authority, management structure</li> <li>• Develop GSP goal</li> </ul>
Describe Plan Area	<ul style="list-style-type: none"> <li>• Identify and depict jurisdictions, summarize General Plans</li> <li>• Describe existing monitoring and management</li> <li>• Summarize well permitting process, ordinances, and policies</li> <li>• Map distribution of wells</li> </ul>
Describe Hydrologic Conceptual Model	<ul style="list-style-type: none"> <li>• Describe geology, boundaries, aquifer parameters, recharge areas, quality</li> <li>• Develop hydrogeologic conceptual model: maps, cross sections, text</li> </ul>
Document Groundwater Conditions	<ul style="list-style-type: none"> <li>• Map groundwater levels and gradient</li> <li>• Map water quality</li> <li>• Document groundwater-dependent ecosystems</li> <li>• Document subsidence (if any)</li> </ul>
Prepare Historical and Current Water Budgets	<ul style="list-style-type: none"> <li>• Develop historical water budget</li> <li>• Quantify sustainable yield/overdraft of basin</li> </ul>
Consider Management Areas	<ul style="list-style-type: none"> <li>• Evaluate basin areas for unique hydrogeology or land use characteristics</li> </ul>
Prepare Numerical Model	<ul style="list-style-type: none"> <li>• Develop model to help define sustainability criteria, project future water budget, assess projects</li> </ul>
Prepare Sustainable Management Criteria	<ul style="list-style-type: none"> <li>• Define undesirable results</li> <li>• Define minimum thresholds</li> <li>• Define measurable objectives</li> </ul>



**Table 3. Summary of Tasks for GSP Development**

Main Task	Subtasks
Establish Monitoring Network and Protocols	<ul style="list-style-type: none"> <li>• Develop monitoring network and protocols for sustainability criteria</li> </ul>
Develop DMS	<ul style="list-style-type: none"> <li>• Produce SGMA-compliant DMS</li> <li>• Populate DMS with project data</li> </ul>
Develop and Analyze Projects and Management Actions	<ul style="list-style-type: none"> <li>• Identify and describe projects and management actions (benefits, costs, and permitting)</li> <li>• Establish criteria and screen projects</li> <li>• Evaluate projects with model and select/prioritize for implementation</li> </ul>
Develop GSP Implementation	<ul style="list-style-type: none"> <li>• Develop implementation plan: schedule, costs, funding</li> <li>• Establish annual reporting, periodic evaluation methods</li> </ul>
Prepare GSP Document	<ul style="list-style-type: none"> <li>• Prepare administrative draft, draft, and final documents</li> <li>• Attend adoption hearing; submit to DWR</li> </ul>
Facilitate Public and Stakeholder Engagement	<ul style="list-style-type: none"> <li>• Develop communication plan</li> </ul>

**Notes:** DMS = data management system; DWR = California Department of Water Resources; GSA = Groundwater Sustainability Agency; GSP = Groundwater Sustainability Plan; SGMA = Sustainable Groundwater Management Act

### 3.1 GSP Considerations for the Warner Valley Basin

Several principal GSP requirements have been accomplished as part of the Groundwater Assessment and Consultation Services. These include an analysis of available data and data gaps, preparation of a hydrogeological conceptual model, preparation of a groundwater model and basin yield estimate, evaluation of climate change, and evaluation of WSRR’s water resources and connectivity to the rest of the Warner Valley Basin.

The development of a GSP for the basin would rely on the results of these tasks and require the following steps:

1. Initial notification of intent to develop a GSP (DWR 2018d).
2. Initiation and conduct of public engagement process and development of a stakeholder outreach plan. It is anticipated that approximately seven public meetings may be required for the following process benchmarks; some of these meetings may occur concurrently with regularly scheduled GSA board meetings:
  - a. Project kickoff and project explanation
  - b. Introduction to, and explanation of, the hydrogeologic conceptual model and groundwater model
  - c. Presentation of the historical and future projected water budgets
  - d. Presentation of sustainable management criteria
  - e. Presentation of projects and management actions
  - f. Draft GSP available
  - g. Final GSP adopted

3. Preparation of administrative information and plan area description. Much of this information will have already been compiled and reviewed as part of the Groundwater Assessment and Consultation Services.
4. Preparation of hydrogeologic conceptual model. This will have been completed for the Groundwater Assessment and Consultation Services. This task will be informed by the information that evaluates the interaction of the part of the basin that underlies the WSRR and the rest of the basin.
5. Documentation of groundwater conditions. This task will have been largely completed for the Groundwater Assessment and Consultation Services. Additional focus will be required to document groundwater dependent ecosystems and potential land subsidence.
6. Preparation of historical and current water budgets. The necessary components of this task will be largely available from the hydrogeologic conceptual model, groundwater model, and basin yield estimates prepared as part of the Groundwater Assessment and Consultation Services.
7. Consideration of management areas. Based on the previous work, the designation of distinct management areas will be considered. Section 354.20 of the SGMA regulations (23 CCR 354.20) addresses the establishment of management areas where such areas would facilitate implementation of the GSP. Areas for consideration for management area formation within the basin may include the WSRR or Lake Henshaw if one were to be incorporated into the basin.
8. Preparation of numerical basin model. This task will have been completed for the Groundwater Assessment and Consultation Services.
9. Preparation of sustainable management criteria. Preparation of sustainable management criteria includes defining undesirable results, minimum thresholds, and measurable objectives. These will be based on the tools and data prepared for the Groundwater Assessment and Consultation Services.
10. Establishment of monitoring network and protocols. This task will depend on the data availability and data gaps analysis and the established sustainability criteria.
11. Development of data management system (DMS). DWR requires a DMS that is compatible with existing state databases. The data and maps prepared as part of the Groundwater Assessment and Consultation Services will be compatible with and easily transferable to a compliant DMS.
12. Development and analysis of projects and management strategies. Such considerations will be guided by the safe yield, overdraft, and water quality analyses conducted as part of the Groundwater Assessment and Consultation Services.
13. Development of GSP Implementation Plan.
14. GSP document preparation. The technical memorandums and other products prepared as part of the Groundwater Assessment and Consultation Services will be integrated into the Draft GSP in the appropriate sections, resulting in savings of time and cost.
15. Annual reporting and 5-year updates. SGMA Legislation requires the annual reporting of relevant data and information by which DWR may evaluate the progress of GSP implementation, including groundwater levels, extraction, and surface water use (23 CCR 355.8). DWR is required to review GSP implementation at least

every 5 years to determine if it is making adequate progress toward achieving sustainability goals in the required time frame (California Water Code, Section 10733.8; 23 CCR 355.6).

## 3.2 GSP Alternative

The SGMA Legislation includes a provision for the submittal of an alternative to a GSP under specific circumstances. A GSP alternative could be an analysis of the Warner Valley Basin that shows that the basin has operated within its sustainable yield for at least 10 years. The submittal of alternative plans was required by January 1, 2017, but an alternative may still be an option for basins that are reprioritized as medium or high priority (California Water Code, Section 10733.6).

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## 4 GSP TIMELINE

As a low-priority basin, the Warner Valley Basin is not currently required to adhere to a prescribed timeline, and there is no GSP timeline requirement if basin interested parties choose to voluntarily implement SGMA. For GSAs currently designated as medium or high priority, GSPs are required to be submitted by 2020 for critically overdrafted basins and 2022 for non-critically overdrafted basins. If the Valley Warner Basin was reprioritized as medium or high priority, GSP preparation would be required within 5 years of the date of reprioritization (California Water Code, Section 10722.4).

The timeline presented on Figure 2, Warner Valley Groundwater Basin GSP Development Schedule, assumes GSP preparation on a voluntary basis and GSA formation completed by July 2019.

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## 5 GSP COST ESTIMATE AND POTENTIAL FUNDING SOURCES

### 5.1 GSP Development Cost Estimate

Table 4 is a cost estimate for GSP development with consideration of tasks already completed as part of the Groundwater Assessment and Consultation Services. The potential costs are provided as a range.

**Table 4. VID Estimated Cost of GSP Development by Phase**

Phase	Low Cost	High Cost
Stakeholder Communication and Engagement	\$30,000.00	\$75,000.00
Development and Maintenance a DMS	\$25,000.00	\$60,000.00
Administrative Information and Plan Area Description	\$10,000.00	\$35,000.00
Hydrogeologic Conceptual Model	Mostly Complete <sup>a</sup>	
Groundwater Conditions Analysis	\$30,000.00	\$55,000.00
Historic and Current Water Budgets	Mostly Complete <sup>a</sup>	
Consideration of Management Areas	\$10,000.00	\$25,000.00
Numerical Basin Model	Mostly Complete <sup>a</sup>	
Sustainable Management Criteria	\$40,000.00	\$105,000.00
Potential Groundwater Dependent Ecosystems Analysis	\$30,000.00	\$90,000.00
Monitoring Network and Protocols	\$20,000.00	\$45,500.00
Projects and Management Strategies	\$45,000.00	\$80,000.00
GSP Implementation Plan	\$35,000.00	\$80,000.00
Prepare Draft GSP	\$80,000.00	\$95,000.00
Public Review	\$30,000.00	\$80,000.00
Prepare Final GSP	\$25,000.00	\$65,000.00
Project Management and Meetings	\$50,000.00	\$100,000.00
<b>Total Cost</b>	<b>\$460,000.00</b>	<b>\$990,500.00</b>

**Notes:** DMS = data management system; GSP = Groundwater Sustainability Plan; VID = Vista Irrigation District

<sup>a</sup> These tasks are being completed as part of the Groundwater Assessment and Consultation Services.

### 5.2 GSP Potential Funding Sources

Proposition 1 provided nearly \$86.8 million for groundwater sustainability projects that benefit disadvantaged communities and for development of GSPs. In early April 2018, DWR announced the final grant awards, which included \$16.2 million for severely disadvantaged communities and \$69.6 million for GSP development. The public comment period for the draft awards closed February 28, 2018. All applicants that met the administrative requirements of the grant application were awarded funding in the

first round. It is unlikely that there will be additional funding opportunities for SGMA-related processes from Proposition 1 because the funds available for this purpose have been committed.

Proposition 68, California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2018, passed in June 2018. Among other funding, it provides \$250 million for drinking water, \$443 million for climate preparedness and habitat resiliency, and \$390 million for regional water sustainability and groundwater sustainability planning. It is premature to speculate how the SGMA portion of Proposition 68 will be implemented and what opportunities it may represent for the Warner Valley Basin. However, the basin entities or GSA may be eligible for grant funding (cost-sharing reduction) as a disadvantaged community.



## 6 WARNER VALLEY BASIN BOUNDARY MODIFICATION EVALUATION

The SGMA Legislation includes provisions to allow local agencies to apply to DWR for modification of groundwater basin boundaries from those defined in Bulletin 118 (California Water Code, Section 10722.2). The legislation also allows for creation of new subbasins through the process. If no request is made, the boundaries shown in Bulletin 118 are used for SGMA compliance. DWR has developed regulations (DWR Title 23) and established a process and web portal for BBM requests (DWR 2018e). Information required for a BBM application includes technical and historical hydrogeologic data, proof of consultation with concerned entities and stakeholders, and evidence that the modification will allow for sustainable groundwater management.

The regulations categorize different kinds of BBMs. A scientific modification is based on the geologic or hydrogeologic conditions of the basin. An example of a scientific modification is the movement of an existing boundary to a newly discovered fault line that acts as a boundary to groundwater flow. The other type of BBM is jurisdictional, which is based on consideration of overlying agencies. There are a few types of jurisdictional BBMs; an example of one type is the adjustment of a basin boundary to coincide with a county line. Jurisdictional modifications are generally made to improve the efficiency of groundwater management. A single BBM request may include multiple types of modifications.

The update of basin boundaries by DWR for Bulletin 118 triggers a reevaluation of basin prioritization by DWR. Consequently, a successful BBM application would trigger the reevaluation of basin prioritization (see Section 6.2, Warner Valley Basin Prioritization). The initial BBM submission period began January 1, 2016, and DWR has indicated that a BBM process will be conducted approximately every 2 years. The second BBM application process is currently underway. The significant dates are shown as follows:

- Initial notification period began: July 1, 2017
- Application preparation and submittal period began: January 1, 2018
- Application submittal due: September 28, 2018
- Thirty-day public comment period begins: Winter 2018
- DWR releases draft recommendation for BBMs: Winter 2018

### 6.1 BBM Considerations for the Warner Valley Basin

Under the current DWR designation of the Warner Valley Basin, Lake Henshaw and part of its recharge area are not included in the basin. Because Lake Henshaw is an integral part of groundwater management of the basin through conjunctive use of groundwater and surface water storage, a BBM may facilitate effective

management of the basin. However, DWR appears to have lacked some of the information needed to accurately prioritize the basin (see Section 6.2). Such information includes total groundwater production and export of groundwater outside of the basin. A BBM would trigger a reevaluation of basin prioritization, and it is unclear whether that process would result in a classification of medium priority or above. If the basin was reclassified as medium priority or above, it would trigger the necessity to comply with SGMA, and it would create a mandatory timeline for implementation of the SGMA process and requirements. However, it also could potentially create additional funding source availability (see Section 5, GSP Cost Estimate and Potential Funding Sources).

In addition, there are areas of the basin as defined by DWR that are outside of the VID boundary. According to the SGMA definition of “local agency,” this means that VID would not be eligible to manage those parts of the basin. As shown on Figure 3, Warner Valley Groundwater Basin Map, these include what may be referred to as “fringe areas” but also include the WSRR area. However, if the County was included in the GSA that was formed, the GSA would have jurisdiction over those parts of the basin that are outside of the VID boundary but within the County. In practice, some fringe areas are found to be a result of mapping errors or to exist outside of the physical basin.

## 6.2 Warner Valley Basin Prioritization

In 2009, SB X7-6 created the California Statewide Elevation Monitoring Program, for which DWR determined a prioritization for California’s groundwater basins based on an algorithm incorporating the following criteria:

1. Population overlying the basin.
2. Rate of population growth overlying the basin.
3. Number of public supply wells located within the basin.
4. Total number of wells within the basin.
5. Total irrigated acreage overlying the basin.
6. Degree to which persons overlying the basin rely on groundwater as their primary source of water.
7. Documented impacts on the groundwater within the basin, including overdraft, subsidence, saline intrusion, and other water quality degradation.
8. Any other information determined to be relevant by DWR, including adverse impacts on local habitat and local streamflows. “Other information” is defined by DWR to be “any information determined to be relevant by DWR” and provides DWR with a degree of flexibility in assigning priority based on undefined criteria.

DWR recently completed a reevaluation (2018) of groundwater basins in connection with BBM, and the Warner Valley Basin remains very low priority. The total rank scoring provided by DWR was 0.0;<sup>1</sup> this minimal value reflects certain criteria that automatically result in a zero ranking. It is clear that DWR was unaware of some of the salient information needed for an accurate ranking. For example, DWR data indicate that there is no groundwater supplied from the basin, indicating that they did not account for water use by WSRR or the conjunctive use program that supplies VID and the City customers outside of the basin. Exported water is a factor for which ranking values are increased in other basins. In addition, there is no recognition of the San Luis Rey Water Rights Settlement, which took effect in May 2017 and could increase the value for reliance on groundwater.

For a description of the DWR prioritization process, see California Statewide Elevation Monitoring Program Basin Prioritization Process (June 2014) (DWR 2014).

### 6.3 Reanalysis of Warner Basin Prioritization

Reevaluating the Warner Valley Basin using the DWR methodology and appropriate values for pumping and other information would likely result in a ranking of medium priority. However, there is a significant component of judgement in the prioritization process that may make it difficult to accurately predict the DWR prioritization even when using more accurate information. Reprioritizing the basin from very low to medium priority would require a ranking between 13.43 and 21.08. Note that providing DWR with updated information to support a reanalysis of the basin may result in increased scrutiny of basin characteristics, such as groundwater levels, water quality, and groundwater dependent ecosystems. On the other hand, if DWR reprioritized the basin as medium priority, it could potentially qualify for additional funding opportunities. For example, Proposition 1 excluded funding for basins designated as low or very low priority. The guidelines for Proposition 1 are not yet available; therefore, it is unclear how the funding will be structured (see Section 5.2, GSP Potential Funding Sources). A reprioritization to medium or high priority would require, and start the clock for, a mandatory SGMA process and timeline. This timeline requires GSA formation within 2 years and management of the basin under a GSP within 5 years of the date of reprioritization (California Water Code, Section 10722.4).

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<sup>1</sup> Refer to the following California Statewide Elevation Monitoring Program Basin Summary for DWR's ranking summary and data sources for the basin: [https://www.water.ca.gov/LegacyFiles/groundwater/casgem/pdfs/basin\\_prioritization/SCRO%2035.pdf](https://www.water.ca.gov/LegacyFiles/groundwater/casgem/pdfs/basin_prioritization/SCRO%2035.pdf)

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## 7 ADVANTAGES AND DISADVANTAGES OF SGMA IMPLEMENTATION IN THE WARNER BASIN

SGMA provides tools to facilitate management of the basin’s water resources. Therefore, the extent to which the impacts of overuse of groundwater are occurring must be weighed against the cost and resource expenditure of SGMA implementation. The analyses conducted for the Groundwater Assessment and Consultation Services indicate that the undesirable results defined by SGMA are likely minimal but remain uncertain (e.g., for groundwater dependent ecosystems) and that the cost of GSP preparation could be from approximately \$460,000 to \$990,500, as estimated. These cost estimates do not include the annual costs for ongoing GSP implementation, monitoring, and reporting.

### 7.1 Advantages of Implementing SGMA in the Warner Valley Groundwater Basin

The preparation of a GSP would provide detailed analysis of the basin characteristics, beneficial groundwater uses, and water supply, thereby providing a measure of certainty for current and future water use. VID, WSRR, and other basin interested parties could determine their respective shares of the basin yield through the transparent GSP stakeholder process. In addition, SGMA affords assistance from DWR. Conducting a BBM process to include Lake Henshaw within the Warner Valley Basin would provide for formal recognition of the lake’s water supply and its linkage to the basin’s groundwater supply. Despite the uncertainty of water rights as they pertain to SGMA implementation, having a successful GSP could alleviate water rights concerns as water availability is determined through the process. Similarly, a GSP may avoid future adjudication of the basin that could ultimately be more expensive and less beneficial for basin interests.

### 7.2 Disadvantages of Implementing SGMA in the Warner Valley Groundwater Basin

Implementing the SGMA process will result in significant costs and involves areas of uncertainty that may not justify those costs. Costs associated with the process include the formation of a GSA; preparation of a GSP; and ongoing costs related to administration of the GSA, implementation of GSP, and the annual and 5-year reporting requirements. Areas of uncertainty associated with the process include the eligibility of VID to become a GSA for the basin and the County’s willingness to participate in SGMA implementation within the basin and to serve as the GSA for areas not owned by VID, including the perimeter or “fringe” areas. Also uncertain is the outcome of a reprioritization process if conducted. If the basin is not reprioritized as medium or greater priority, then some of the benefits, such as funding opportunities, may not be realized. Preparing a GSP would require evaluation of each potential undesirable result specified in the SGMA. Of these, groundwater-dependent ecosystems have the greatest potential of becoming a significant public issue requiring additional study and potentially resulting in limitations on VID groundwater operations and potentially expensive mitigation projects.

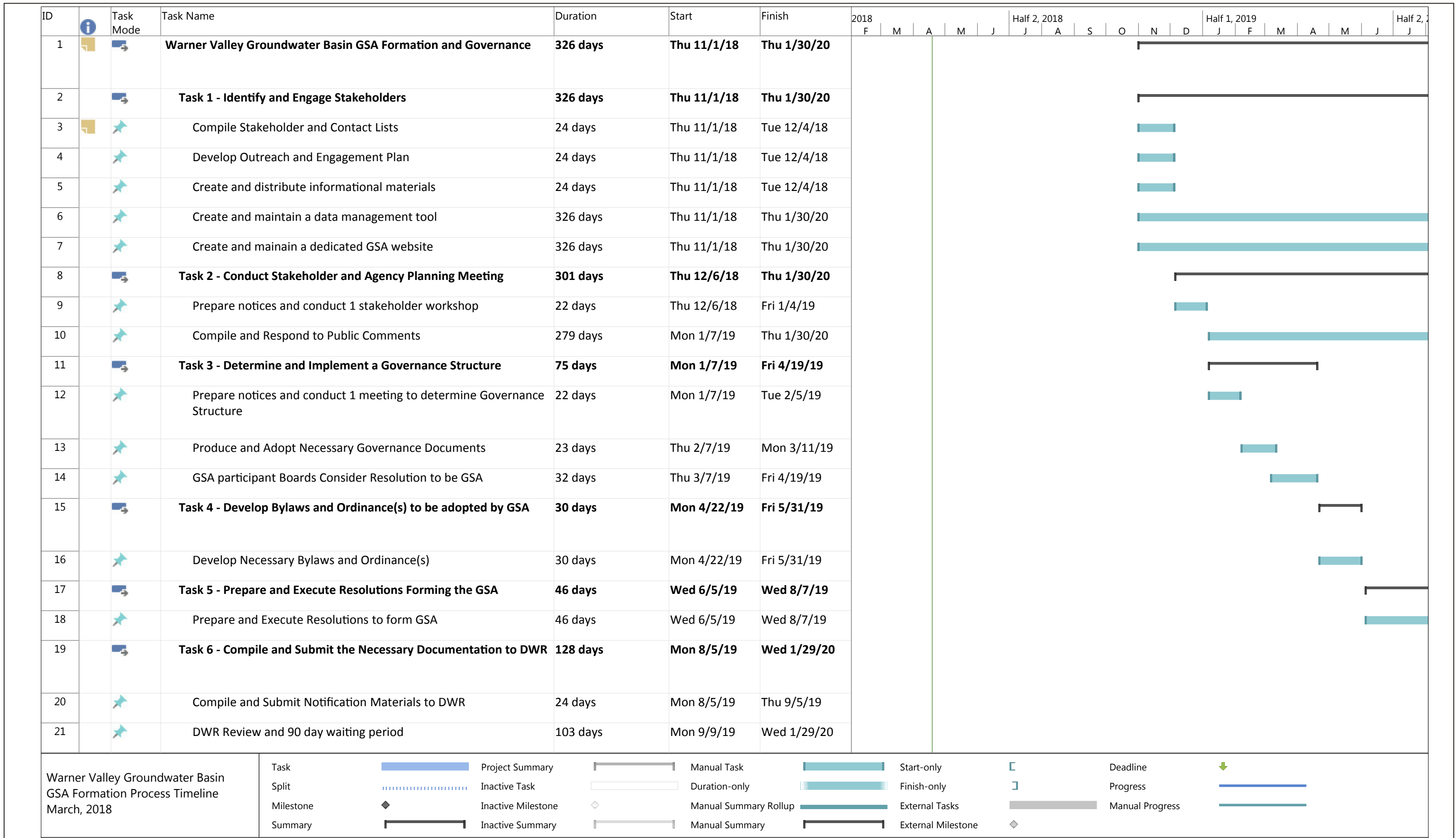
VID is primarily concerned with WSRR consumptive groundwater use and the effect of future development on groundwater resources. It may be possible to address these concerns more directly and at lower costs through the California Environmental Quality Act process and agreements negotiated between VID and WSRR. DWR has recently completed the BBM process and basin reprioritization, and there is no set schedule for the next rounds of these processes. Therefore, this affords VID the opportunity to observe the SGMA implementation process in the basins currently required to implement it.

## 8 REFERENCES

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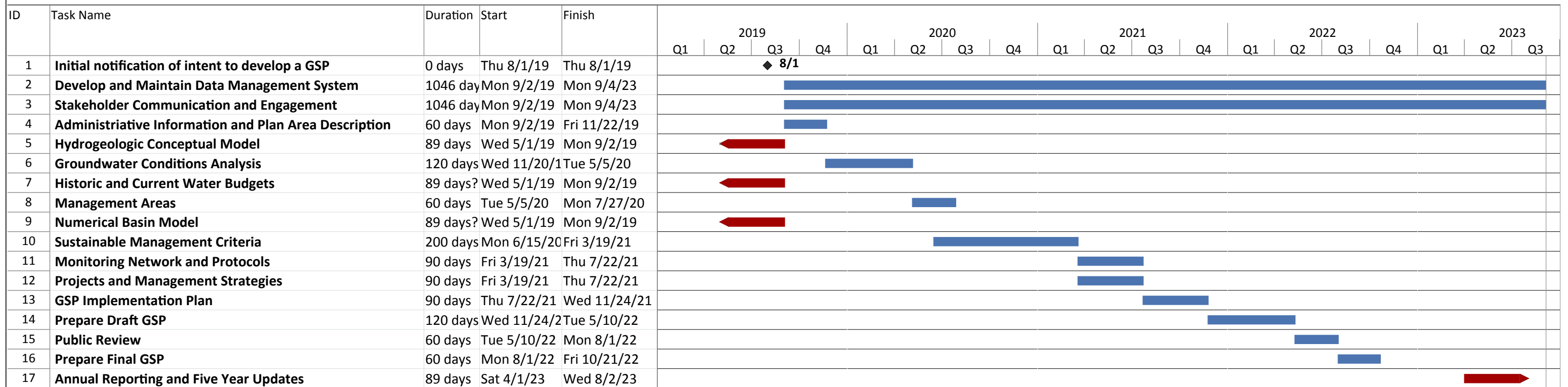


SOURCE: Todd 2018, DWR

FIGURE 1

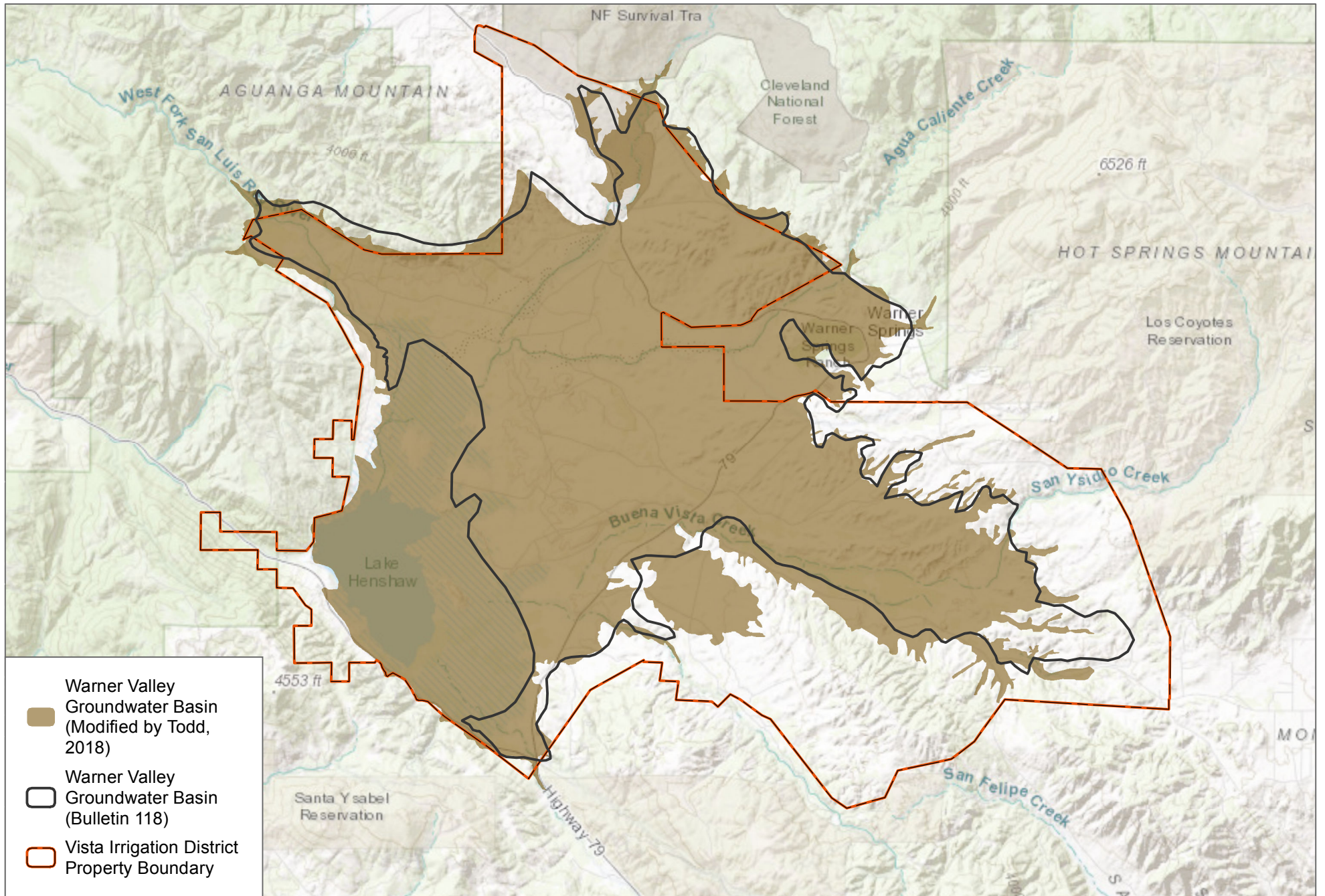
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## Warner Valley Groundwater Basin GSP Development Schedule



Left facing red arrows denote tasks that will have been largely completed for this scope of work. Right facing red arrows denote ongoing tasks of uncertain start date.

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SOURCE: Todd 2018, DWR



**FIGURE 3**

**Warner Valley Groundwater Basin Map**  
Sustainable Groundwater Management Act Process Assessment

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# APPENDIX A

## SGMA Legislation





# Sustainable Groundwater Management Act

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

2015 Amendments (effective January 1, 2016) 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

[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.

### UNCODIFIED FINDINGS

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(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**

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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.

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<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**

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(a) 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, 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, 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.

(11) A California Native American tribe that is on the contact list maintained by the Native American Heritage Commission and that has traditional lands located within the city's or county's jurisdiction.

(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) 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 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 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**

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(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**

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### **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.

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### **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.

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### **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.

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

(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 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**

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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**

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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~~[high- or medium-priority basin subject to the requirements of subdivision \(a\) of Section 10720.7](#) 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.

(i) To provide a more efficient and cost-effective groundwater adjudication process that protects water rights, ensures due process, prevents unnecessary delay, and furthers the objectives of this part.

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

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(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.

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

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(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, or the approval by the department of an alternative submitted under Section 10733.6, 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.

[\(c\) Water rights may be determined in an adjudication action pursuant to Chapter 7 \(commencing with Section 830\) of Title 10 of Part 2 of the Code of Civil Procedure.](#)

**10720.7. PLANNING DEADLINES**

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(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 it 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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**10721.** 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” or “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) “In-lieu use” means the use of surface water by persons that could otherwise extract groundwater in order to leave groundwater in the basin.
- (n) “Local agency” means a local public agency that has water supply, water management, or land use responsibilities within a groundwater basin.
- (o) “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.

(~~op~~) “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.

(~~pq~~) “Personal information” has the same meaning as defined in Section 1798.3 of the Civil Code.

(~~qr~~) “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.

(~~rs~~) “Public water system” has the same meaning as defined in Section 116275 of the Health and Safety Code.

(~~st~~) “Recharge area” means the area that supplies water to an aquifer in a groundwater basin.

(~~tu~~) “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.

(~~uv~~) “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.

(~~vw~~) “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.

(~~wx~~) “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 [groundwater](#) 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.

(~~xy~~) “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.

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

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

(~~aab~~) “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 **or an entity directed by the court in an adjudication action to file the request** 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 pursuant to subdivision (b), 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~~if the department changes ~~the basin~~ priorities pursuant to Section ~~10933, if~~10933 to elevate a basin ~~is elevated from a low- or very low priority basin~~ to a medium- or high-priority basin after January 31, 2015, at the agency formation and planning deadlines of this part shall be extended as follows:



(1) 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.

(2) A groundwater sustainability agency shall have five years from the date of reprioritization to meet the requirements of subdivision (a) of Section 10720.7, except that if the reprioritization occurs before January 31, 2017, a groundwater sustainability agency subject to paragraph (2) of subdivision (a) of Section 10720.7 shall have until January 31, 2022.

## CHAPTER 4. Establishing Groundwater Sustainability Agencies

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

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

(b) Before ~~electing~~deciding to ~~be~~become 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~~Groundwater Management 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, on the department's Internet Web site within 15 days of receipt.~~ If an agency identified in paragraph (1) ~~elects to opt~~opts 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~~opted out may notify the department pursuant to ~~subdivision (d)~~Section 10723.8 of its ~~election~~decision 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~~opting 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~~The decision of a local agency or combination of ~~local~~ agencies ~~that elects to be the~~become a 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.~~take effect as provided in Section 10723.8.

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

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.

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**10723.4. MAINTENANCE OF INTERESTED PERSONS LIST**

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.

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

(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 or a mutual water company may participate in a groundwater sustainability agency ~~if the local agencies approve~~ through a memorandum of agreement or other legal agreement. The authority provided by this subdivision does not confer any additional powers to a nongovernmental entity.

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

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

- (1) The service area boundaries, the boundaries of the basin or portion of the basin the agency ~~is managing~~intends to manage pursuant to this part, and the other agencies managing or proposing to manage 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) The department shall post all complete notices received under this section on its Internet Web site within 15 days of receipt.**

**(c) The decision to become a groundwater sustainability agency shall take effect 90 days after the department posts notice under subdivision (b) if no other local agency submits a notification under subdivision (a) of its intent to undertake groundwater management in all or a portion of the same area. If another notification is filed within the 90-day period, the decision shall not take effect unless the other notification is withdrawn or modified to eliminate any overlap in the areas proposed to be managed. The local agencies shall seek to reach agreement to allow prompt designation of a groundwater sustainability agency. If agreement is reached involving a material change from the information in the posted notice, a new notification shall be submitted under subdivision (a) and the department shall post notice under subdivision (b).**

~~(d)~~ Except as provided in ~~subdivision (d), 90 days following the posting of the notice pursuant to this section~~ subdivisions (e) and (f), after the decision to be a groundwater sustainability agency takes effect, the groundwater sustainability agency shall be presumed to be the exclusive groundwater sustainability agency within the area of the basin ~~the~~ within the service area of the local agency that the local agency is managing as described in the notice, ~~provided that no other notice was submitted.~~

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

~~(f)~~ 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**

(a) In the event that there is an area within a high- or medium-priority 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.

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**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.

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**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.

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**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.

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**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.

#### 10726.5. AGREEMENTS WITH PRIVATE PARTIES

In addition to any other authority granted to a groundwater sustainability agency by this part or other law, a groundwater sustainability agency may enter into written agreements and funding with a private party to assist in, or facilitate the implementation of, a groundwater sustainability plan or any elements of the plan.

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

(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, [or to impose fees or regulatory requirements on activities outside the boundaries of the local agency.](#)

(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.

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

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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

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

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(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.

## **10727.2. REQUIRED PLAN ELEMENTS**

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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, [groundwater](#) recharge, [in-lieu use](#), 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.

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

(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.

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

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.

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**10728.2. PERIODIC REVIEW AND ASSESSMENT**

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.

#### [10729.2. GUIDELINE, CRITERION, BULLETIN; ADMINISTRATIVE PROCEDURE ACT EXCEPTION](#)

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[With the exception of regulations required by Sections 10722.2 and 10733.2, a guideline, criterion, bulletin, or other technical or procedural analysis or guidance prepared by the department as required by this part is not subject to the Administrative Procedure Act \(Chapter 3.5 \(commencing with Section 11340\) of Part 1 of Division 3 of Title 2 of the Government Code\).](#)

## 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.

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

(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.

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**10731. AUTHORITY TO DETERMINE AMOUNTS EXTRACTED**

(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.

### **10732.2. STATE ENTITY COOPERATION**

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**If a groundwater sustainability agency finds that a state entity is not working cooperatively regarding implementation of a groundwater sustainability plan, the groundwater sustainability agency may file notice with the board regarding its finding. The board shall notice proceedings to investigate the finding of the groundwater sustainability agency. If the board determines that the failure of the state entity to work cooperatively regarding implementation of a groundwater sustainability plan compromises the ability of the groundwater sustainability agency to implement the plan in a manner that will likely achieve the sustainability goal, the board may direct the state entity to cooperate in the implementation of the groundwater sustainability plan unless the state entity indicates its**

[authority for not complying with a groundwater sustainability plan in the same manner as subdivision \(f\) of Section 10735.8.](#)

## 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 pursuant to this section, 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

~~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

(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 high- or medium-priority 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~~decided to ~~be~~become 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 [\(2\)](#), (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), [\(2\)](#), 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) or (5) 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) or (5) 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**

---

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**

---

(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.

## **CHAPTER 12. Determination of Rights to Groundwater**

#### 10737. GROUNDWATER ADJUDICATION

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Except as provided in this chapter, an adjudication action to determine rights to groundwater in a basin shall be conducted in accordance with the Code of Civil Procedure, including pursuant to Chapter 7 (commencing with Section 830) of Title 10 of Part 2 of that code.

#### 10737.2. ADJUDICATION PROCEEDINGS AND SUSTAINABILITY PLAN

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In an adjudication action for a basin required to have a groundwater sustainability plan under this part, the court shall manage the proceedings in a manner that minimizes interference with the timely completion and implementation of a groundwater sustainability plan, avoids redundancy and unnecessary costs in the development of technical information and a physical solution, and is consistent with the attainment of sustainable groundwater management within the timeframes established by this part.

#### 10737.4. DEPARTMENT REVIEW OF JUDGMENT

---

(a) Chapter 11 (commencing with Section 10735) shall not apply to a judgment approved by the court pursuant to Section 850 of the Code of Civil Procedure if both of the following apply:

(1) A local agency or a party directed by the court to file the submission submits the judgment to the department for evaluation and assessment pursuant to paragraph (2) of subdivision (b) of Section 10733.6.

(2) The department determines that the judgment satisfies the objectives of this part for the basin.

(b) A party or group of parties proposing a stipulated judgment pursuant to subdivision (b) of Section 850 of the Code of Civil Procedure may submit the proposed stipulated judgment to the department for evaluation and assessment pursuant to paragraph (2) of subdivision (b) of Section 10733.6.

(c) Notwithstanding subdivision (c) of Section 10733.6, a judgment or proposed stipulated judgment pursuant to this section may be submitted to the department after January 1, 2017.

(d) A determination of the department on a submission pursuant to this section is subject to judicial review pursuant to Section 1085 of the Code of Civil Procedure. Venue shall be in the court with jurisdiction over the adjudication action and the case shall be coordinated with the adjudication action.

#### 10737.6. DEPARTMENT ASSESSMENTS AND RECOMMENDATIONS

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If the department determines that a judgment satisfies the objectives of this part in accordance with paragraph (2) of subdivision (a) of Section 10737.4, the department shall submit to the court the assessments and any recommended corrective actions that the department issues pursuant to Section 10733.8. The court, after notice and, if necessary, an evidentiary hearing, shall determine whether to amend the judgment pursuant to Section 852 of the Code of Civil Procedure to adopt the department's recommended corrective actions.

10737.8. COURT FINDINGS

In addition to making any findings required by subdivision (a) of Section 850 of the Code of Civil Procedure or any other law, the court shall not approve entry of judgment in an adjudication action for a basin required to have a groundwater sustainability plan under this part unless the court finds that the judgment will not substantially impair the ability of a groundwater sustainability agency, the board, or the department to comply with this part and to achieve sustainable groundwater management.

\* \* \*

**[PART 2.75. Groundwater Management]**

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

(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**

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**

(a) 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 [sustainability plan pursuant to Part 2.74 \(commencing with Section 10720\)](#).

(B) [A groundwater](#) management plan pursuant to Part 2.75 (commencing with Section 10750).

(~~B~~C) 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~~D) 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 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.



# APPENDIX B

Warner Valley Groundwater Basin  
Bulletin 118 Description



## Warner Valley Groundwater Basin

- Groundwater Basin Number: 9-08
- County: San Diego
- Surface Area: 24,000 acres (37.5 square miles)

### Basin Boundaries and Hydrology

This groundwater basin underlies Warner Valley and Valle de San Jose, the upper drainage of the San Luis Rey River in northeastern San Diego County. The basin is bounded on the west by Lake Henshaw and the Elsinore fault and on all other sides by impermeable crystalline rocks of the Peninsular Ranges (Rogers 1965; DWR 1967, 1971).

Average annual precipitation ranges from 15 to 21 inches. The valleys are drained by Agua Caliente and Buena Vista Creeks and the San Luis Rey River, which flows westward to Lake Henshaw (DWR 1971).

### Hydrogeologic Information

#### ***Water Bearing Formations***

The principal water bearing deposits are alluvium, and residuum (DWR 1967). Sediments reach at least 900 feet thick in the basin (DWR 1971), and well yields range to 1,800 gpm and average about 800 gpm (DWR 1975).

**Holocene Alluvium.** The Holocene age alluvium is composed of boulders, gravel, sand, silt and clay (DWR 1971). These deposits are generally thin and unsaturated (DWR 1971).

**Pleistocene Alluvium.** Pleistocene age alluvium underlies the Holocene alluvium and is the most important water-bearing unit in the basin (DWR 1971). This alluvium consists of poorly sorted arkosic gravel, sand, silt, and clay. It is generally unconsolidated, but locally is cemented. This unit includes the Temecula Arkose, which is at least 900 feet thick in this basin (DWR 1971).

**Residuum.** Residuum is bedrock that has weathered in place. This material is found throughout San Diego County and generally considered Quaternary in age, although in places it underlies Tertiary deposits (DWR 1967). In this basin, the material is found along the eastern flank of the basin and likely underlies the Quaternary deposits. Well yield in this material is generally low, but locally water derived from it is important (DWR 1967).

#### ***Restrictive Structures***

This basin lies between the Elsinore and San Jacinto fault zones. Many faults are found between these two major zones. The Elsinore fault zone forms part of the western boundary of the basin and the Agua Caliente fault cuts the eastern edge of the basin. Water moving up the Agua Caliente fault forms Warner Springs, demonstrating that the fault affects subsurface flow at this location. The Aguanga and Earthquake faults, along with other unnamed faults, cut through this basin, but have an unknown effect on groundwater.

### **Groundwater Level Trends**

In the southeast part of the basin, the water level in one well declined only about 3 feet during 1912 through 1967; however, in the central part of the basin, groundwater levels in wells declined 30 to 138 feet during the 1950s and 1960s (DWR 1971).

### **Groundwater Storage**

**Groundwater Storage Capacity.** The total storage capacity is estimated to be about 550,000 af (DWR 1975).

**Groundwater in Storage.** Unknown.

### **Groundwater Budget (Type C)**

Not enough information is available to construct a budget.

### **Groundwater Quality**

**Characterization.** Groundwater in this basin is dominantly sodium bicarbonate in character, though some calcium bicarbonate water is found in the southern part of the basin (DWR 1967). Some sulfate and chloride rich water is found near Warner Hot Springs in the eastern part of the basin (DWR 1967). Analyses of water sampled in the 1960s show a range in TDS content from 168 to 638 mg/L and an average about 304 mg/L (DWR 1967). Water from one public supply well has a TDS content of 263 mg/L.

**Impairments.** Groundwater is generally rated suitable for irrigation and domestic uses except near Warner Hot Springs, where it is rated inferior for irrigation use because of sodium content and for domestic use because of high fluoride concentrations (DWR 1967).

### **Water Quality in Public Supply Wells**

<b>Constituent Group<sup>1</sup></b>	<b>Number of wells sampled<sup>2</sup></b>	<b>Number of wells with a concentration above an MCL<sup>3</sup></b>
Inorganics – Primary	2	0
Radiological	1	1
Nitrates	2	0
Pesticides	1	0
VOCs and SVOCs	1	0
Inorganics – Secondary	2	1

<sup>1</sup> A description of each member in the constituent groups and a generalized discussion of the relevance of these groups are included in *California's Groundwater – Bulletin 118* by DWR (2003).

<sup>2</sup> Represents distinct number of wells sampled as required under DHS Title 22 program from 1994 through 2000.

<sup>3</sup> Each well reported with a concentration above an MCL was confirmed with a second detection above an MCL. This information is intended as an indicator of the types of activities that cause contamination in a given basin. It represents the water quality at the sample location. It does not indicate the water quality delivered to the consumer. More detailed drinking water quality information can be obtained from the local water purveyor and its annual Consumer Confidence Report.

## Well Characteristics

Well yields (gal/min)		
Municipal/Irrigation	Range: to 1,800 gal/min	Average: 800 gal/min (DWR 1975)
Total depths (ft)		
Domestic	Range:	Average:
Municipal/Irrigation	Range:	Average:

## Active Monitoring Data

Agency	Parameter	Number of wells / measurement frequency
	Groundwater levels	
Department of Health Services and cooperators	Title 22 water quality	4

## Basin Management

Groundwater management:

Water agencies

Public                                      San Diego County Water Authority

Private

## References Cited

- California Department of Water Resources (DWR). 1967. *Ground Water Occurrence and Quality: San Diego Region*. Bulletin No. 106-2. 235 p.
- \_\_\_\_\_. 1971. *Water Wells in the San Luis Rey River Valley Area, San Diego County, California*. Bulletin 91-18. 347 p.
- \_\_\_\_\_. 1975. *California's Ground Water*. Bulletin 118. 135 p.
- Rogers, T. H. 1965. *Geologic Map of California, Santa Ana Sheet*. Olaf P. Jenkins Edition. California Department of Conservation, Division of Mines and Geology. Scale 1:250,000.

## Additional References

- California Department of Public Works, Division of Water Resources. 1934. *Study of Subsurface Water Supply Available in Warner Valley, San Diego County, California*. Unnumbered report. 7 p.
- Ellis, A. J., and C. H. Lee. 1919. *Geology and ground waters of the western part of San Diego County, California*. U.S. Geological Survey Water Supply Paper 446. 321 p.

## Errata

Substantive changes made to the basin description will be noted here.





# APPENDIX C

## Example GSA Formation Resolution



**COUNTY OF SAN DIEGO  
BOARD OF SUPERVISORS  
WEDNESDAY, JANUARY 6, 2016**

**MINUTE ORDER NO. 1**

**SUBJECT: NOTICED PUBLIC HEARING:  
AUTHORIZATION FOR THE COUNTY OF SAN DIEGO TO BECOME  
A GROUNDWATER SUSTAINABILITY AGENCY OVER BORREGO  
VALLEY GROUNDWATER BASIN (DISTRICTS: 2 AND 5)**

**OVERVIEW:**

This item is a request for the Board of Supervisors (Board) to consider a resolution to establish a Groundwater Sustainability Agency (GSA) in the Borrego Valley Groundwater Basin (BVGB) in accordance with the Sustainable Groundwater Management Act (SGMA). The primary purpose of a GSA under SGMA is to develop a Groundwater Sustainability Plan (GSP) to achieve long-term groundwater sustainability.

On October 20, 2015, the Borrego Water District (BWD) held a public hearing and approved a resolution to elect to become a GSA over its portion of the BVGB, as shown on the Borrego Valley Groundwater Basin Map [Attachment A]. The California Department of Water Resources (DWR) posted the BWD notice on October 27, 2015 which, per SGMA, started a 90-day window within which the County of San Diego (County) must determine whether to become a GSA within the BWD portion of the BVGB. Under SGMA, counties are the default GSA if no local agencies elect to become a GSA for a basin. If multiple agencies elect to become a GSA over the same basin area, SGMA requires the agencies reach an agreement regarding how multiple GSAs will administer a single GSP or coordinated GSPs for the basin.

Today's request is for the Board to 1) approve a Resolution for the County to become a GSA over the entire BVGB; 2) authorize the Director, Department of Planning & Development Services to enter into negotiations to develop an agreement with BWD to become a GSA; 3) authorize the Director, Department of Planning & Development Services to apply for and accept grant funds to support implementation of SGMA.

**FISCAL IMPACT:**

There is no fiscal impact associated with the approval of the Resolutions. Funds for the development of the governance structure and legal agreement with Borrego Water District are included in the Fiscal Year 2015-2016 Operational Plan for the Department of Planning & Development Services. Staff will return to the Board for consideration of an agreement and request for funding for the development of the Groundwater Sustainability Plan. There will be no change in net General fund cost and no additional staff years.

**BUSINESS IMPACT STATEMENT:**

N/A

**RECOMMENDATION:  
CHIEF ADMINISTRATIVE OFFICER**

1. Find that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(3) and 15378(b)(5) of the State CEQA Guidelines.
2. Adopt a Resolution entitled: RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO TO BECOME A GROUNDWATER SUSTAINABILITY AGENCY OVER BORREGO VALLEY GROUNDWATER BASIN (Attachment B).
3. Adopt a Resolution entitled: RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO TO APPLY FOR AND ACCEPT GRANT FUNDING TO SUPPORT SUSTAINABLE GROUNDWATER MANAGEMENT (Attachment C).
4. Authorize the Director, Department of Planning & Development Services, as agent of the County, to conduct all negotiations and submit all documents including Groundwater Sustainability Agency formation notifications; and draft inter-agency agreements, including amendments thereof, which do not materially impact or alter the program funding level.
5. Authorize the Director, Department of Planning & Development Services to apply for and accept grant funds and negotiate contracts to support implementation of the Sustainable Groundwater Management Act through Fiscal Year 2021-22.

**ACTION:**

ON MOTION of Supervisor D. Roberts, seconded by Supervisor Jacob, the Board closed the Hearing and took action as recommended, adopting Resolution No. 16-001, entitled: RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO TO BECOME A GROUNDWATER SUSTAINABILITY AGENCY OVER BORREGO VALLEY GROUNDWATER BASIN; and Resolution No. 16-002, entitled: RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO TO APPLY FOR AND ACCEPT GRANT FUNDING TO SUPPORT SUSTAINABLE GROUNDWATER MANAGEMENT.

AYES: Cox, Jacob, D. Roberts, R. Roberts, Horn

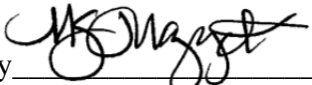
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State of California)  
County of San Diego) §

I hereby certify that the foregoing is a full, true and correct copy of the original entered in the Minutes of the Board of Supervisors.

DAVID HALL  
Clerk of the Board of Supervisors



By   
Marvice E. Mazyck, Chief Deputy



# APPENDIX D

## Example Governance Documents





**MEMORANDUM OF UNDERSTANDING  
DEVELOPMENT OF A GROUNDWATER SUSTAINABILITY PLAN  
FOR THE BORREGO VALLEY GROUNDWATER BASIN**

This Memorandum of Understanding for the Development of a Groundwater Sustainability Plan (“Plan”) for the Borrego Valley Groundwater Basin (“MOU”) is entered into and effective this 24<sup>th</sup> day of October, 2016 by and between the Borrego Water District (“District”) and the County of San Diego (“County”). The District and the County are each sometimes referred to herein as a “Party” and are collectively sometimes referred to herein as the “Parties.”

**RECITALS**

WHEREAS, on September 16, 2014, Governor Jerry Brown signed into law Senate Bills 1168 and 1319 and Assembly Bill 1739, known collectively as the Sustainable Groundwater Management Act (Act);

WHEREAS, Act went into effect on January 1, 2015;

WHEREAS, Act seeks to provide sustainable management of groundwater basins, enhance local management of groundwater; establish minimum standards for sustainable groundwater management; and provide local groundwater agencies the authority and the technical and financial assistance necessary to sustainably manage groundwater;

WHEREAS, the Parties have each declared to be a Groundwater Sustainability Agency (GSA) overlying portions of Borrego Valley Groundwater Basin (Borrego Basin), identified as Basin Number 7.24, a Bulletin 118 designated (medium-priority) basin;

WHEREAS, each Party has statutory authorities that are essential to groundwater management and Act compliance;

WHEREAS, Section 10720.7 of Act requires all basins designated as high- or medium-priority basins designated in Bulletin 118 be managed under a Plan or coordinated Plans pursuant to Act;

WHEREAS, Section 10720.7 of Act requires all critically over drafted basins be managed under a Plan by January 31, 2020;

WHEREAS, the California Department of Water Resources (DWR) has identified the Borrego Basin as critically over drafted;

WHEREAS, the Parties intend to eliminate overlap of the Parties by collectively developing and implementing a single Plan to sustainably manage Borrego Basin pursuant to section 10727 et seq. of Act;

WHEREAS, the Parties wish to use the authorities granted to them pursuant to the Act and utilize this MOU to memorialize the roles and responsibilities for developing the Plan;

WHEREAS, it is the intent of the Parties to complete the Plan as expeditiously as possible in a manner consistent with Act and its implementing regulations;

WHEREAS, it is the intent of the Parties to cooperate in the successful implementation of the Plan not later than the date as required by the Act for the Borrego Basin;

WHEREAS, the Parties wish to memorialize their mutual understandings by means of this MOU; and

NOW, THEREFORE, in consideration of the promises, terms, conditions, and covenants contained herein, the Borrego Water District and the County of San Diego hereby agree as follows:

**I. Purposes and Authorities.**

This MOU is entered into by the Parties for the purpose of establishing a cooperative effort to develop and implement a single Plan to sustainably manage the Borrego Basin that complies with the requirements set forth in the Act and its associated implementing regulations. The Parties recognize that the authorities afforded to a GSA pursuant to Section 10725 of the Act are in addition to and separate from the statutory authorities afforded to each Party individually. The Parties intend to memorialize roles and responsibilities for Plan implementation during preparation of the Plan.

**II. Definitions.**

As used in this Agreement, unless context requires otherwise, the meanings of the terms set forth below shall be as follows:

1. "Act" refers to the Sustainable Groundwater Management Act.
2. "Advisory Committee" refers to the stakeholder group created in Section III of the MOU.
3. "Core Team" refers to the working group created in Section III of the MOU.
4. "County" refers to the County of San Diego, a Party to this MOU. The County has designated the Director, Planning & Development Services, or his designee(s), as the County department representative to carry out the terms of this MOU for the County.
5. "District" refers to the Borrego Water District, a Party to this MOU.
6. "DWR" refers to the California Department of Water Resources.
7. "Effective Date" means the date on which the last Party executes this Agreement.
8. "Governing Body" means the legislative body of each Party: the District Board of Directors and the County Board of Supervisors, respectively.
9. "Groundwater Sustainability Plan (Plan)" is the basin plan for the Borrego Basin that the parties to this MOU are seeking to develop and implement pursuant to the Act.
10. "Memorandum of Understanding (MOU)" refers to this agreement.
11. "Party" or "Parties" refer to the County of San Diego and Borrego Water District.

12. "Plan Funding" is the funding necessary for the preparation and implementation of the Plan.
13. "Plan Schedule" includes all the tasks necessary to complete the Plan and the date scheduled for completion.
14. "State" means the State of California.
15. "SWRCB" refers to the State Water Resources Control Board.
16. "Undesirable Result" shall be defined as in the Act Section 10721(x) 1-6

### **III. Agreement.**

This section establishes the process for the Borrego Basin Plan Core Team and the Advisory Committee.

1. Establishment and Responsibilities of the Plan Core Team (Core Team).
  - a. The Core Team shall jointly develop a coordinated Plan. The Plan shall include, but not be limited to, enforcement measures, a detailed breakdown of each Parties responsibilities for Plan implementation, anticipated costs of implementing the Plan, and cost recovery mechanisms (if necessary).
  - b. The Core Team will consist of representatives from each Party to this MOU working cooperatively together to achieve the objectives of the Act. Core Team members serve at the pleasure of their appointing Party and may be removed/changed by their appointing Party at any time. A Party must notify all other Parties to this MOU in writing if that Party removes or replaces Core Team members.
  - c. Each member of the Core Team shall be responsible for keeping his/her respective management and governing board informed of the progress towards the development of the Plan and for obtaining any necessary approvals from management/governing board. Each member of the Core Team shall keep the other member reasonably informed as to all material developments so as to allow for the efficient and timely completion of the Plan.
  - d. Each Core Team member's compensation for their service on the Core Team is the responsibility of the appointing Party.
  - e. The Core Team shall develop and implement a stakeholder participation plan that involves the public and area stakeholders in an Advisory Committee role to aid in developing and implementing the Plan.
  - f. The Core Team will cooperatively work with the Advisory Committee to develop bylaws for the governance of the Advisory Committee. These bylaws are subject to approval by the Core team prior to adoption by the Advisory Committee. The Core Team may establish an appointment process and other administrative procedures for the Advisory Committee, in accordance with District and County policies intended to promote active participation in local

government, and requirements to include stakeholders in the development of the Plan as established in the Act.

- g. The Core Team will be the primary liaison with the Advisory Committee; and will guide Advisory Committee activities.

2. Core Team Meetings.

- a. The Core Team will establish a meeting schedule and choice of locations for regular meetings to discuss Plan development and implementation activities, assignments, milestones and ongoing work progress.
- b. The Core Team may establish and schedule meetings of the Advisory Committee to coordinate development and implementation of the Plan.
- c. Attendance at all Core Team meetings may be augmented to include staff or consultants to ensure that the appropriate expertise is available.

3. Establishment and Role of the Advisory Committee

- a. The Parties shall establish an Advisory Committee. The Advisory Committee will provide input to the Core Team on Plan development, including providing recommendations on basin sustainability measures, and the planning, financing, and implementation of the Plan. The Parties will agree on the composition of the Advisory Committee and acknowledge that the Advisory Committee must meet the requirements established in the Act.
- b. Advisory Committee members will not be compensated for activities associated with the Advisory Committee, Plan development or any activity conducted under this agreement.
- c. The Advisory Committee that is formed through this process shall be subject to and abide by the California open meeting laws under Government Code sections 54950 et seq., otherwise known as the "Brown Act," in order for the Parties to accept an Advisory Committee's recommendations.
- d. Meetings of the Advisory Committee shall be held in Borrego Springs, CA.

**IV. Interagency Communication.**

1. To provide for consistent and effective communication between parties, each Party agrees that a single member from each Party's Core Team will be their central point of contact on matters relating to this MOU. Additional representatives may be appointed to serve as points of contact on specific actions or issues.
2. The Core Team shall appoint a single representative to communicate actions conducted under this agreement to DWR. The appointee shall not communicate formal actions or decisions without prior written approval from the Core Team. This is not intended to discourage informal communications between the Parties

and DWR.

**V. Roles and Responsibilities of the Parties.**

1. The Parties are responsible for developing a coordinated Plan that meets the requirements of the Act.
2. The Parties will jointly establish their roles and responsibilities for implementing a coordinated Plan for the Borrego Basin in accordance with the Act.
3. The Parties will jointly work in good faith and coordinate all activities to meet the objectives of this MOU. The Parties shall cooperate with one another and work as efficiently as possible in the pursuit of all activities and decisions described in the MOU.
4. Each of the Parties will provide expertise, guidance, and data on those matters for which it has specific expertise or statutory authority, as needed to carry out the objectives of this MOU. Further development of roles and responsibilities of each Party will occur during Plan development.
5. After execution of this MOU as soon as reasonably possible, the Core Team shall mutually develop a timeline that describes the anticipated tasks to be performed under this MOU and dates to complete each task (Plan Schedule); and scope(s) of work and estimated costs for Plan development. The Plan Schedule will allow for the preparation of a legally defensible Plan acceptable to the Parties and include allowances for public review and comment, and approval by governing boards prior to deadlines required in the Act. Due to the critical nature of the Borrego Basin overdraft, both Parties shall make every effort to complete the draft Plan as soon as possible but no later than July 1, 2019. The Plan Schedule shall become part of this MOU through reference. The Plan Schedule will be referred and amended as necessary to conform to developing information, permitting, and other requirements. Therefore, this Plan Schedule may be revised from time to time upon mutual agreement of the Core Team. Costs shall be funded and shared as outlined in Section VI.
6. The Parties recognize that they may disagree as to the composition of the Plan and/or the timelines/methods for implementing the Plan. In the event that the Parties have attempted, in good faith, to resolve the matter on their own and are unsuccessful, the Parties agree to jointly seek to use the non-binding mediation services provided by the DWR to address disputes arising under the Act, to the extent that such services are available. If non-binding mediation from the DWR is not available or if either Party believes it would be more useful to consult with the State Water Resources Control Board ("SWRCB"), the Parties agree to request non-binding mediation from the Chair of the SWRCB or another Member designated by the Chair who is acceptable to both Parties. The Parties recognize that the failure to timely complete a Plan or to achieve any of the other milestones in the Act may result in intervention by the SWRCB.

**VI. Contracting and Funding for Plan Development.**

1. The Parties shall mutually develop a scope of work, budget, cost sharing agreement and cost recovery plan ("Plan Funding") for the work to be undertaken pursuant to this MOU. The Plan Funding shall be included and adopted in the final Borrego Basin Plan. Both the budget and cost sharing agreement shall be determined prior to any substantial financial expenditures or incurrence of any financial obligations related to consultant costs.
2. Specifically, to fulfill the requirements of the Act, the Core Team will jointly prepare and agree upon a scope of work for the consultants needed to prepare the Plan. The Parties agree that any work contracted for the purpose of developing the Plan shall be a cooperative effort.
3. The County shall hire consultant(s) to complete required components of the Plan. The contracting shall be subject to the County's competitive bid process and be subject to auditing by the County's Auditor and Controller.
4. Within the parameters of the County's contracting regulations, policies and procedures, the Core Team will be cooperatively involved in the evaluation, selection and oversight of the consultant(s).
5. Each Party is free to retain other consultants for its own purposes and at its own cost, *provided that* each Party consults with the other Party before conducting such work. The scope of any such work may not conflict with or duplicate work performed under this MOU. Nothing in this agreement prohibits either Party from exercising its statutory authorities afforded to each Party individually.
6. The Parties agree that each Party will bear its own staff costs to develop the Plan.

**VII. Approval.**

1. The Parties agree to make best efforts to adhere to the required Plan Schedule and will forward a final Borrego Basin Plan to their respective governing boards for approval and subsequent submission to DWR for evaluation as provided for in Act.
2. Approval and amendments will be obtained from the District Board of Directors prior to submission to the County Board of Supervisors.
3. Each Governing Board retains full authority to approve, amend, or reject the proposed Plan, provided the other Governing Board subsequently confirms any amendments, but both Parties also recognize that the failure to adopt and submit a Plan for the Basin to DWR by January 31, 2020 risks allowing for state intervention in managing the Basin.
4. The Parties agree that they will use good-faith efforts to resolve any issues that one or both Governing Boards may have with the final proposed Plan for the Basin in a timely manner so as to avoid the possibility of state intervention. An amendment to this MOU is anticipated upon acceptance of the Borrego Basin Plan by both Governing Boards.

**VIII. Staffing.**



Each Party agrees that it will devote sufficient staff time and other resources to actively participate in the development of the Plan for the Basin, as set forth in this MOU.

**IX. Indemnification.**

1. Claims Arising From Sole Acts or Omissions of County.

The County of San Diego (County) hereby agrees to defend and indemnify the District, its agents, officers and employees (hereinafter collectively referred to in this paragraph as "District"), from any claim, action or proceeding against District, arising solely out of the acts or omissions of County in the performance of this MOU. At its sole discretion, District may participate at its own expense in the defense of any claim, action or proceeding, but such participation shall not relieve County of any obligation imposed by this MOU. The District shall notify County promptly of any claim, action or proceeding and cooperate fully in the defense.

2. Claims Arising From Sole Acts or Omissions of the District.

The District hereby agrees to defend and indemnify the County of San Diego, its agents, officers and employees (hereafter collectively referred to in this paragraph as 'County') from any claim, action or proceeding against County, arising solely out of the acts or omissions of District in the performance of this MOU. At its sole discretion, County may participate at its own expense in the defense of any such claim, action or proceeding, but such participation shall not relieve the District of any obligation imposed by this MOA. County shall notify District promptly of any claim, action or proceeding and cooperate fully in the defense.

3. Claims Arising From Concurrent Acts or Omissions.

The County of San Diego ("County") hereby agrees to defend itself, and the District hereby agrees to defend itself, from any claim, action or proceeding arising out of the concurrent acts or omissions of County and District. In such cases, County and District agree to retain their own legal counsel, bear their own defense costs, and waive their right to seek reimbursement of such costs, except as provided in paragraph 5 below.

4. Joint Defense.

Notwithstanding paragraph 3 above, in cases where County and District agree in writing to a joint defense, County and District may appoint joint defense counsel to defend the claim, action or proceeding arising out of the concurrent acts or omissions of District and County. Joint defense counsel shall be selected by mutual agreement of County and District. County and District agree to share the costs of such joint defense and any agreed settlement in equal amounts, except as provided in paragraph 5 below. County and District further agree that neither party may bind the other to a settlement agreement without the written consent of both County and District.

5. Reimbursement and/or Reallocation.

Where a trial verdict or arbitration award allocates or determines the comparative fault of the parties, County and District may seek reimbursement and/or reallocation

of defense costs, settlement payments, judgments and awards, consistent with such comparative fault.

**X. Litigation.**

In the event that any lawsuit is brought against either Party based upon or arising out of the terms of this MOU by a third party, the Parties shall cooperate in the defense of the action. Each Party shall bear its own legal costs associated with such litigation.

**XI. Books and Records.**

Each Party shall have access to and the right to examine any of the other Party's pertinent books, documents, papers or other records (including, without limitation, records contained on electronic media) relating to the performance of that Party's obligations pursuant to this Agreement, *providing that* nothing in this paragraph shall be construed to operate as a waiver of any applicable privilege.

**XII. Notice.**

All notices required by this Agreement will be deemed to have been given when made in writing and delivered or mailed to the respective representatives of County and the District at their respective addresses as follows:



For the District:

General Manager  
Borrego Water District  
PO Box 1870  
806 Palm Canyon Drive  
Borrego Springs, CA 92004

For the County:

San Diego County  
Administrative Officer  
San Diego County  
1600 Pacific Highway  
San Diego, CA 92101

With a copy to:

David Aladjem  
Downey Brand LLP  
621 Capitol Mall, 18th Floor  
Sacramento, CA 95814

With a copy to:

Justin Crumley, Senior Deputy  
Office of County Counsel  
1600 Pacific Highway, Rm 355  
San Diego, CA 92101

Any party may change the address or facsimile number to which such communications are to be given by providing the other parties with written notice of such change at least fifteen (15) calendar days prior to the effective date of the change.

All notices will be effective upon receipt and will be deemed received through delivery if personally served or served using facsimile machines, or on the fifth (5<sup>th</sup>) day following deposit in the mail if sent by first class mail.

**XIII. Miscellaneous.**

1. **Term of Agreement.** This MOU shall remain in full force and effect until the date upon which the Parties have both executed a document terminating the provisions of this MOU.
2. **No Third Party Beneficiaries.** This Agreement is not intended to, and will not be construed to, confer a benefit or create any right on a third party, or the power or right to bring an action to enforce any of its terms.
3. **Amendments.** This Agreement may be amended only by written instrument duly signed and executed by the County and the District.
4. **Compliance with Law.** In performing their respective obligations under this MOU, the Parties shall comply with and conform to all applicable laws, rules, regulations and ordinances.
5. **Jurisdiction and Venue.** This MOU shall be governed by and construed in accordance with the laws of the State of California, except for its conflicts of law rules. Any suit, action, or proceeding brought under the scope of this MOU shall be brought and maintained to the extent allowed by law in the County of San Diego, California.
6. **Waiver.** The waiver by either party or any of its officers, agents or employees, or

the failure of either party or its officers, agents or employees to take action with respect to any right conferred by, or any breach of any obligation or responsibility of this Agreement, will not be deemed to be a waiver of such obligation or responsibility, or subsequent breach of same, or of any terms, covenants or conditions of this Agreement, unless such waiver is expressly set forth in writing in a document signed and executed by the appropriate authority of the County and the District.

7. Authorized Representatives. The persons executing this Agreement on behalf of the parties hereto affirmatively represent that each has the requisite legal authority to enter into this Agreement on behalf of their respective party and to bind their respective party to the terms and conditions of this Agreement. The persons executing this Agreement on behalf of their respective party understand that both parties are relying on these representations in entering into this Agreement.
8. Successors in Interest. The terms of this Agreement will be binding on all successors in interest of each party.
9. Severability. The provisions of this Agreement are severable, and the adjudicated invalidity of any provision or portion of this Agreement shall not in and of itself affect the validity of any other provision or portion of this Agreement, and the remaining provisions of the Agreement shall remain in full force and effect, except to the extent that the invalidity of the severed provisions would result in a failure of consideration or would materially adversely affect either party's benefit of its bargain. If a court of competent jurisdiction were to determine that a provision of this Agreement is invalid or unenforceable and results in a failure of consideration or materially adversely affects either party's benefit of its bargain, the parties agree to promptly use good faith efforts to amend this Agreement to reflect the original intent of the parties in the changed circumstances.
10. Construction of Agreement. This Agreement shall be construed and enforced in accordance with the laws of the United States and the State of California.
11. Entire Agreement.
  - a. This Agreement constitutes the entire agreement between the County and the District and supersedes all prior negotiations, representations, or other agreements, whether written or oral.
  - b. In the event of a dispute between the parties as to the language of this Agreement or the construction or meaning of any term hereof, this Agreement will be deemed to have been drafted by the parties in equal parts so that no presumptions or inferences concerning its terms or interpretation may be construed against any party to this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hand on the date first above

written.

BORREGO WATER DISTRICT

COUNTY OF SAN DIEGO,  
a political subdivision of  
the State of California

By: Beth A Hart  
Beth A. Hart  
President, Board of Directors

By: [Signature]  
Clerk of the Board of Supervisors

DATE: 10/24/16

APPROVED AS TO FORM AND LEGALITY  
BY COUNTY COUNSEL

By: [Signature] 10/19/16  
Senior Deputy

Approved and/or authorized by the  
Board of Supervisors of the County of San Diego.  
Meeting Date: 10/19/16 Minute Order No. 1  
By: [Signature] Date: 10/24/16  
Deputy Clerk of the Board Supervisors

**JOINT EXERCISE OF POWERS AGREEMENT  
CUYAMA BASIN GROUNDWATER SUSTAINABILITY AGENCY**

This Joint Exercise of Powers Agreement (“Agreement”) is made and entered into as of June 6, 2017 (“Effective Date”), by and between the Cuyama Basin Water District (“CBWD”), the Cuyama Community Services District (“CCSD”), the County of Kern (“Kern”), the County of San Luis Obispo (“San Luis Obispo”), the Santa Barbara County Water Agency (“Santa Barbara”), and the County of Ventura (“Ventura”), also each referred to individually as “Member” and collectively as “Members,” for the purposes of forming a joint powers agency to serve as the groundwater sustainability agency for the Cuyama Valley Groundwater Basin. This joint powers agency shall hereinafter be known as the Cuyama Basin Groundwater Sustainability Agency (“CBGSA” or “GSA”).

**RECITALS**

A. WHEREAS, the Sustainable Groundwater Management Act of 2014 (“SGMA”), Water Code §§ 10720 *et seq.*, requires the formation of groundwater sustainability agencies to manage medium and high priority basins by June 30, 2017, and the adoption of groundwater sustainability plans (“GSP”) by January 31, 2020 for high and medium priority basins that are subject to conditions of critical overdraft; and

B. WHEREAS, the Cuyama Valley Groundwater Basin (also referred to as the “Cuyama Groundwater Basin”), as identified and defined by the California Department of Water Resources (DWR) in Bulletin 118 (as Basin 3-13), has been designated by DWR as a medium priority basin subject to conditions of critical overdraft; and

C. WHEREAS, all Members to this Agreement are local agencies, as defined in SGMA, located within the Cuyama Groundwater Basin and duly organized and existing under the laws of the State of California; and

D. WHEREAS, pursuant to SGMA, specifically Water Code § 10723.6, and the Joint Exercise of Powers Act, Government Code §§ 6500 *et seq.*, the Members are authorized to create a joint powers agency to jointly exercise any power common to the Members together with such powers as are expressly set forth in the Joint Exercise of Powers Act and in SGMA upon successfully becoming a GSA for the Cuyama Groundwater Basin; and

E. WHEREAS, in accordance with Water Code § 10723(b), all members have held a public hearing regarding entering into this Agreement and complied with the noticing provisions in SGMA; and

F. WHEREAS, the Members desire to create a joint powers authority to sustainably manage the Cuyama Groundwater Basin as required by SGMA.

**NOW, THEREFORE**, in consideration of the terms, conditions, and covenants

contained herein, the Members hereby agree as follows:

## **ARTICLE 1 INCORPORATION OF RECITALS**

1.1 The foregoing recitals are true and correct and are incorporated herein by reference.

## **ARTICLE 2 DEFINITIONS**

The following terms shall have the following meanings for purposes of this Agreement:

2.1 "Agreement" means this Joint Exercise of Powers Agreement forming the Cuyama Basin Groundwater Sustainability Agency over the Cuyama Valley Groundwater Basin.

2.2 "Basin" means the Cuyama Valley Groundwater Basin, also referred to as the Cuyama Groundwater Basin, as identified and defined by DWR in Bulletin 118 (as Basin 3-13) as of the Effective Date or as modified pursuant to Water Code Section 10722.2.

2.3 "Bulletin 118" means DWR's report entitled "California Groundwater: Bulletin 118" updated in 2016, and as it may be subsequently updated or revised in accordance with Water Code § 12924.

2.4 "Board of Directors" or "Board" means the governing body of the GSA as established by Article 7 (Board of Directors) of this Agreement.

2.5 "CBGSA" or "GSA" means the Cuyama Basin Groundwater Sustainability Agency formed as a separate entity through this Agreement.

2.6 "Director(s)" and "Alternate Director(s)" means a director or alternate director appointed by a Member pursuant to Articles 7.2 (Appointment of Directors) and 7.3 (Alternate Directors) of this Agreement.

2.7 "DWR" means the California Department of Water Resources.

2.8 "GSP" means a Groundwater Sustainability Plan, as defined by SGMA in Water Code §§ 10727 *et seq.*

2.9 "Joint Exercise of Powers Act" means Government Code §§ 6500, *et seq.*, as may be amended from time to time.

2.10 "Member(s)" means a local agency eligible under SGMA to be a groundwater sustainability agency and included in Article 6.1 (Members) of this Agreement or any local agency that becomes a new member pursuant to Article 6.2 (New Members) of this Agreement.

2.11 "Officer(s)" means the Chair, Vice Chair, Secretary, Auditor or Treasurer of the GSA to be appointed by the Board of Directors pursuant to Article 9.2 (Appointment of Officers) of this Agreement.

2.12 "SGMA" means the Sustainable Groundwater Management Act, Water Code §§ 10720 *et seq.*, as may be amended from time to time.

2.13 "State" means the State of California.

### **ARTICLE 3 CREATION OF THE GSA**

3.1 Creation of a Joint Powers Agency. There is hereby created pursuant to the Joint Exercise of Powers Act, Government Code §§ 6500 *et seq.*, and SGMA, Water Code §§ 17020 *et seq.*, a joint powers agency, which will be a public entity separate from the Members to this Agreement, and shall be known as the Cuyama Basin Groundwater Sustainability Agency ("CBGSA" or "GSA"). The boundaries of the CBGSA shall be coterminous with the boundaries of the Basin as determined by DWR in Bulletin 118 or as modified by DWR pursuant to Water Code Section 10722.2.

3.2 Notices. Within 30 days after the Effective Date of this Agreement, and after any amendment hereto, Santa Barbara, on behalf of the GSA, or the GSA, shall cause a notice of this Agreement or amendment to be prepared and filed with the office of the California Secretary of State containing the information required by Government Code § 6503.5. Within 30 days after the Effective Date of this Agreement, Santa Barbara, on behalf of the GSA, shall cause a statement of the information concerning the GSA, required by Government Code § 53051, to be filed with the office of the California Secretary of State and with the County Clerk for the County of Santa Barbara, and any other County in which the GSA maintains an office, setting forth the facts required to be stated pursuant to Government Code § 53051(a). Within 30 days after the Effective Date of this Agreement, Santa Barbara, on behalf of the GSA, shall inform DWR of each Parties' decision and intent to undertake sustainable groundwater management within the Basin through the GSA in accordance with Water Code § 10723.8.

3.3 Purpose of the CBGSA. The purpose of the CBGSA is to implement and comply with SGMA in the Cuyama Valley Groundwater Basin by serving as the Basin's groundwater sustainability agency, developing, adopting, and implementing a GSP for the Basin, and sustainably managing the Basin pursuant to SGMA.

## **ARTICLE 4 TERM**

4.1 This Agreement shall become effective on the date on which the last Member listed in Article 6.1 (Members) signs this Agreement ("Effective Date"), after which notices shall be filed in accordance with Article 3.2 (Notices). This Agreement shall remain in effect until terminated pursuant to the provisions of Article 17 (Withdrawal of Members) of this Agreement.

## **ARTICLE 5 POWERS**

5.1 The GSA shall possess the power in its own name to exercise any and all common powers of its Members reasonably necessary for the GSA to implement the purposes of SGMA and for no other purpose, together with such other powers as are expressly set forth in the Joint Exercise of Powers Act and in SGMA subject to the limitations set forth therein.

5.2 SGMA expressly reserves certain powers and authorities to and preserves certain powers and authorities of cities and counties, including, without limitation, the issuance of permits for the construction, modification or abandonment of groundwater wells, land use planning and groundwater management pursuant to city and county police powers in a manner that is not in conflict with the GSP. The Directors representing the counties of San Luis Obispo, Kern and Ventura do not have the ability to authorize the GSA to exercise or infringe upon any such reserved powers and authorities, without the GSA first seeking and receiving authorization by formal action of the Boards of Supervisors. Furthermore, this Agreement shall not be interpreted as limiting or ceding any such reserved or preserved powers and authorities. In addition, to the extent that a Member other than a county independently possesses any of the powers or authorities expressly preserved by SGMA, the GSA does not have the ability or authority to exercise or infringe on such preserved powers and/or authorities of such Member without the GSA first seeking and receiving authorization from such Member's governing board, unless specifically enumerated in this Agreement.

5.3 For purposes of Government Code § 6509, the powers of the GSA shall be exercised subject to the restrictions upon the manner of exercising such powers as are imposed on the Cuyama Basin Water District, and in the event of the withdrawal of the Cuyama Basin Water District as a Member under this Agreement, then the manner of exercising the GSA's powers shall be exercised subject to those restrictions imposed on the Cuyama Community Services District.

5.4 As required by Water Code § 10723.2, the GSA shall consider the interests of all beneficial uses and users of groundwater in the Basin, as well as those responsible for implementing the GSP. Additionally, as set forth in Water Code § 10720.5(a), any GSP adopted pursuant to this Agreement shall be consistent with

Section 2 of Article X of the California Constitution. Nothing in this Agreement modifies the rights or priorities to use or store groundwater consistent with Section 2 of Article X of the California Constitution, with the exception that no extraction of groundwater between January 1, 2015 and the date the GSP is adopted may be used as evidence of, or to establish or defend against, any claim of prescription. Likewise, as set forth in Water Code § 10720.5(b), nothing in this Agreement or any GSP adopted pursuant to this Agreement determines or alters surface water rights or groundwater rights under common law or any provision of law that determines or grants surface water rights.

5.5 The GSA may define within the GSP one or more management areas within the Basin in accordance with 23 CCR § 354.20.

## **ARTICLE 6 MEMBERSHIP**

6.1 Members. The Members of the GSA shall be:

- (a) Cuyama Basin Water District;
- (b) Cuyama Community Services District;
- (c) County of Kern;
- (d) County of San Luis Obispo;
- (e) Santa Barbara County Water Agency; and
- (f) County of Ventura

as long as they have not, pursuant to the provisions hereof, withdrawn from this Agreement.

6.2 New Members. Any local agency, as defined by SGMA, that is not a Member on the Effective Date of this Agreement may become a Member upon all of the following:

- (a) The approval of the Board of Directors as specified in Article 12.3 (Decisions of the Board);
- (b) Amendment of the Agreement in accordance with Article 18.2 (Amendments to Agreement); and
- (c) Payment of a pro rata share of all previously incurred costs that the Board of Directors determines have resulted in benefit to the local agency, and are appropriate for assessment on the local agency.



**ARTICLE 7  
BOARD OF DIRECTORS**

7.1 Formation of the Board of Directors. The GSA shall be governed by a Board of Directors ("Board"). The Board shall consist of eleven (11) Directors consisting of representatives from each of the Members identified in Article 6.1 (Members) as follows:

- (a) Five (5) Directors representing CBWD;
- (b) One (1) Director representing CCSD;
- (c) One (1) Director representing Kern;
- (d) One (1) Director representing San Luis Obispo;
- (e) Two (2) Directors representing Santa Barbara; and
- (f) One (1) Director representing Ventura.

7.2 Appointment of Directors. The Directors shall be appointed by the governing body of the Members as follows:

- (a) The Directors representing CBWD shall be the Directors of CBWD's Board of Directors, provided if the CBWD Board is ever expanded, then CBWD's Board will appoint the five Directors from CBWD's Board representing CBWD by resolution of CBWD's Board.
- (b) The Director representing CCSD shall be appointed by resolution of the CCSD's Board of Directors.
- (c) The Director representing Kern shall be appointed by resolution of Kern's Board of Supervisors.
- (d) The Director representing San Luis Obispo shall be appointed by resolution of San Luis Obispo's Board of Supervisors.
- (e) The Directors representing Santa Barbara shall be appointed by resolution of Santa Barbara's Board of Directors.
- (f) The Director representing Ventura shall be appointed by resolution of Ventura's Board of Supervisors.

Subject to Article 7.2 each Director shall be an elected official or member of management of the Member.

7.3 Alternate Directors. Each Director shall have one Alternate to act as a substitute Director for that Director. All Alternates shall be appointed in the same manner as set forth in Article 7.2 (Appointment of Directors). Alternate Directors shall

not vote or participate in any deliberations of the Board unless appearing as a substitute for a Director due to absence or conflict of interest. If the Director is not present, or if the Director has a conflict of interest which precludes participation by the Director in any decision-making process of the Board, the Alternate Director appointed to act in his/her place shall assume all rights of the Director, and shall have the authority to act in his/her absence, including casting votes on matters before the Board. An Alternate Director shall be an elected official or member of management of the Member.

7.4 Requirements. Each Director and Alternate Director shall be appointed by resolution as noted in Article 7.2 (Appointment of Directors). Directors and Alternate Directors shall serve at the pleasure of the governing body of the Member that appointed him/her. No individual Director may be removed except by the vote of the governing body of the Member that appointed him/her.

7.5 Vacancies. Upon the vacancy of a Director, the Alternate Director shall serve as Director until a new Director is appointed as set forth in Article 7.2 (Appointment of Directors). Members shall submit any changes in Director or Alternate Director positions to the Board or Executive Director by providing a copy of executed resolution.

7.6 Duties of the Board of Directors. The business and affairs of the GSA, and all of its powers, including without limitation all powers set forth in Article 5 (Powers), are reserved to and shall be exercised by and through the Board of Directors, except as may be expressly delegated to the Executive Director or others pursuant to this Agreement, Bylaws, GSP, or by specific action of the Board of Directors.

7.7 Director Compensation. No Director shall be compensated by the GSA for preparation for or attendance at meetings of the Board or meetings of any committee created by the Board. Nothing in this Article is intended to prohibit a Member from compensating its representatives on the Board or on a committee for attending such meetings.

## **ARTICLE 8 ADVISORY COMMITTEES**

8.1 Standing Advisory Committee. A Standing Advisory Committee is hereby established as a group of representatives to advise the GSA, and shall be appointed by the Board.

- (a) Purpose. The Standing Advisory Committee shall advise the Board concerning, where legally appropriate, implementation of SGMA in the Basin and review the GSP before it is approved by the Board.
- (b) Membership. The composition of and appointments to the Standing Advisory Committee shall be determined by the Board.
- (c) Brown Act. All Meetings of the Standing Advisory Committee, including

special meetings, shall be noticed, held, and conducted in accordance with the Ralph M. Brown Act (Government Code §§ 54950 *et seq.*).

- (d) Compensation. No Advisory Committee member shall be compensated by the GSA for preparation for or attendance at meetings of the Board or at any committee created by the Board.

8.2 Additional Advisory Committees. The Board may from time to time appoint one or more additional advisory committees or establish standing or ad hoc committees to assist in carrying out the purposes and objectives of the GSA. The Board shall determine the purpose and need for such committees and the necessary qualifications for individuals appointed to them. No committee member shall be compensated by the GSA for preparation for or attendance at meetings of the Board or at any committee created by the Board.

## **ARTICLE 9 OFFICERS**

9.1 Officers. Officers of the GSA shall be a Chair, Vice Chair, Secretary, Auditor and Treasurer. Additional officers may be appointed by the Board as it deems necessary.

- (a) Chair. The Chair shall preside at all meetings of the Board of Directors.
- (b) Vice Chair. The Vice Chair shall exercise all powers of the Chair in the Chair's absence or inability to act.
- (c) Secretary. The Secretary shall keep minutes of the Board of Director meetings.
- (d) Auditor and Treasurer. The Treasurer and Auditor shall perform such duties and responsibilities specified in Government Code §§ 6505.5 and 6505.6.

9.2 Appointment of Officers. Officers shall be elected annually by, and serve at the pleasure of, the Board of Directors. Officers shall be elected at the first Board meeting, and thereafter at the first Board meeting following January 1st of each year. A Director appointed by Santa Barbara shall be designated as the Chair Pro Tem to preside at the initial meeting of the Board until a Chair is elected by the Board. An Officer may serve for multiple consecutive terms, with no term limit. Any Officer may resign at any time upon written notice to the Board, and may be removed and replaced by the Board. Notwithstanding the foregoing, the Treasurer and Auditor shall be appointed in the manner specified in Government Code §§ 6505.5 and 6505.6. Until such time as the Board determines otherwise, the GSA's Treasurer shall be the Treasurer of Santa Barbara.

9.3 Principal Office. The principal office of the GSA shall be established by the Board of Directors, and may thereafter be changed by the Board.

## **ARTICLE 10 EXECUTIVE DIRECTOR**

10.1 Appointment. The Board may appoint an Executive Director or other designated manager ("Executive Director") of the GSA, who may, but need not be, an officer, employee, or representative of one of the Members.

10.2 Compensation. The Executive Director's compensation shall be determined by the Board.

10.3 Duties. The Executive Director shall serve at the pleasure of the Board and shall be responsible to the Board for the property and efficient administration of the GSA. The Executive Director shall have the powers designated by the Board, or otherwise as set forth in the Bylaws.

10.4 Termination. The Executive Director shall serve until he/she resigns or the Board terminates his/her appointment.

## **ARTICLE 11 GSA DIRECTOR MEETINGS**

11.1 Initial Meeting. The initial meeting of the GSA Board of Directors shall be called by Santa Barbara and held within the boundaries of the Basin, within sixty (60) days of the Effective Date of this Agreement.

11.2 Time and Place. The Board of Directors shall meet at least quarterly, at a date, time and place set by the Board within the Basin, and at such other times as may be determined by the Board. Meetings may be held via teleconferencing to the extent allowed by law and teleconferenced meetings shall be conducted in accordance with the Ralph M. Brown Act (Government Code §§ 54950 *et seq.*).

11.3 Special Meetings. Special meetings of the Board of Directors may be called by the Chair or by a simple majority of Directors, in accordance with the Ralph M. Brown Act (Government Code §§ 54950 *et seq.*).

11.4 Conduct. All meetings of the Board of Directors, including special meetings, shall be noticed, held, and conducted in accordance with the Ralph M. Brown Act (Government Code §§ 54950 *et seq.*).

11.5 Local Conflict of Interest Code. The Board of Directors shall adopt a local conflict of interest code pursuant to the provisions of the Political Reform Act of 1974 (Government Code §§ 81000 *et seq.*).

## ARTICLE 12 VOTING

12.1 Quorum. A quorum of any meeting of the Board of Directors shall consist of a majority of the Directors. In the absence of a quorum, any meeting of the Directors may be adjourned by a vote of the simple majority of Directors present, but no other business may be transacted.

12.2 Director Votes. Voting by the Board of Directors shall be made on the basis of one vote for each Director weighted as follows:

- (a) Directors representing CBWD- each Director's vote shall be weighted by 6.7%;
- (b) Director representing CCSD- Director's vote shall be weighted by 11.1%;
- (c) Director representing Kern- Director's vote shall be weighted by 11.1%;
- (d) Director representing San Luis Obispo- Director's vote shall be weighted by 11.1%;
- (e) Directors representing Santa Barbara- each Director's vote shall be weighted by 11.1%; and
- (f) Director representing Ventura- Director's vote shall be weighted by 11.1%.

A Director, or an Alternate Director when acting in the absence of his/her Director, may vote on all matters of GSA business unless disqualified.

### 12.3 Decisions of the Board.

- (a) Majority Approval. Except as otherwise specified in this Agreement, all decisions of the Board of Directors shall require the affirmative vote of more than 50% of the weighted vote total in accordance with Article 12.2, provided that if a Director is disqualified from voting on a matter before the Board because of a conflict of interest and no Alternate Director is present in the Director's place or if the Alternate Director is also disqualified because of a conflict of interest, that Director shall be excluded from the calculation of the total number of Directors that constitute a majority.
- (b) Supermajority Approval. Notwithstanding the foregoing, a 75% of the weighted vote total in accordance with Article 12.2 shall be

required to approve any of the following: (i) the annual budget; (ii) the GSP for the Basin and any substantive amendment thereto; (iii) any stipulation to resolve litigation; (iv) addition of new Members pursuant to Article 6.2 (New Members); (v) establishment and levying any fee, charge or assessment; (vi) adoption or amendment of Bylaws; or (vii) selection of consultant to prepare the GSP.

### **ARTICLE 13 BYLAWS**

13.1 The Board of Directors may approve and amend, as needed, bylaws for the GSA.

### **ARTICLE 14 ACCOUNTING PRACTICES**

14.1 General. The Board of Directors shall establish and maintain such funds and accounts as may be required by generally accepted public agency accounting practices. The GSA shall maintain strict accountability of all funds and a report of all receipts and disbursements of the GSA. The GSA shall hire an independent auditor to audit its funds and accounts as required by law.

14.2 Fiscal Year. Unless the Board of Directors decides otherwise, the fiscal year for the GSA shall run from July 1<sup>st</sup> to June 30<sup>th</sup>.

14.3 Records. The books and records of the GSA shall be open to inspection by the Members.

### **ARTICLE 15 BUDGET AND EXPENSES**

15.1 Budget. The Board of Directors shall adopt an annual budget for the GSA.

15.2 GSA Funding and Contributions.

- (a) For the purpose of funding the expenses and ongoing operations of the GSA, the Board of Directors shall maintain a funding account in connection with the annual budget process.
- (b) The GSA shall pursue and apply for grants and/or loans to fund a portion of the cost of developing and implementing the GSP as the Board shall direct.
- (c) The Board of Directors may fund the GSA and the GSP as provided

in SGMA at Water Code § 10730 *et seq.*, from voluntary Member contributions, and/or from any other means allowable by law.

15.3 Return of Contributions. In accordance with Government Code § 6512.1, repayment or return to the Members of all or any part of any contributions made by Members and any revenues by the GSA may be directed by the Board of Directors at such time and upon such terms as the Board of Directors may decide; provided that (1) any return of contributions shall be made in proportion to the contributions paid by each Member to the GSA, and (2) any capital contribution paid by a Member voluntarily, and without obligation to make such capital contribution pursuant to Article 15.2 (GSA Funding and Contributions), shall be returned to the contributing Member, together with accrued interest at the annual rate published as the yield of the Local Agency Investment Fund administered by the California State Treasurer, before any other return of contributions to the Members is made. The GSA shall hold title to all funds and property acquired by the GSA during the term of this Agreement.

15.4 Issuance of Indebtedness. The GSA may issue bonds, notes or other forms of indebtedness, provided such issuance is approved at a meeting of the Board of Directors by 100% of the weighted vote total in accordance with Article 12.2.

## **ARTICLE 16 LIABILITIES**

16.1 Liability. In accordance with Government Code § 6507, the debts, liabilities and obligations of the GSA shall be the debts, liabilities and obligations of the GSA alone, and not the Members.

16.2 Indemnity. The GSA, and those persons, agencies and instrumentalities used by it to perform the function authorized herein, whether by contract, employment or otherwise shall be exclusively liable for any injuries, costs, claims, liabilities, damages or whatever kind arising from or related to activities of the GSA. The GSA agrees to indemnify, defend and hold harmless each Member, their respective governing boards, officers, officials, representatives, agents and employees from and against any and all claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, damages, judgments, expenses or costs, including but not limited to attorney's fees, and/or liabilities arising out of or attributable to the GSA or this Agreement ("Claims").

Funds of the GSA may be used to defend, indemnify, and hold harmless the GSA, each Member, each Director and Alternate Director, and any officers, officials, agents or employees of the GSA for their actions taken within the course and scope of their duties while acting on behalf of the GSA against any such Claims.

The Members do not intend hereby to be obligated either jointly or severally for the debts, liabilities, obligations or Claims of the GSA, except as may be specifically provided for in Government Code § 895.2. Provided, however, if any Member(s) of the GSA are, under such applicable law, held liable for the acts or omissions of the GSA, such parties shall be entitled to contribution from the other Members so that after said contributions each Member shall bear an equal share of such liability.

16.3 Insurance. The GSA shall procure appropriate policies of insurance providing coverage to the GSA and its Directors, officers and employees for general liability, errors and omissions, property, workers compensation, and any other coverage the Board deems appropriate. Such policies shall name the Members as additional insureds.

## **ARTICLE 17 WITHDRAWAL OF MEMBERS**

17.1 Unilateral Withdrawal. Any Member may unilaterally withdraw from this Agreement without causing or requiring termination of this Agreement, effective upon sixty (60) days written notice to the Executive Director and all other Members.

17.2 Rescission or Termination of GSA. This Agreement may be rescinded and the GSA terminated by unanimous written consent of all Members, except during the outstanding term of any GSA indebtedness.

17.3 Effect of Withdrawal or Termination. Upon termination of this Agreement or unilateral withdrawal, a Member shall remain obligated to pay its share of all liabilities and obligations of the GSA required of the Member pursuant to terms of this Agreement, but only to the extent that the liabilities and obligations were incurred or accrued prior to the effective date of such termination or withdrawal and are the individual Member's liabilities and obligations as opposed to the GSA's obligation and liabilities in accordance with Article 16. Any Member who withdraws from the GSA shall have no right to participate in the business and affairs of the GSA or to exercise any rights of a Member under this Agreement or the Joint Exercise of Powers Act, and shall not share in distributions from the GSA. Notwithstanding the foregoing, nothing contained in this Article 17.3 shall be construed as prohibiting a Member that has withdrawn from the GSA to become a separate groundwater sustainability agency within its jurisdiction.

17.4 Return of Contribution. Upon termination of this Agreement, where there will be a successor public entity which will carry on the functions of the GSA and assume its assets, the assets of the GSA shall be transferred to the successor public entity. If there is no successor public entity which will carry on the functions of the GSA, then any surplus money on-hand shall be returned to the Members in proportion to their contributions made. The Board of Directors shall first offer any property, works, rights and interests of the GSA for sale to the Members on terms and conditions determined by the Board of Directors. If no such sale to Members is consummated, the Board of



Directors shall offer the property, works, rights, and interest of the GSA for sale to any non-member for good and adequate consideration. The net proceeds from any sale shall be distributed among the Members in proportion to their contributions made.

## **ARTICLE 18 MISCELLANEOUS PROVISIONS**

18.1 Notices. Notices to a Member shall be sufficient if delivered to the clerk or secretary of the respective Member's governing board and addressed to the Member at the address noted on the signature page or at such other address or to such other person that the Member may designate in accordance with this Article. Delivery may be accomplished by personal delivery or with postage prepaid by first class mail, registered or certified mail or express courier.

18.2 Amendments to Agreement. This Agreement may be amended or modified at any time only by subsequent written agreement approved and executed by all of the Members.

18.3 Agreement Complete. The foregoing constitutes the full and complete Agreement of the Members. This Agreement supersedes all prior agreements and understandings, whether in writing or oral, related to the subject matter of this Agreement that are not set forth in writing herein.

18.4 Severability. Should any part, term or provision of this Agreement be decided by a court of competent jurisdiction to be illegal or in conflict with any applicable federal law or any law of the State of California, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms, or provisions hereof shall not be affected thereby, provided however, that if the remaining parts, terms, or provisions do not comply with the Joint Exercise of Powers Act, this Agreement shall terminate.

18.5 Withdrawal by Operation of Law. Should the participation of any Member to this Agreement be decided by the courts to be illegal or in excess of that Member's authority or in conflict with any law, the validity of the Agreement as to the remaining Members shall not be affected thereby.

18.6 Assignment. The rights and duties of the Members may not be assigned or delegated without the written consent of all other Members. Any attempt to assign or delegate such rights or duties in contravention of this Agreement shall be null and void.

18.7 Binding on Successors. This Agreement shall inure to the benefit of, and be binding upon, the successors of the Members.

18.8 Dispute Resolution. In the event that any dispute arises among the Members relating to this Agreement, the Members shall attempt in good faith to resolve the controversy through informal means. If the Members cannot agree upon a resolution of the controversy, the dispute may be submitted to mediation prior to commencement

of any legal action, if agreed to by all Members. The mediation shall be no more than a full day (unless agreed otherwise among the Members) and the cost of mediation shall be paid in equal proportion among the Members.

18.9 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and together shall constitute one and the same instrument.

18.10 Singular Includes Plural. Whenever used in this Agreement, the singular form of any term includes the plural form and the plural form includes the singular form.

18.11 Member Authorization. The governing bodies of the Members have each authorized execution of this Agreement and all signatories to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities stated herein and on behalf of the Members.

18.12 No Third Party Beneficiary. Except as expressly set forth herein, this Agreement is not intended to benefit any person or entity not a party hereto.


**IN WITNESS WHEREOF**, the Members have executed this Agreement to be effective on the date executed by the last Member as noted on Page 1.

**ATTEST:**  
Clerk of the District

By:   
~~Deputy Clerk~~ *Secretary*

Address:

**CUYAMA BASIN WATER  
DISTRICT:**

By:   
~~President~~ *Chair*, Board of Directors  
Date: 5/22/10

**ATTEST:**  
Clerk of the Board

By: \_\_\_\_\_

**CUYAMA COMMUNITY SERVICE  
DISTRICT:**

By: \_\_\_\_\_

of any legal action, if agreed to by all Members. The mediation shall be no more than a full day (unless agreed otherwise among the Members) and the cost of mediation shall be paid in equal proportion among the Members.

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**ATTEST:**  
Clerk of the District

By: \_\_\_\_\_  
Deputy Clerk

Address:

**CUYAMA BASIN WATER  
DISTRICT:**

By: \_\_\_\_\_  
Chair, Board of Directors

Date: \_\_\_\_\_

**ATTEST:**  
Clerk of the Board

By:  \_\_\_\_\_

**CUYAMA COMMUNITY SERVICE  
DISTRICT:**

By:  \_\_\_\_\_

Deputy Clerk

Chair, Board of Directors

Date: May 23, 2017

Address:  
4853 Primero Street  
PO Box 368  
New Cuyama, CA 93254

**ATTEST:**  
Clerk of the Board

**COUNTY OF KERN:**

By: \_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
Chair, Board of Supervisors

Date: \_\_\_\_\_

Address:

**ATTEST:**  
Clerk of the Board

**COUNTY OF SAN LUIS OBISPO:**

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Chair, Board of Supervisors


Date: \_\_\_\_\_

Address:

**APPROVED AS TO LEGAL FORM  
AND EFFECT**  
Rita L. Neal  
County Counsel


By: \_\_\_\_\_  
Deputy County Counsel

APPROVED AS TO FORM  
Office of County Counsel

COUNTY OF KERN: Kern County  
By: 

**ATTEST:**  
Clerk of the Board

By:   
Deputy Clerk

By:   
Chair, Board of Supervisors  
Date: MAY 09 2017

Address:

**ATTEST:**  
Clerk of the Board

COUNTY OF SAN LUIS OBISPO:

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Chair, Board of Supervisors  
Date: \_\_\_\_\_

Address:

**APPROVED AS TO LEGAL FORM  
AND EFFECT**  
Rita L. Neal  
County Counsel

By: \_\_\_\_\_  
Deputy County Counsel

**ATTEST:**  
Clerk of the Board

By: \_\_\_\_\_  
Secretary

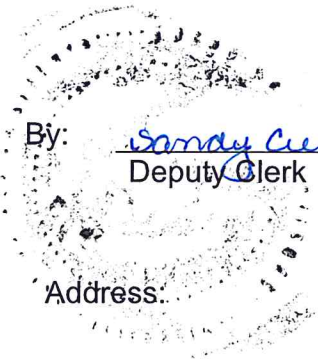
Address:

**COUNTY OF KERN:**

By: \_\_\_\_\_  
Chair, Board of Supervisors

Date: \_\_\_\_\_

**ATTEST: TOMMY GONG**  
Clerk of the Board



By: Sandy Cursons  
Deputy Clerk

Address:

**COUNTY OF SAN LUIS OBISPO:**

By: \_\_\_\_\_  
Chair, Board of Supervisors


Date: May 23, 2017

**APPROVED AS TO LEGAL FORM  
AND EFFECT**  
Rita L. Neal  
County Counsel

By: \_\_\_\_\_ 5-2-2017  
Deputy County Counsel


**ATTEST:**

Mona Miyasato  
County Executive Officer  
Clerk of the Board, Ex Officio Clerk of  
the Santa Barbara County Water Agency

By:   
Deputy Clerk

Address:


**SANTA BARBARA COUNTY  
WATER AGENCY:**

By:   
Joan Hartmann, Chair  
Board of Directors

Date: 5/9/17

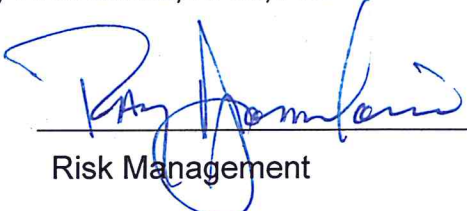
**RECOMMENDED FOR APPROVAL:**

Santa Barbara County Water Agency

By:   
Scott D. McGolpin  
Public Works Director

**APPROVED AS TO FORM:**

Risk Management  
Ray Aromatorio, ARM, AIC

By:   
Risk Management

**APPROVED AS TO FORM:**

Michael C. Ghizzoni  
County Counsel

By:   
Deputy County Counsel

**APPROVED AS TO ACCOUNTING  
FORM:**

Theodore A. Fallati, CPA  
Auditor-Controller

By:   
Deputy

ATTEST: Michael Powers  
Clerk of the Board of Supervisors  
County of Ventura

COUNTY OF VENTURA:

By: Louie Ferris  
Secretary

By: [Signature]  
Chair, Board of Supervisors  
Date: 6/6/17

Address:







**BORREGO VALLEY  
GROUNDWATER SUSTAINABILITY PLAN  
ADVISORY COMMITTEE  
BY-LAWS**



**Adopted and approved at the \_\_\_\_\_, 2017 Borrego Valley GSP Advisory Committee Meeting:**

**Article 1 PURPOSE AND FORMATION of the ADVISORY COMMITTEE**

Section A – On September 20, 2016, the Board of Directors of the Borrego Water District (District) approved a Memorandum of Understanding (MOU) between the County of San Diego (County) and the District, which memorialized each agency’s role and responsibilities for developing a Groundwater Sustainability Plan (GSP) for the Borrego Valley Groundwater Basin (Borrego Basin). On October 19, 2016, the Board of Supervisors of the County also approved the MOU, thereby establishing a multiple-agency Groundwater Sustainability Agency (GSA) responsible for developing and implementing a GSP for the Borrego Basin. The MOU establishes a Core Team comprised of County and District staff tasked with coordinating the activities of the Borrego Basin GSP Advisory Committee (AC).

Section B – In consideration of the interests of all beneficial uses and users of groundwater in the basin, stakeholder engagement and education of both stakeholders and the general public will be conducted in part via the deliberations of the AC pursuant to California Water Code Section 10723.2. The purpose of the AC is to provide input to aid in the development of the planning and policy recommendations contained in the GSP. As information supporting the GSP is prepared by the GSA, these items will be brought before the AC for discussion, analysis, and recommendations.

Section C – The AC is a non-partisan, non-sectarian, non-profit advisory organization. The AC is not empowered by ordinance, establishing authority, or policy to render a binding decision of any kind.

Section D – The AC is advisory to the Core Team. The Core Team will develop a GSP that meets the requirements of SGMA and is acceptable to the District and to the County. The GSP shall include, but not be limited to, groundwater use enforcement measures, a detailed breakdown of each GSA Party’s responsibilities for Plan implementation, anticipated costs of implementing the Plan, and cost recovery

**Commented [WMD1]:** AC Members to consider whether this language is satisfactory, or prepare alternative text for group consideration during the May AC meeting.

mechanisms, if necessary.

## **Article 2 MEMBERSHIP AND TERM OF OFFICE**

Section A – The AC shall consist of individuals with backgrounds in developing, deliberating, planning, and/or advocating for sustainable use of groundwater in the Borrego Basin, under the requirements of SGMA.

Section B – The AC is limited to nine (9) members as established in the MOU. Potential representatives shall be nominated by the following six (6) Stakeholder Organizations and shall be apportioned as follows:

- (1) Four members nominated by the Borrego Water Coalition and filling the following representative roles- 1 agricultural member; 1 recreation member; 1 independent pumper; 1 at large member,
- (2) One member nominated by the Borrego Springs Community Sponsor Group,
- (3) One member nominated by the Borrego Valley Stewardship Council,
- (4) One member nominated by the Borrego Water District Board of Directors who is not an employee or elected official –to represent ratepayers/property owners,
- (5) One member nominated by the County of San Diego who is not an employee or elected official –to represent the Farm Bureau, and
- (6) One member nominated by the California State Parks, Colorado Desert Region – to represent the Anza-Borrego Desert State Park.

Each person nominated to the AC by the above Stakeholder Organizations must be endorsed by the Board of Directors of the District and the Director of [Planning & Development Services \(PDS\)](#) of the County before serving on the AC. Substitution of an alternate for an endorsed AC Member is not permitted. Only endorsed Members may serve on the AC.

Section C – Each AC Member shall serve a term, which shall run concurrently with the development and completion of the GSP.

Section D - A vacancy shall be recognized for any AC Member who: (1) dies; (2) resigns; (3) has unexcused absences from more than three of the scheduled AC meetings within a single calendar year;

(4) misses three meetings in a row; (5) regularly fails to abide by the discussion covenants of the AC; (6) violates the Ralph M. Brown Act; or (7) fails to exercise the purpose and authority of the AC as described in Article 1 above. The AC shall notify the Core Team if a position is deemed vacant pursuant to items 1-4 above, or if the AC recommends the removal of a member as related to items 5-7 above. If a vacancy occurs, the Stakeholder Organization may nominate another AC member appointee for that position that must then be endorsed by the District Board and County Director of PDS. The new appointee member shall serve through the development and completion of the GSP.

### **Article 3 DUTIES**

The AC shall have the following duties and responsibilities:

- (1) Serve as a resource to the Core Team on GSP development issues for the Borrego Basin;
- (2) Advise in the formation of the planning and policy recommendations to be included in the GSP. This may include reviewing technical materials and providing comment, data, and relevant local information to the GSA related to Plan development; assisting in communicating concepts and requirements to the stakeholder constituents that they represent; providing comments on materials and reports prepared; assisting the Core Team to anticipate short- and long-term future events that may impact groundwater sustainability, trends and conditions that will impact groundwater management;
- (3) Participate in AC and Core Team public decision-making meetings, expected to occur on an approximately quarterly basis or as needed during GSP development.

### **Article 4 STRUCTURE**

Section A – AC meetings will be chaired by a facilitator from the California State University, Sacramento, Center for Collaborative Policy (“CCP”) or other such facilitator acceptable to the Core Team. If the Facilitator cannot for any reason act as chair at a particular meeting, At the start of each AC meeting, members shall determine who among the Committee will chair that particular meeting, or have an opportunity to request District or County staff to run the meeting.

Section B – The designated Chairperson-convenor shall provide general supervisory guidance to the AC, certify the presence of a quorum, and preside over each meeting.

~~Section C- AC meetings may be led by a Facilitator from the California State University, Sacramento, Center for Collaborative Policy (“CCP”) or other such facilitator acceptable to the Core Team.~~

Commented [WMD2]: Merged into Section A

~~Section DC-~~ If utilized, the Facilitator shall provide general guidance to the AC and facilitate its meetings. The Facilitator, in consultation with the AC, shall assign coordinating duties and/or specific tasks to subcommittees of the AC as necessary.

~~Section ED-~~ The District shall assign staff to record the minutes of all AC meetings, maintain a list of all active representatives, handle committee correspondence, and keep records of actions as they occur at each meeting. It is the responsibility of the Core Team staff assigned to the AC to assure that posting of meeting notices in a publicly accessible place for 72 hours prior to an AC meeting, to keep a record of such posting, and to reproduce and distribute the AC notices and minutes of all meetings.

## Article 5 ORGANIZATIONAL PROCEDURES

Section A – Robert’s Rules of Order govern the operation of the AC in all cases not covered by these by-laws, the AC may formulate specific procedural rules of order to govern the conduct of its meetings.

Section B – Any voting is on the basis of one vote per AC member. No proxy or absentee voting is permitted.

Section C – All AC recommendations regarding the GSP shall be made by consensus. Consensus is achieved when AC participants indicate that they are at Levels 1-4 (not Levels 5 or 6) as described below. If after multiple attempts, the AC deems consensus improbable among the AC members on a particular matter, the issue will be returned to the Core Team without a recommendation.

Levels of consensus are as follows:

1. I can say an **unqualified ‘yes’** to the decision. I am satisfied that the decision is an expression of the wisdom of the group.
2. I find the decision **acceptable**. It is the best of the real options we have available to us.
3. I can **live with** the decision. However, I’m not enthusiastic about it.

4. I do not fully agree with the decision and need to register my view about it. However, I do not choose to block the decision and will **stand aside**. I am willing to support the decision because I trust the wisdom of the group.

~~I do not agree with the decision and feel the need to **block** the decision being accepted as consensus.~~

Commented [WMD3]: Moved to #6

5. ~~I feel that we have no clear sense of unity in the group. We~~ We need to **do more work** before consensus can be achieved.

6. ~~I do not agree with the decision and feel the need to **block** the decision being accepted as consensus.~~

Section D – AC meetings shall be held under the following discussion covenants:

- ~~What is past is past—~~Focus on the future as much as possible.
- All perspectives are valued. You are not required to defend your perspective, but you are asked to share it and to provide supporting rationale.
- All ideas have value. If you believe another approach is better, offer it as a constructive alternative.
- Everyone will have an equal opportunity to participate.
- Everyone will be encouraged to talk.
- One person speaks at a time.
- No side conversations.
- View disagreements as problems to be solved rather than battles to be won.
- Avoid ascribing motives to or judging the actions of others. Please speak about your experiences, concerns, and suggestions. Treat each other with respect.
- Avoid right-wrong paradigms.

- When communicating outside of the AC, Members are asked to speak only for themselves when asked about AC progress unless there has been adoption of concepts or recommendations by the full body.

Section E – A majority of the AC members currently appointed shall constitute a quorum. A quorum is required for an Official Meeting to occur. No consensus vote of the AC shall be considered as reflecting an official recommendation by the AC unless a vote was taken at an Official Meeting.

Section F – All meetings of the AC and its subcommittees are open to the public to the extent required by the Ralph M. Brown Act. Meetings are to be held in accessible, public places in Borrego Springs, California. Notice of all AC meetings shall be posted in a publicly accessible place for a period of 72 hours prior to the meeting. A majority of the AC members shall not use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any AC-related business outside of a public meeting in violation of the Ralph M. Brown Act.

Section G –All members of the AC must abide by these by-laws. The County and District reserve the right to remove members that do not abide by the by-laws.

#### **Article 6      COMPENSATION**

Members of the AC shall serve without compensation.

# APPENDIX E

Example SGMA Educational Materials







## California's Sustainable Groundwater

### Management Act

**DUDEK**

California's groundwater provides approximately half of the state's water supply, and in some parts of Santa Barbara County (County), is the sole source of water to sustain agriculture and domestic uses. In other areas of the County, groundwater is an integral part of multi-source water supply portfolios and is critical in times of prolonged drought. Unlike surface supplies, groundwater aquifers are not subject to losses due to evaporation.

Many California aquifers are adversely impacted by overuse. Such impacts include significant decline in water storage and water levels, degradation of water quality, and land subsidence resulting in the permanent loss of storage capacity. Recognizing the importance of groundwater and the consequences of overuse, Governor Edmund Gerald Brown Jr. signed into law a package of bills addressing the sustainable management of groundwater in California. Collectively, these bills are the Sustainable Groundwater Management Act (SGMA).

The SGMA took effect on January 1, 2015, and requires all groundwater basins designated as medium or high priority by the Department of Water Resources to be sustainably managed by the year 2042. The Department of Water Resources' designation is based on several factors, including population, number of wells, irrigated area, and groundwater conditions.

#### Groundwater Sustainability Plans

The SGMA requires the development of groundwater sustainability plans. Groundwater sustainability plans must result in "sustainable conditions" in the basin, which are defined by the SGMA as the avoidance of significant negative impacts, such as chronic overdraft, worsening water quality, surface water depletions, sea water intrusion (in coastal basins), and land subsidence. Groundwater sustainability plans require detailed technical information to define the basin and aquifer conditions, including historic and current water supply and use, water quality conditions, and projected water demands. Plans must also include measurable objectives and interim milestones to meet on the way to achieving sustainability within 20 years.



#### Groundwater Sustainability Agencies

The SGMA encourages the formation of local groundwater sustainability agencies for the purpose of implementing the SGMA requirements. Groundwater sustainability agencies can consist of a local agency or combination of agencies that have water supply, water management, or land use responsibilities in the basin. The SGMA empowers groundwater sustainability agencies with certain financial, regulatory, and enforcement abilities but does not allow them to determine water rights.

#### Groundwater Basin Boundary Modification

As part of the SGMA process, agencies having jurisdiction in the basin may request modification of the basin boundaries from those currently used by the Department of Water Resources and shown in *California's Groundwater Bulletin 118*. The Department of Water Resources will evaluate modification requests based on a scientific or jurisdictional basis and with consideration of how such modifications may impact sustainable groundwater management. The location of groundwater basin boundaries is important to the SGMA process because it allows for accurate assessment of water balances and determines which users will be included in groundwater sustainability plans developed for the process.

### Additional Information

For more information on sustainable groundwater management and basin boundary modification and how SGMA applies in the County, refer to the following websites or call 805.308.8529:

**Department of Water Resources Sustainable Groundwater Management:** <http://www.water.ca.gov/groundwater/sgm/>

**Sustainable Groundwater Management Act (SGMA) in Santa Barbara County:** <http://cosb.countyofsb.org/pwd/pwwater.aspx?id=51272>

