

# The 2014 Sustainable Groundwater Management Act:

## A Handbook to Understanding and Implementing the Law

*Published by*



**WATER EDUCATION  
FOUNDATION**

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The mission of the Water Education Foundation, an impartial, nonprofit organization, is to create a better understanding of water resources and foster public understanding and resolution of water resource issues through facilitation, education and outreach.

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# The Sustainable Groundwater Management Act: An Overview

California wouldn't be the economic powerhouse it is today without groundwater. The semi-arid, Mediterranean climate only brings so much rain, meaning that for more than 100 years, the ground has been drilled to pump the precious groundwater resource that has helped fuel the state's agricultural industry and establish the development of cities and industries.

The numbers bear this out: on average, groundwater accounts for about 40 percent of the state's annual water supply. That number grows to 60 percent or more in dry years, when creeks, rivers and reservoirs are strapped by drought. But some communities are totally reliant on groundwater, whether it is a drought or not.

Yet, the overreliance on groundwater in some areas has come at a steep price. The advent of bigger and better pumping technology meant more water could be reached from even deeper in the Earth. Pulling out so much water so fast caused the ground to sink or subside, in parts of the San Joaquin Valley, along the coast and in Southern California while creating a crisis of shared supply.

## What is Groundwater?

Water gets into the ground mostly through snowmelt and rain seeping into the soil and broken rocks underneath the ground, and through overland flow in channels, such as creeks, streams, rivers and ponds.

The water infiltrating the underground basin moves gradually, pulled by gravity, into the saturated zone of the subsurface. From here, groundwater will flow toward points of discharge such as rivers, lakes or the ocean to begin the cycle anew. Groundwater is collected with wells and pumps, or it can flow naturally to the surface via seepage or springs.

Groundwater can be thousands of years old, although typically it is extracted within years or decades after it originally moves underground through small openings within porous material, called aquifers.

Aquifers can be several feet thick or several thousand feet thick. California's alluvial aquifers are composed of gravel, sand, silt and clay that have been eroded from surrounding rocks and then are deposited by running water and sometimes wind. Aquifers in the Central Valley and in the Los Angeles area can hold large quantities of water. California's largest and most heavily used groundwater basins are in the Central Valley.

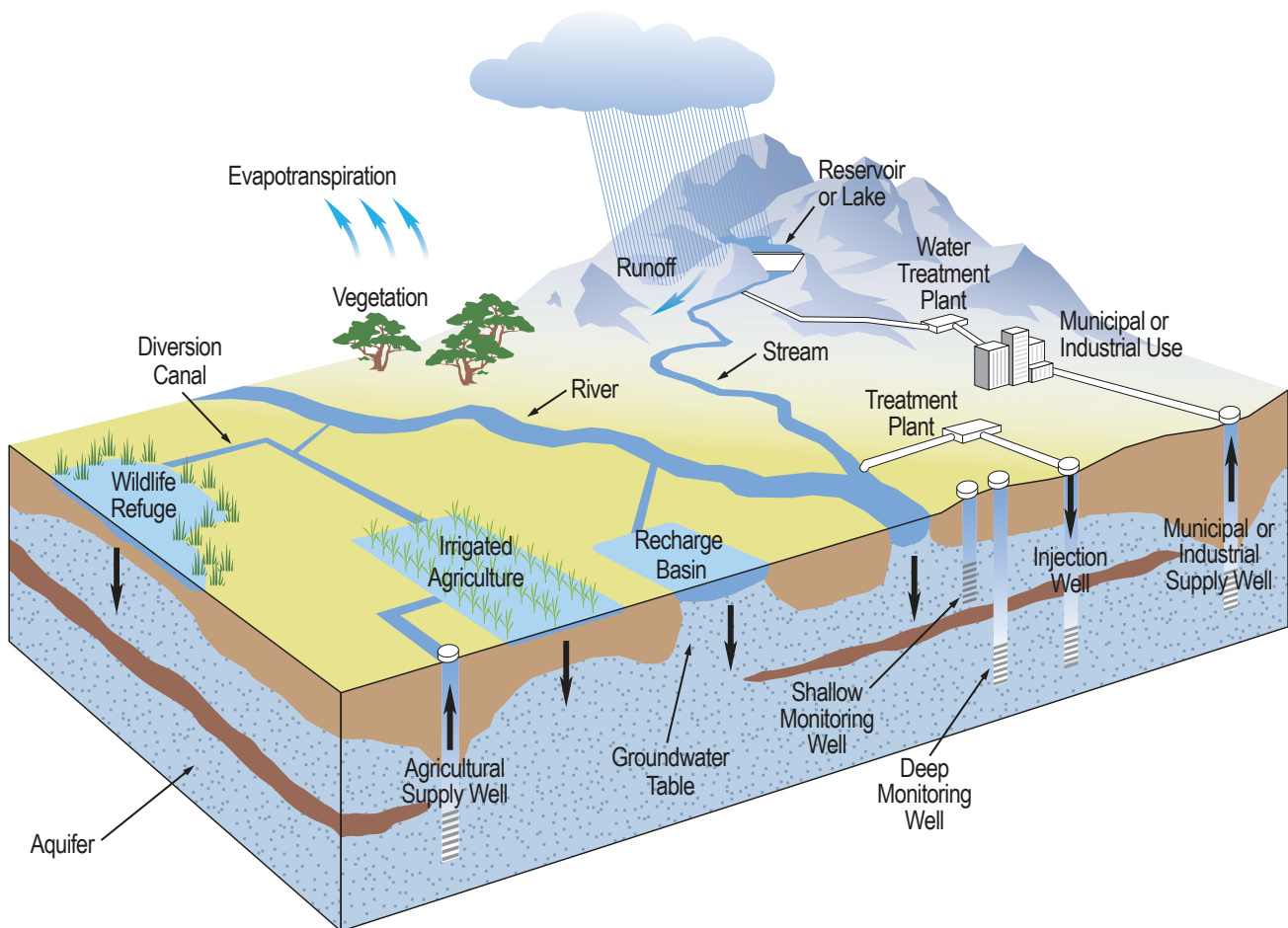
Because these alluvial aquifers are generally very permeable they can provide large quantities of water to wells.

Although the exact number of water wells in California is unknown, DWR figures and other calculations show that there are 700,000 to more than 1 million wells in the state.

Statewide, the Department of Water Resources (DWR) believes the annual rate of overdraft – taking more water from aquifers than can be replenished by rain and other means – to be 1 million to 2 million acre-feet. During the past three-year drought, there is concern that overdraft has increased, especially in the Central Valley.

The drought resulted in many new wells being drilled in Shasta, Butte, Stanislaus, Merced, Fresno, Kern, Kings, and Tulare counties, with Fresno and Tulare leading the way at more than 350 new wells, according to DWR. Because of the rate of pumping, areas with a higher potential for future subsidence are located in the southern San Joaquin, Antelope, Coachella, and western Sacramento valleys.

The issue of overdraft is one topic that led to periodic discussions about whether California needed statewide groundwater regulation even as regional management efforts in some areas proved that municipal water agencies, water replenishment districts and irrigation districts could develop methods to balance groundwater extraction and recharge and reduce groundwater overdraft.



In 2014 as the Legislature investigated the extent of the problem, members learned that data from the National Aeronautics and Space Administration (NASA)/German Aerospace Center Gravity Recovery and Climate Experiment (Grace) satellites revealed that between 2003 and 2009 the aquifers for the Central Valley and its major mountain water source, the Sierra Nevada, had lost almost 26 million acre-feet of water – which is nearly enough water combined to fill Lake Mead, America’s largest reservoir. Thus, members began to deliberate on a statewide management bill.

In his 2014 California Water Action Plan, Gov. Jerry Brown noted the need to instill sustainable groundwater management:

“Groundwater is a critical buffer to the impacts of prolonged dry periods and climate change on our water system,” the Plan said. “When a basin is at risk of permanent damage, and local and regional entities have not made sufficient progress to correct the problem, the state should protect the basin and its users until an adequate local program is in place.”

In September Brown signed the Sustainable Groundwater Management Act (SGMA). The law’s intent is for local and regional agencies to develop and implement sustainable groundwater plans with the state as the backstop – should it prove necessary – to adopt an interim groundwater management plan.

Prior to the SGMA that went into effect Jan. 1, 2015, some groundwater basins were managed under the auspices of legislatively created special districts. Some of these districts have the authority to regulate how much water is pumped and, in some cases, to levy fees to support their actions.

According to a legislative analysis, more than 20 counties adopted ordinances governing the use of groundwater, including specifically banning transfers of groundwater outside of their jurisdiction. Counties also issue drilling permits for new wells.

There are at least 22 groundwater basins, mostly in Southern California, that have been adjudicated – a process in which the court decides how much groundwater can rightfully be extracted by each landowner. The court appoints a watermaster to regulate the adjudication.

Some 149 groundwater management plans in California were developed after the “AB 3030” law was passed almost 25 years ago. The law allowed local agencies to develop groundwater management plans to account for issues such as seawater intrusion, wellhead protection, recharge, groundwater cleanup, overdraft, conjunctive use, storage, conservation, recycling and extraction projects.

But the plans were strictly voluntary and did not allow local entities to control extractions from the groundwater basin. Thus, overdraft and land subsidence continued to be a problem in many areas.

In 2009 one component of the comprehensive water legislation in SB 6 X7, established a statewide groundwater elevation monitoring program, but not individual groundwater well extraction monitoring, to track seasonal and long-term trends in groundwater elevations in California’s groundwater basins. Data from this program demonstrated the severity of the overdraft issues and generated a debate about whether a stronger groundwater management system was needed.

Lawmakers spent the better part of 2014 looking at how to deal with groundwater and came up with a series of bills that evolved into the SGMA. According to the Act, 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.”

## The SGMA

The Sustainable Groundwater Management Act (SGMA) gives local agencies the authorities to manage groundwater in a sustainable manner and allows for limited state intervention when necessary to protect groundwater resources. The SGMA requires the creation of groundwater sustainability agencies to develop and implement local plans allowing 20 years to achieve sustainability. The SGMA provides a state framework to regulate groundwater for the first time in California history.

The SGMA specifically:

- Establishes a definition of sustainable groundwater management
- Establishes a framework for local agencies to develop plans and implement strategies to sustainably manage groundwater resources
- Prioritizes basins with the greatest problems (ranked as high- and medium-priority)
- Sets a 20-year timeline for implementation.

The SGMA includes provisions to promote engagement by interested parties in the formation of a GSA and development and implementation of a GSP. GSAs have to identify key parties and maintain records that spell out plans on how to include their interests in GSA operations and GSP development. The Act requires the GSA to provide this information to DWR.

The GSA is the primary agency responsible for achieving sustainability within the timeframe. The SGMA includes many new authorities and tools for GSAs. For example, in developing a GSP, a GSA may opt to conduct investigations, measure and limit extraction, require registration of wells or impose fees for groundwater management. Under the Act, DWR has the lead role in working with local agencies in implementing its provisions. DWR is available to provide technical assistance to GSAs.

The SGMA, a product of an exhaustive consultative process with water agencies, business interests, environmental organizations, and farmers, required DWR to identify high- and medium-priority basins that must establish Groundwater Sustainability Agencies (GSAs). In December DWR confirmed that the classifications it announced in June 2014 through the California Statewide Groundwater Elevation Monitoring (CASGEM) system would be the used in conjunction with the law.

The GSAs, made up of one or more local agencies overlying a groundwater basin, will be required to develop Groundwater Sustainability Plans (GSPs). GSAs responsible for high- and medium-priority basins must adopt GSPs within five to seven years, depending on whether the basin is in critical overdraft. Agencies may adopt a single plan covering an entire basin or combine a number of plans created by multiple agencies. Preparation of groundwater sustainability plans is exempt from the California Environmental Quality Act (CEQA).

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

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

## Key Definitions in the SGMA

“Sustainable yield,” according to the SGMA, 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.

The act further defines “sustainable groundwater management” as the “management and use of groundwater in a manner that can be maintained during the planning and implementation horizon without causing undesirable results.”

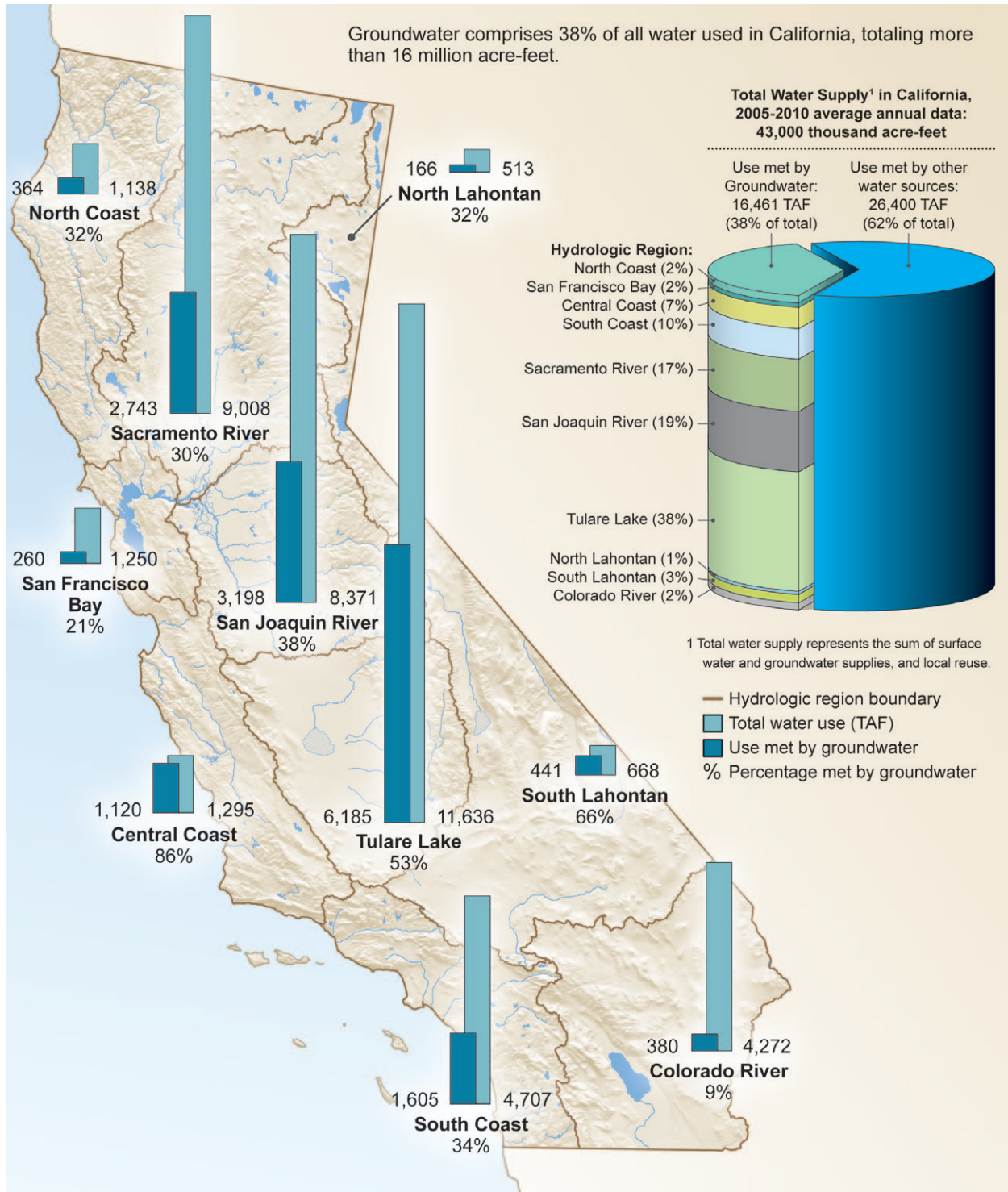
“Undesirable result” means any of the following effects caused by groundwater conditions occurring throughout the basin:

- Chronic lowering of groundwater levels, but excluding reductions in groundwater levels during a drought if they are offset by increases in groundwater levels during other periods;
- Significant and unreasonable reductions in groundwater storage;
- Significant and unreasonable seawater intrusion;
- Significant and unreasonable degradation of water quality;
- Significant and unreasonable land subsidence; and
- Surface water depletions that have significant and unreasonable adverse impacts on beneficial uses.

Overdrafted basins must achieve groundwater sustainability by 2040 or 2042, predicated on the completion of plans, which are expected to take five to seven years to complete. If deadlines aren’t met, the State Water Resources Control Board (State Water Board) can intervene and establish an interim plan, after public notice and hearing.

The law stipulates that it is not a “one size fits all” approach and that each groundwater basin is different. It does not remove the distinction between surface water rights and the personal, private property right to pump groundwater and does not allow the disclosure of how much water an individual pumps. The state, according to the SGMA, can intervene only in extreme conditions when local control is inadequate.





Source: DWR

# Approach and Options for New Groundwater Governance

Prior to passage of the SGMA, groundwater was largely unregulated in the state of California, especially compared to the comprehensive permit system for the state's surface water rights. California was the last state in the West to adopt a groundwater management law.

Historically there were four basic options for local groundwater management: management by local agencies under AB 3030, management by special act districts under special authority granted by state statute, city and county ordinances, or court adjudications.

## **Management by Local Agencies Under AB3030 and SB1938**

In 1992 the state adopted AB 3030 (Water Code Section 10750-10756) so local agencies could voluntarily create a plan to manage groundwater and tackle issues such as sea water intrusion into drinking water wells, groundwater overdraft and contaminated groundwater. Better coordination of using surface water and groundwater supplies, known as conjunctive use, was another focus of some plans.

Subsequently, the Legislature passed SB 1938 in 2002 requiring public agencies seeking state funding for groundwater projects to submit a management plan to DWR with specified components. To date, 149 groundwater management plans have been developed. As of 2013 (under terms of AB 359) a copy of all plans are required to be submitted to the state for public information and use.

These laws encouraged local groundwater management planning, and some regions have made progress to improve management efforts. But the laws did not require the plans to achieve a sustainable management goal for the groundwater basin and did not provide local agencies the authorities needed to effectively manage a groundwater basin.

## **Management by Special Act Districts**

Another form of local groundwater management is special act districts. These are created by the Legislature in response to specific concerns. Their powers are customized to the problems and solutions of a particular groundwater basin. For example, the Orange County Water District statute provided for the district to establish a groundwater replenishment assessment, commonly known as a pump tax. The Legislature granted the Santa Clara Valley Water District similar authorities. In addition, 12 other special groundwater management districts have been established through a special act of the Legislature with the specific authority to manage groundwater, although the authority of each agency varies. These special districts are: Desert Water Agency, Fox Canyon Groundwater Management Agency, Honey Lake Groundwater Management District, Long Valley Groundwater Management District, Mendocino City Community Services District, Mono County Tri-Valley Groundwater Management District, Monterey Peninsula Water Management District, Ojai Groundwater Management Agency, Pajaro Valley Water Management Agency, Sierra Valley Groundwater Management District, Willow Creek Groundwater Management Agency and, most recently, the Paso Robles Basin Management District authorized in 2014 by AB 2453.

## Local Ordinances

Counties and cities have constitutional police power to regulate the use of groundwater. Virtually all local jurisdictions regulate well permitting. In the early 1990s some counties began to pass local groundwater ordinances primarily designed to discourage transferring groundwater from one county to a user in another county – a practice that became controversial during the 1987-1992 drought. More recently a few counties, such as San Luis Obispo, are using their authorities to manage groundwater use through limitations on well permits. According to DWR, 30 of the state's 58 counties have adopted groundwater ordinances.

The power of counties to regulate groundwater has been challenged, but in 1995 the California Supreme Court declined to review an appeal of a lower court decision, upholding the authority for such local ordinances through county's existing police powers.

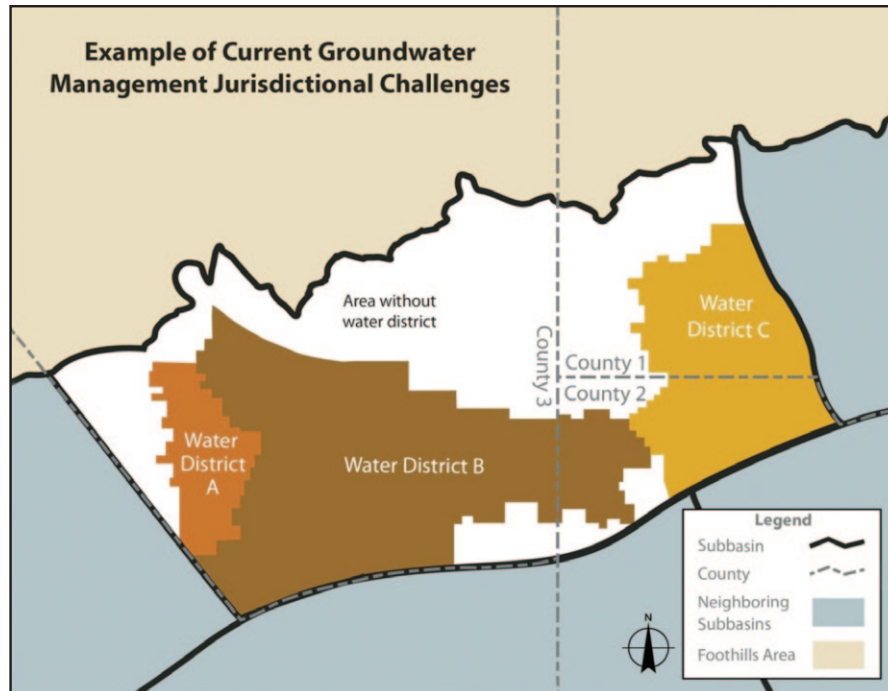
## Groundwater Adjudication

When multiple parties withdraw water from the same aquifer, groundwater pumpers can ask the court to adjudicate, or hear arguments for and against, to better define the rights that various entities or individuals have to use the groundwater resources. Pumpers are assigned a designated share of the basin's water resources, and watermasters are typically appointed by the court to ensure that pumping conforms to the limits defined by the adjudication. Litigation, however, is time-consuming and costly, in part because of the multiple factual questions that must be addressed, including the identity of the pumpers, the respective amounts of historical production, the boundaries of the groundwater basin, and the history of the basin's hydrogeologic status to determine, among other things, when overdraft began. Many adjudications have taken decades to complete.

### Adjudicated Basins

DWR recognizes 22 adjudicated basins. Most of the adjudications have been in Southern California, where development pressures – and groundwater overdraft – quickly overwhelmed limited aquifers. They are: Beaumont Basin (2004), Brite Basin (1970), Central Basin (1965), Chino Basin (1978), Cucamonga Basin (1978), Cummings Basin (1972), Goleta Basin (1989), Main San Gabriel Basin (1973), Mojave Basin Area (1996), Puente Basin (1985), Raymond Basin (1944), Santa Margarita River Watershed (1966), Santa Maria Valley Basin (2008), Santa Paula Basin (1996), Scott River System (1980), Seaside Basin (2006), Six Basins (1998), Tehachapi Basin (1973), Upper Los Angeles River Area (1979), Warren Valley Basin (1977), West Coast Basin (1961) and Western San Bernardino (1969).

The SGMA includes four other basins on its list of adjudicated basins. They are: Lytle Basin, Rialto-Colton Basin, Riverside Basin and San Jacinto Basin. Three other basins in which court processes are underway are also identified in the Act that they will be "treated as an adjudicated basin...if the superior court issues a final judgment, order or decree." They comprise the Antelope Valley cases, Inyo County Case No. 12908 and the Los Osos Groundwater Basin.



Groundwater management is not easy. The resource is out of sight, which can make it difficult to determine water levels, quality and other factors. Basin boundaries are impossible to see. And the boundaries of a basin don't neatly follow jurisdictional lines. In fact, most of the state's basins underlie more than one county or water agency. The basins are quite large in some areas of the state and often consist of subbasins. In addition, most aquifers are being tapped by multiple parties including water agencies or other entities that have systems distributing the groundwater. Individual landowners also are utilizing their right to pump and use the groundwater on their land – and they may reside outside of the boundaries of a water or irrigation district. In basins not managed or regulated by an adjudication, each party can pump as much as it wants and if the groundwater level drops, new and deeper wells can further impact other, neighboring wells. Some refer to such groundwater depletion as a “tragedy of the commons.”

The groundwater basin boundaries in the SGMA are those as defined in DWR's Bulletin 118 report on groundwater, which was updated in 2003. There are currently 431 groundwater basins delineated. Of those, 24 basins are subdivided into 108 subbasins for a total of 515 distinct basins. According to Bulletin 118, the basin boundaries were derived primarily by identifying alluvial sediments on geologic maps, using the best available information. (See Basin map Bulletin 118.)

Overlapping jurisdictions exist in many of these basins and there is the potential for questions over which of several existing local agencies should be the designated as the GSA. The GSA allows for the sharing of basin governance through several means including memorandum of agreement, a joint powers agreement or other legal agreement. A basin can thus be managed by several separate GSAs, or just one.

Overall, communication and coordination among multiple stakeholders and governmental entities will be key to addressing these challenges and successfully implementing the SGMA.

## Acronyms

<b>AB</b>	Assembly Bill
<b>CASGEM</b>	California Statewide Groundwater Elevation Monitoring
<b>DWR</b>	California Department of Water Resources
<b>GSA</b>	Groundwater Sustainability Agency
<b>GSP</b>	Groundwater Sustainability Plan
<b>SB</b>	Senate Bill
<b>SGMA</b>	Sustainable Groundwater Management Act of 2014
<b>State Water Board</b>	State Water Resources Control Board
<b>Water Code</b>	California Water Code

## Groundwater Rights

Primarily, landowners in California are entitled to pump and use a reasonable amount of groundwater from a basin underlying their land to put it to a beneficial, nonwasteful use. When there is insufficient water to meet the demands of landowners, they are expected to reduce their use to bring extractions into the “safe yield” of the basin to prevent overdraft. Safe yield is the rate at which groundwater can be withdrawn without causing long-term decline of water levels or other undesirable effects such as subsidence.

Disputes stemming from overdraft and efforts to confine pumping to the basin’s safe yield were the underlying factors of most of the court-adjudicated groundwater basins. Once the groundwater basin has been adjudicated, a court can assign specific pumping extractions to each groundwater user or group of users.

The SGMA is designed to address issues related to both overdraft and safe yield, but does not change existing groundwater rights. Specifically, Water Code section 10720.5(b) says that nothing in the legislation “determines or alters surface water rights or groundwater rights under common law or any provisions of law that determines or grants surface water rights.”

While there is some concern the SGMA will undermine the authority of the local agencies or private property owners, the mandate of the Act is to first provide authority and control at the *local level* to develop and implement GSPs, and that only if local entities fail to do so would the state step in. Additionally, there was never an unfettered right for private property owners to pump as much water as one could – the Constitution has always mandated that it be put to beneficial use.

## **What is a GSA?**

Any local agency or combination of local agencies overlying a groundwater basin may form a GSA for the basin. "Local agency" means a local public agency that has water supply, water management or land use responsibilities within a groundwater basin. The law requires that GSAs be formed by June 30, 2017.

The SGMA identified 43 groundwater basins as high-priority and 84 as medium-priority. These 127 basins must adopt groundwater management plans by 2020 or 2022, depending upon whether the basin is in critical overdraft. GSAs will have until 2040 or 2042 to achieve groundwater sustainability. These 127 basins account for approximately 96 percent of the groundwater used in the state. Most of these basins are in the Central Valley or along the Central and South Coast. Many are currently in overdraft.

The groundwater basins across the state were designated as high, medium, low or very low in the law based on data derived through DWR's California Statewide Groundwater Elevation Monitoring (CASGEM) program. (See map.) The CASGEM program was authorized in 2009 with passage of SB 6 X7, establishing a statewide groundwater elevation monitoring program, but not individual groundwater well extraction monitoring, to track seasonal and long-term trends in groundwater elevations in California's groundwater basins. In mid-December 2014, DWR concluded that the basin prioritization finalized in June 2014 under the CASGEM program will be the initial ranking for the SGMA. Local agencies can request that DWR revise the defined groundwater basin boundaries. DWR is required to adopt regulations by Jan. 1, 2016, for determining what information is necessary when filing such a request. Formation of a GSA and development of GSPs are encouraged – but not required – for those basins categorized in CASGEM as low or very low priority.

Adjudicated basins listed in the Act are not required to form a GSA or develop GSPs. They are required only to submit an annual report to DWR that contains much of the same information already required by the court.

A local agency can forego formation of a GSA and submit an alternative plan to DWR if it believes the alternative meets the objectives of the Act. If the agency believes an alternative will satisfy SGMA it has until Jan. 1, 2017 to submit the plan to DWR for review. In the SGMA such plans include existing local agency management that has been monitoring groundwater elevation since at least Jan. 1, 2010, any plans based on adjudication (the watermaster is required to submit the judgment to DWR by April 1, 2016), or an analysis that demonstrates the basin has operated within its sustainable yield for at least 10 years. DWR is required to assess the alternative to determine if it satisfies the objectives of the Act. If it does not, the local agency would be required to form a GSA and develop a GSP.

In most cases the SGMA does not delegate which local agency should be a GSA but instead leaves that decision to the local interests. The only exception is for special act districts formed through state law to manage groundwater in a local basin. The Act lists 15 special act districts that shall be the GSA in their service area boundaries, although those districts have the option to opt out if they choose.

If an area over a basin is not within the management area of a GSA, the local county will be presumed to be the GSA for that area unless it opts out. The county is required to notify DWR whether it will or will not be the GSA for the area.

## What Does a GSA Do?

A GSA is the primary agency responsible for achieving groundwater sustainability. A GSA is required to develop and implement a GSP that considers the interests of all beneficial uses and users of groundwater for high- and medium-priority basins. The SGMA allows a basin to have one or multiple GSPs, but requires development of a coordination agreement between GSAs if there are multiple GSPs.

The plan must include measurable objectives for the basin to achieve sustainability in the 20-year timeframe. The GSP also must include a physical description of the basin, including groundwater levels, quality, subsidence and groundwater-surface water interaction. DWR will review the plans and will have the power to request changes to a submitted plan. DWR must adopt regulations for how it is going to evaluate GSPs by June 1, 2016. GSAs will have until 2020 or 2022 to adopt a GSP, depending on whether the basin is in critical overdraft.

## What Basins are in Critical Overdraft?

Basins identified in Bulletin 118 as being “critically overdrafted” are supposed to adopt a management plan by 2020. Those that are not considered “critically overdrafted” have until 2022 to adopt a GSP.

When Bulletin 118 was first published in 1978 the definition for critical overdraft was: a basin is subject to critical conditions of overdraft when continuation of present water management practices would probably result in significant adverse overdraft-related environmental, social or economic impacts.

According to the 2003 update of Bulletin 118, “This update did not include similar direction from the Legislature, nor funding to undertake evaluation of the State’s groundwater basins to determine whether they are in a state of overdraft.” DWR officials are now evaluating how to determine overdraft in relation to the SGMA.

Meanwhile, the 11 basins originally identified in Bulletin 118 are: Chowchilla Basin, Cuyama Valley Basin, Eastern San Joaquin County Basin, Kaweah Basin, Kern County Basin, Kings Basin, Madera Basin, Pajaro Basin, Tulare Lake Basin, Tule Basin and Ventura Central Basin.

The SGMA gives GSAs numerous new tools and authorities to manage the groundwater and implement the objectives of the GSP. These include the authority to conduct investigations, determine the sustainable yield of a groundwater basin, measure and limit extraction, impose fees for groundwater management, and enforce the terms of a GSP. These authorities can be implemented by one or multiple GSAs. What authorities each GSA assumes will be one of the key decisions in forming a GSA.

The SGMA amends state planning and zoning law to require increased coordination between land use planning agencies and GSAs.

## Options for Governance

Multiple entities. Multiple uses. Multiple concerns. Those are just three of the big challenges related to governing a groundwater basin and how to form a GSA. The physical size of a basin can be another major issue.

In general there are three different models of governance: centralized, distributed, or a combination of the two.

### Centralized Governance

Under this model, one agency would assume all the responsibilities and authorities for the entire basin. However, it is likely that a centralized GSA would still need to coordinate with local land use and water agencies in the basin. These entities also would likely be members of the centralized GSA.

An existing local agency may assume this role or a new entity could be formed. As a centralized governing body, an existing agency (such as a water district) would likely need to modify current service area boundaries to cover the entire basin. A new centralized GSA could be formed through creation of a Joint Powers Agency or through new state legislation forming a special act district. A single, centralized GSA might be an efficient way to manage a basin and oversee the development

## Centralized GSA

- Covers entire basin
- Assumes all authorities and responsibilities
- New or existing agency

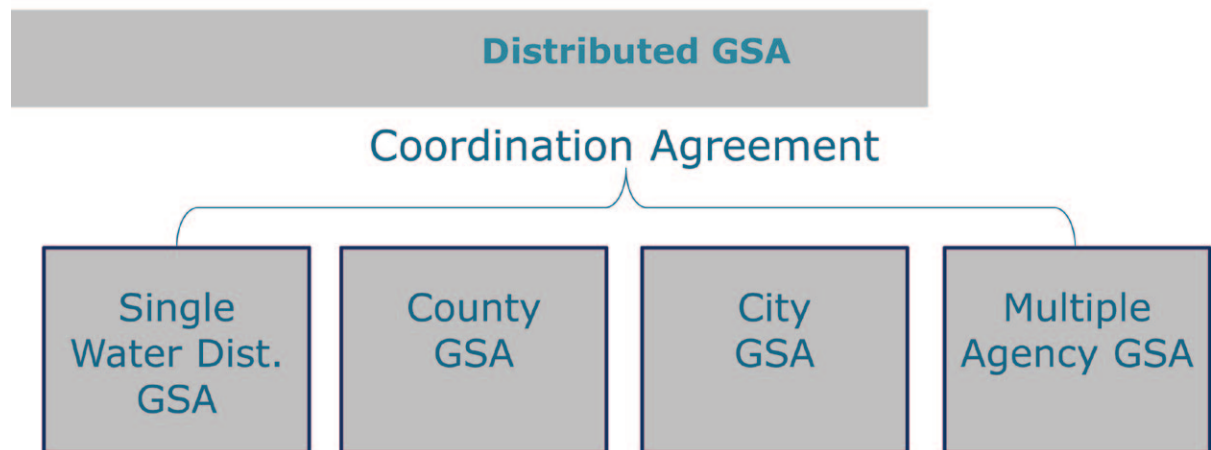


and management of a GSP. Data collection and management would fit within one model, relying on standard personnel and computer software.

However, there are downsides to a centralized agency model. Pursuing special legislation is time consuming and success is not predictable. Also existing agencies in many basins will be concerned about delegating all authority to one entity if it results in a local agency having less responsibility for groundwater management in its current service area. It also might be difficult for one agency to take on the task of developing a plan to manage a multi-use, multi-jurisdictional groundwater basin. Even if one agency were determined to be the GSA, it still would require collaboration among other agencies/entities in the basin to create the GSP.

### **Distributed Governance**

A distributed model would allow for the establishment of several GSAs covering the basin with the authorities for planning, implementation and monitoring all distributed among each GSA. This would allow many existing local agencies to retain existing authorities and assume new authorities for groundwater management in their existing service area and allow for more localized control. This option would require significant coordination among all the entities because each GSA would be developing its own GSP, implementing its GSP and monitoring its portion of the basin to ensure the basin as a whole meets the goal of sustainable yield. In the areas of the basin where a local agency does not assume the GSA responsibilities, the county would be the GSA, unless it opts out of this responsibility.

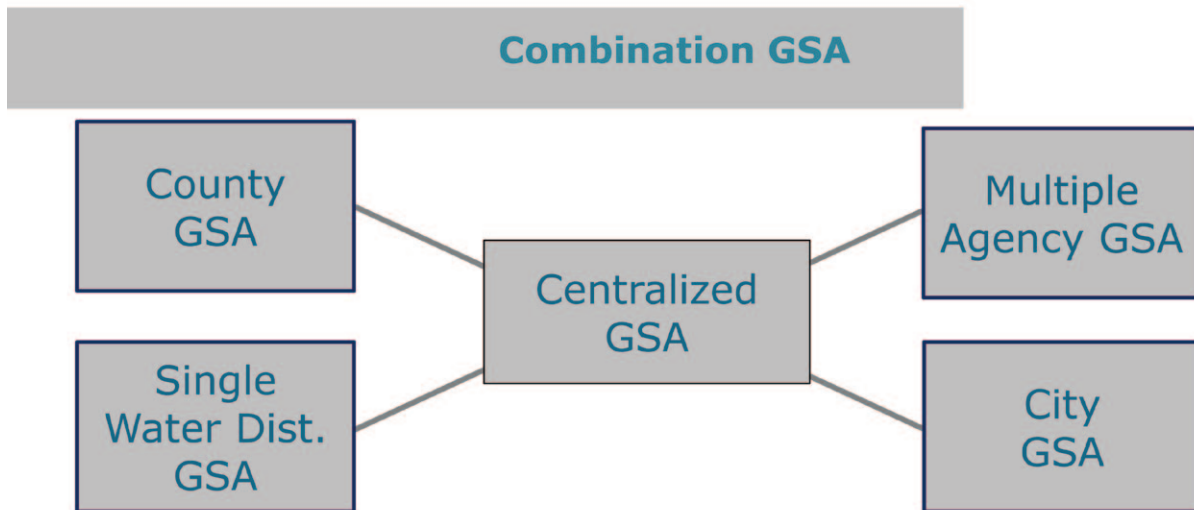


- Each GSA assumes all responsibilities for their service area
- Coordination Agreement required (MOU)

### Combination of centralized and distributed

A combination model centralizes some authorities and tasks and distributes others among multiple agencies. For example, one approach could place general tasks related to planning, public outreach and coordination with the centralized GSA, and the management and enforcement tasks split among multiple GSAs. This model offers maximum flexibility for distributing the authorities and responsibilities.

This model provides options for centralizing those tasks that may require a high level of coordination and distributing other tasks that may be more effectively implemented by an existing agency or JPA in their jurisdiction.



- Centralized GSA: assumes some shared responsibilities
- Multiple GSAs: assume remaining responsibilities



# Step-by-Step Process to Developing a GSA

The task of developing a governance structure to implement the SGMA responsibilities and authorities can be challenging for many regions. Here is a six-step process to consider:

1. Identify the basins
2. Identify and work with local agencies
3. Understand your basin and available resources
4. Identify and involve key stakeholders in your area
5. Evaluate tasks and authorities and who wants to do what
6. Evaluate and propose governance model

## 1) Identify what groundwater basins are in your region

A key first step is to determine if your groundwater basin(s) or subbasin(s) are subject to the SGMA.

The SGMA identified 127 groundwater basins that would be subject to its requirement (43 high-priority and 84 medium-priority). However, it exempted specific adjudicated basins (listed in the Act) from the formation of a GSA and development of a GSP. As a county or city agency you may have multiple groundwater basins in your jurisdiction and those basins are likely to overlap with neighboring counties.

If you are a water agency you may also overlap one or more basins and overlap with one or more counties. This initial mapping of boundaries will provide information that helps you assess whether your region may want to discuss changes to the current Bulletin 118 basin boundaries to support sustainable groundwater management.

You can find basin boundary, prioritization, and adjudication information at:

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

## 2) Identify and work with the local agencies in the basin

The Act provides a definition of what agencies can be a GSA so it's important to identify all the agencies within a groundwater basin, and coordinate with them to determine their interests in groundwater management and what role they may want to have in future management and GSA formation, and their key concerns. Note that the SGMA gives certain special act districts priority for electing to be a local GSA in the basin.

Although discussion of new authorities and responsibilities can often push local agencies into new and possibly uncomfortable situations, the benefits of multiparty discussions may allow for creative opportunities. Each local agency can bring different and unique authorities, resources, interests, and expertise to groundwater management, potentially making the management solutions more attainable.

DWR is developing information that easily identifies the eligible local agencies for each basin. Other resources include a city or county public works department or water bills to obtain contact information. Private well owners can check with the county tax assessor to see if they are in the

boundaries of an existing water agency. They will most likely need their parcel number, sometimes called the Assessor's Parcel Number or APN.

Find information here:

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

Find counties listed by hydrologic regions here: [www.water.ca.gov/landwateruse/images/maps/California-County.pdf](http://www.water.ca.gov/landwateruse/images/maps/California-County.pdf)

Find local water districts by county here: [www.acwa.com/content/locate-your-california-water-agency](http://www.acwa.com/content/locate-your-california-water-agency)

### **3) Understand your basin conditions and resources in the region**

Collect and share all existing information regarding the groundwater basin with the local agencies and interested stakeholders in your basin. This will help you establish the current level of expertise, information and resources available in the basin for groundwater management. Understanding the basin and the current level of groundwater use, the status of long term overdraft or other potential problems will be a key factor in deciding what type of GSA, and authorities and geographic boundaries can best address the problems.

Find out if groundwater management plans already exists. Many local agencies have already developed plans under the requirements of AB 3030 or SB 1938 that have information on basin conditions and current water management strategies.

Current plans are likely to form the foundation for many GSPs. And in some cases a local agency may determine its current plan meets the objective of the act and could be submitted as an alternative – potentially avoiding the creation of a GSA and new plan altogether.

Information is available on the DWR website:

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

Local water agencies or other local entities may have groundwater models that can assist in understanding how the basin responds to various conditions of pumping and rainfall. The state can also assist in determining what resources exist in the basin. The DWR groundwater website:

<http://www.water.ca.gov/groundwater> offers extensive information.

DWR also has regional offices, where one staff person is assigned as a groundwater contact point: <http://www.water.ca.gov/groundwater/contacts.cfm>

State or private universities in your region may offer experts on different aspects of water supply and water quality issues, hydrology, geology, engineering and other studies that relate to groundwater. One resource is the UC Cooperative Extension Groundwater Program at UC Davis:

<http://groundwater.ucdavis.edu>

Nongovernmental agencies that could provide useful information include the

- Association of California Water Agencies [www.acwa.com](http://www.acwa.com)
- Groundwater Resources Association of California: <http://www.grac.org>

#### **4) Identify and involve key stakeholders in the basin**

In addition to the local agencies that are eligible to become a GSA, local stakeholders in a basin also will play a key role in GSA formation. Such stakeholders include individual landowners (agricultural and domestic) that have private wells, environmental users of groundwater, tribes, private water companies and disadvantaged communities. Nongovernmental organizations (NGOs) are not eligible to be on the actual governance board of a GSA or become a GSA, but it is important to engage them since they are affected by the governance decisions and future management of the basin, and may be key to final agreement of any GSA option.

The SGMA has specific requirements associated with engaging interested stakeholders. For example it requires a GSA to establish and maintain a list of all persons interested in groundwater issues including plan preparation, and other relevant documents. And as part of the final request to DWR for form a GSA, the local agency is required to include the list of interested parties and explain how those parties will participate in the development and operation of the GSA and the development and implementation of the GSP. Reach out to these groups via local farm bureaus, chambers of commerce, city council or county boards of supervisors meetings, local service clubs, other nongovernmental organizations and news media.

Many regions already have stakeholder groups that provide advice or input on regional water resource management such as county water advisory committees, technical advisory groups, or integrated regional water management planning groups. At a minimum, these existing advisory groups may be helpful initially as local agencies take the first step to gain input on GSA formation and identify processes for future stakeholder engagement.

#### **5) Evaluate tasks and authorities of a GSA and who wants to do what**

Becoming a GSA involves assuming a wide range of tasks and authorities. Those tasks and authorities can be shared and distributed among multiple GSAs or combined and centralized into one GSA. Before choosing a governance model, it is important to understand each of the responsibilities and evaluate which tasks may be best distributed and which may be best centralized. This understanding of the tasks will inform the eligible local agencies as to what role and level of engagement they may want to assume in the basin. The range of tasks and authorities for a GSA included the following:

- ▶ **Coordination** – Regardless of the governance model selected there will be a need to coordinate with other local agencies in the basin and with agencies in neighboring basins.
- ▶ **Public outreach and stakeholder engagement** – GSAs must maintain lists of interested stakeholders and engage those interested parties in GSP development and implementation
- ▶ **GSP development** – one or more GSPs are required for every basin. If multiple GSPs are developed a coordination agreement is also required.
- ▶ **Monitoring and reporting** – Additional monitoring of groundwater levels, subsidence or water quality will likely be needed to track progress in meeting the sustainable yield and basin impacts. Annual reports must be submitted to DWR on the status of the basin to allow DWR to determine the progress in meeting the sustainability goals and objectives identified in the GSP.

- ▶ **Implementation** – This includes the actions and strategies identified in the GSP to achieve sustainability and may include imposition of new fees on pumping, measurement of use at individual wells, investment in water management strategies such as water conservation, conjunctive use or new recharge facilities, or limits on new well permits issued by the county.
- ▶ **Enforcement** – A GSA will need to enforce the provisions adopted which may include payment of fees, reporting on water use, or limitations on pumping.

## **6) Determine which model of governance works best for your region**

The SGMA allows local agencies choose their local governance structure. Local agencies can determine if a centralized, distributed or combination model works best for them. Meet with local agencies and discuss all the authorities and requirements under the SGMA and determine which fit best with existing agencies, or whether a new agency needs to be formed to handle all or portions of the GSA. There are multiple legal mechanisms available to coordinate among agencies or to form a GSA. A Memorandum of Agreement (MOU) can be used to support coordination among multiple GSAs. To assume the new authorities of a GSA, a region can form a Joint Powers Agency (JPA) involving some or all of the existing local agencies in the basin. Or a new special act district can be formed through state legislation. Finally existing agencies such as cities, counties, or water agencies can elect to be the GSA covering all or part of the basin.

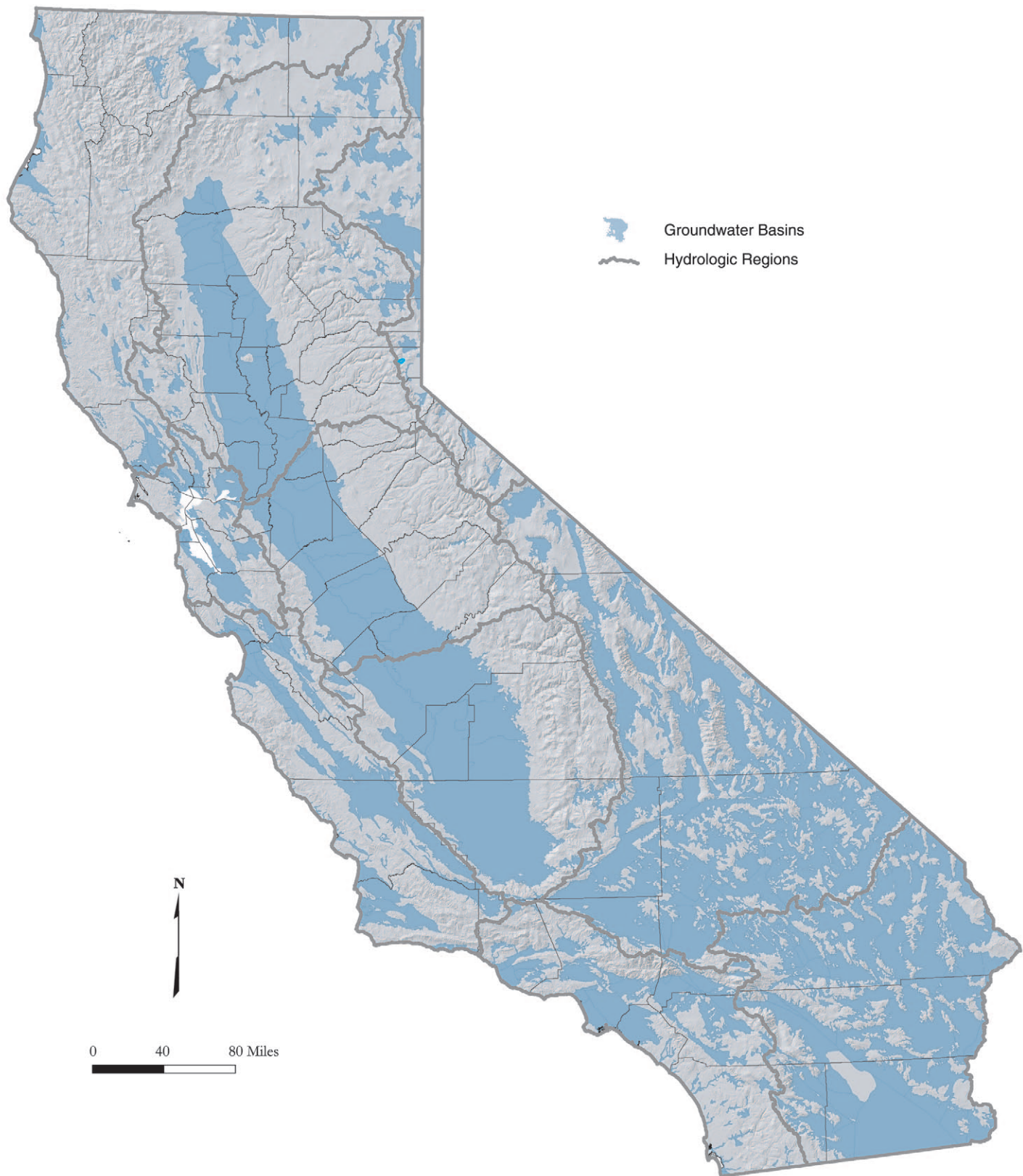
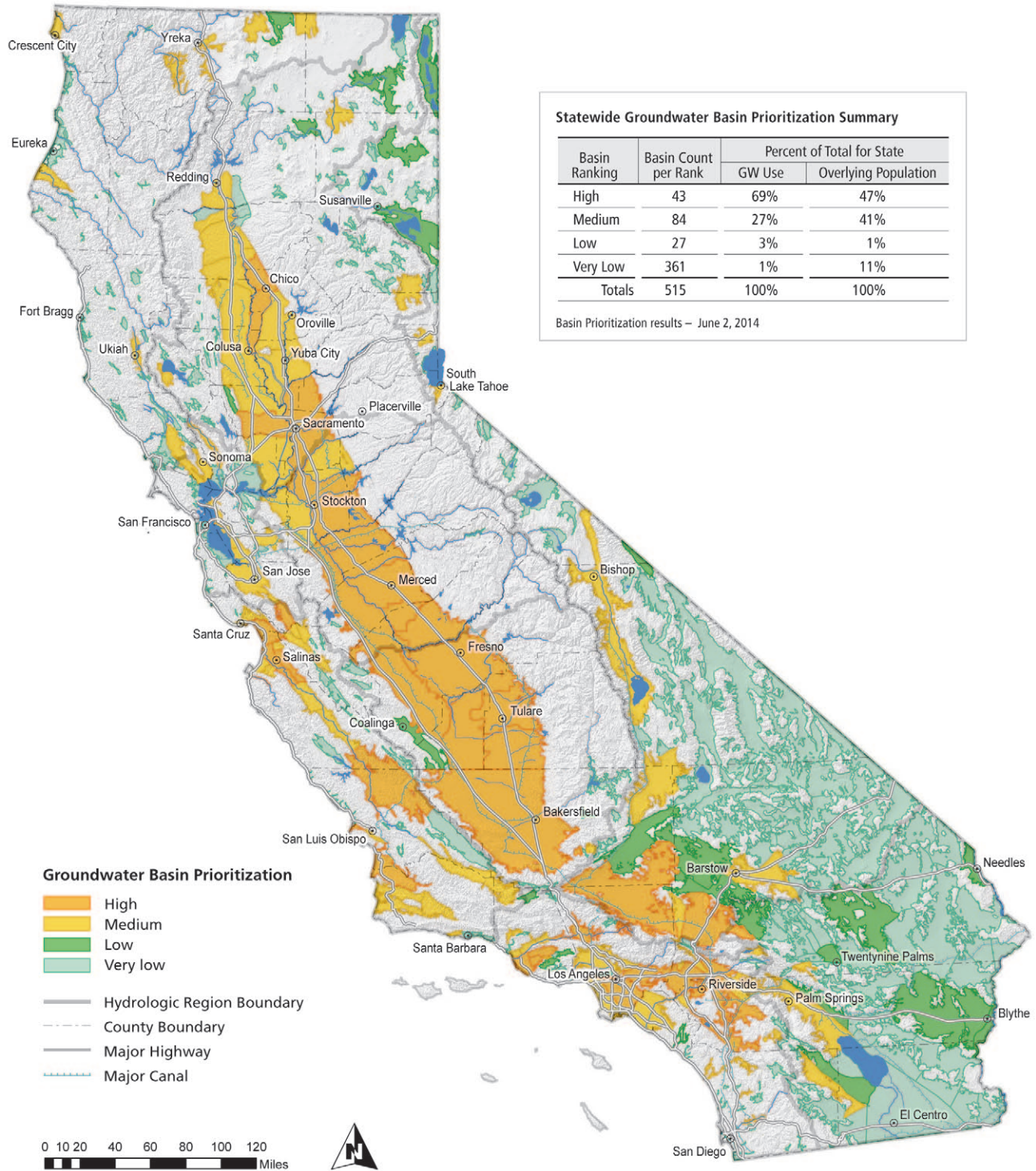


Figure 20 **Groundwater basins and subbasins**



**CASGEM Basin Prioritization – June 2014**



**Statewide Groundwater Basin Prioritization Summary**

Basin Ranking	Basin Count per Rank	Percent of Total for State	
		GW Use	Overlying Population
High	43	69%	47%
Medium	84	27%	41%
Low	27	3%	1%
Very Low	361	1%	11%
<b>Totals</b>	<b>515</b>	<b>100%</b>	<b>100%</b>

Basin Prioritization results – June 2, 2014

# Sustainable Groundwater Management Act Timeline

## **Sept, 16, 2014: Groundwater management legislation becomes law**

Gov. Brown signs Senate Bill 1168, Assembly Bill 1739, and Senate Bill 1319, which made up the groundwater management legislation package.

## **Jan. 1, 2015: Legislation goes into effect**

The Sustainable Groundwater Management Act becomes effective.

## **Jan. 31, 2015: DWR must establish initial groundwater basin priority**

California Department of Water Resources (DWR) establishes the initial priority – high, medium, low or very low – for each groundwater basin in the state by the end of January 2015 (Water Code § 10722.4).

## **Jan. 1, 2016: DWR must set emergency regulations for basin boundary revisions**

DWR adopts emergency regulations for groundwater basin boundary revisions by Jan. 1, 2016. The regulations must include the methodology and criteria used to evaluate proposed boundary revisions, including the establishment of new subbasins (Water Code § 10722.2).

## **June 1, 2016: DWR must establish emergency regulations for evaluating plans**

DWR adopts emergency regulations for evaluating Groundwater Sustainability Plans (GSPs), their implementation and coordination agreements among local agencies for groundwater sustainability planning. The regulations must identify GSP components and information to assist plan and coordination agreement development and implementation (Water Code § 10733.2).

## **Dec. 31, 2016: DWR estimate of water available for groundwater replenishment due**

DWR publishes its estimate of the water available for groundwater replenishment on its website (Water Code § 10729(c)).

## **Jan. 1, 2017: Basin deadline to submit alternative to a GSP**

Medium- and high-priority basins choosing to meet sustainability objectives by ways other than groundwater sustainability planning (which includes not forming a Groundwater Sustainability Agency (GSA)) must submit their alternatives to DWR (and then again every 5 years). (Water Code § 10733.6).

## **Jan. 1, 2017: DWR will establish best management practices for sustainable management**

DWR publishes best management practices for the sustainable management of groundwater on its website (Water Code § 10729(d)).

## **June 30, 2017: Deadline to form a GSA**

A local agency or agencies in each high- or medium-priority groundwater basin must have officially formed one or more (GSAs) for the entire basin (Water Code §§ 10724, 10735.2(a)(1)).

**June 30, 2017: State Water Board can begin to put basins on probation**

The State Water Resources Control Board (State Water Board) can initiate probationary status to a medium- or high-priority basin if the basin lacks one or more GSA that covers the entire basin or no alternative has been approved (Water Code § 10735.2(a)(1)).

**July 1, 2017: Those pumping in a probationary basin must report extractions**

Pumping groundwater in a basin that either has been designated as a probationary basin or lies outside a GSA's management area must be reported to the State Water Board. These reporting requirements do not apply to those extracting for domestic purposes 2 acre-feet per year or less, and some others (Water Code §§ 5202, 10724).

**Jan. 31, 2020: GSPs required for critically overdrafted basins**

Basins designated as high- or medium-priority and subject to critical conditions of overdraft must be managed under a GSP or GSPs. The State Water Board can initiate probationary status for all or part of a basin if there is no GSP, if the GSP is inadequate, or the GSP implementation will not likely achieve sustainability (Water Code § 10720.7(a)(1), 10735.2(a)(2), 10735.2(a)(3) ).

**Jan. 31, 2022: GSPs required for all remaining high- and medium- priority groundwater basins**

All remaining basins designated as high- or medium-priority must be managed under a GSP or GSPs. The State Water Board can initiate probationary status in 2022 for all or part of a basin if there is no GSP, if the GSP is inadequate, or the GSP implementation will not likely achieve sustainability except for basins where groundwater extractions result in significant depletion of interconnected surface waters (Water Code § 10720.7(a)(2), 10735.2(a)(4), and 10735.2(a)(5)(A)).

**Jan 31, 2025: State Water Board actions where extractions impact surface waters**

The State Water Board can initiate probationary status for those medium- or high-priority basin where the GSP is inadequate or implementation is not likely to achieve sustainability AND the basin is in a condition where groundwater extractions result in significant depletion of interconnected surface waters (Water Code § 10735(a)(5)(B)

**Jan. 31, 2022 -2024: DWR completes evaluation of all GSPs**

DWR must evaluate and issue an assessment of a GSP within two years of submission by a GSA. DWR may include recommendations for addressing any deficiencies in the GSP (Water Code § 10733.4(d)).

**Jan. 31, 2040 - 2042: Basins must achieve sustainability**

A GSP must include measurable objectives and milestones in increments of five years to achieve sustainability within 20 years of GSP adoption. (Water Code § 10727.2(b)(1))

# Frequently Asked Questions (FAQ)

## **What is the Sustainable Groundwater Management Act?**

The Sustainable Groundwater Management Act (SGMA) gives local agencies the authorities to manage groundwater in a sustainable manner and allows for limited state intervention when necessary to protect groundwater resources. The SGMA requires the creation of groundwater sustainability agencies to develop and implement local plans allowing 20 years to achieve sustainability. The SGMA provides a state framework to regulate groundwater for the first time in California history.

The SGMA specifically:

1. Establishes a definition of sustainable groundwater management
2. Establishes a framework for local agencies to develop plans and implement strategies to sustainably manage groundwater resources
3. Prioritizes basins with the greatest problems (ranked as high- and medium-priority)
4. Sets a 20-year timeline for implementation.

Gov. Jerry Brown signed the Act, which is comprised of three bills, on Sept. 16, 2014. The three bills are SB 1168 (Fran Pavley), SB 1319 (Fran Pavley) and AB 1739 (Roger Dickinson).

## **Why is groundwater important?**

Groundwater aquifers provide about 40 percent of the state's water supply in normal years. During times of drought, aquifers can provide up to 60 percent of the supply.

Currently, in many areas of California, groundwater basins are seriously overdrafted. For example, in some areas of the Central Valley, municipal wells are running dry, forcing small towns to import water at very high prices. Chronic over-pumping has led to land subsidence in the valley, with some places sinking more than 30 feet in recent decades. Many groundwater-fed streams are running dry, endangering the fish and wildlife that depend on them.

## **Why did the Legislature and Governor pass the SGMA?**

The Legislature and the Governor recognized groundwater as an essential component of the state's water supply portfolio, which must be sustainably managed to help protect against the negative effects of overuse.

Legislators also recognized effective management is most likely to occur at the local and regional level, yet only if certain information is available to the local groundwater management entities and they have sufficient authority and resources to achieve their management goals.

The stated intent of the Legislature in passing these bills was to empower local agencies to sustainably manage groundwater in their areas and provide for state intervention if local authorities do not, or cannot, comply. The Legislature also expressed its intention to respect the overlying and proprietary rights to groundwater under Section 1200 of the Water Code, and recognize and preserve the authorities of cities and counties to manage groundwater pursuant to their police powers.

### **Does the SGMA impose requirements on all groundwater basins in the state?**

No. The Department of Water Resources (DWR) has defined 515 groundwater basins and subbasins in California in Bulletin 118. In 2014 DWR ranked the basins as high-priority, medium-priority, low-priority, or very low-priority using the California Statewide Groundwater Elevation Monitoring (CASGEM) system. The SGMA requires the high- and medium-priority basins (127 total) to meet the mandates of the Act, and encourages participation by the low- and very low-priority basins. The current 43 high-priority and 84 medium-priority basins account for 96 percent of total groundwater pumping in the state.

DWR is using the 2014 rankings for the initial basins rankings under the SGMA. The Act requires an additional factor to be considered in the prioritization – adverse impacts on local habitat and local stream flows. DWR has indicated that the new factors and other new data will be incorporated into future updates of basin priorities.

Adjudicated basins listed in the SGMA are not required to form a Groundwater Sustainability Agency or develop Groundwater Sustainability Plans.

### **What are Groundwater Sustainability Agencies (GSAs)?**

Any local agency or combination of local agencies overlying a high- or medium-priority groundwater basin may form a Groundwater Sustainability Agency (GSA) for the basin. Local agencies eligible to form a GSA include a local public agency that has water supply, water management, or land use responsibilities within a groundwater basin. GSAs are required to be formed by June 30, 2017.

### **What are Groundwater Sustainable Plans (GSPs)?**

All GSAs must prepare a Groundwater Sustainability Plan (GSP), which can build on the region's existing groundwater plans. The SGMA lays out the contents of a GSP, such as basin conditions, measurable objectives for sustainability, and measures to meet the sustainable yield of the basin. It allows a local agency to propose modifications to its Bulletin 118 basin boundaries. DWR will be developing regulations no later than January 2016 describing the process and conditions for basin boundary changes.

### **What is a GSA's function and authority?**

The GSA is the primary agency responsible for achieving the SGMA's sustainability goal within the timeframe allowed. The Act provides GSAs with new authority to manage groundwater. GSAs may choose among numerous new tools and authorities. For example a GSA may conduct investigations, measure and limit extraction, require registration of wells, impose fees for groundwater management, and enforce the terms of a groundwater sustainability plan.

The Act also requires the GSA to consider the interests of a variety of different stakeholders, including beneficial users of water, environmental interests, disadvantaged communities, tribes and others. The agency must provide outreach to these stakeholders.

## **What does sustainable groundwater management mean?**

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

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

## **Who will pay for GSAs and provide technical assistance?**

DWR will provide technical assistance to local agencies in the implementation of the Act and development of best management practices.

Some \$100 million in grant funding is included in the Water Bond (Proposition 1) to be used for the development and implementation of groundwater management plans and projects. GSAs are also provided with fee authority to support implementation of the SGMA.

## **How will the state oversee GSPs?**

The SGMA is designed to offer a reasonable level of state oversight and involvement by state agencies.

DWR will review GSPs and their implementation within two years of submission. DWR will also evaluate each GSP at least every five years.

The State Water Resources Control Board (State Water Board) can only intervene in a local area and designate the basin or portion of the basin as probationary in limited circumstances:

- ▶ When no local agency is willing to serve as a GSA (by 2017)
- ▶ When a GSA does not complete a GSP (by 2020)
- ▶ When both the GSP is inadequate or not implemented to achieve sustainability and there is a condition of long-term overdraft or significant depletion of interconnected surface waters.
- ▶ The State Water Board can assess fees to recover costs incurred in administering an unmanaged area or a probationary basin, which may include reporting requirements, investigations, facilitation, monitoring, hearings, enforcement and administrative costs.

If a basin or portion of a basin is designated probationary, it has time to address any deficiencies before the state requires groundwater extraction reporting and initiates development of an

interim plan. The Act states that it is the intention that state intervention continue only until a local groundwater agency is able to take over and manage the basin sustainably.

### **How will land use agencies and GSAs interact?**

The SGMA amends planning and zoning laws to require increased coordination among land use planning agencies and GSAs regarding groundwater plans and any updates or modifications of General Plans. Existing local government land use and groundwater authorities are not modified in the Act.

### **What are key dates of the SGMA?**

- ▶ January 1, 2015 – Legislation is effective
- ▶ January 1, 2016 – State regulations finalized for basin boundary adjustments
- ▶ June 1, 2016 – State regulations finalized for evaluating GSPs
- ▶ June 30, 2017 – Local groundwater sustainability agencies (GSAs) must be formed
- ▶ January 31, 2020 – Groundwater sustainability plans (GSPs) must be completed for basins in a critical condition of overdraft
- ▶ January 31, 2022 – GSPs must be completed in all other high- and medium-priority basins
- ▶ Twenty years after adoption of the GSP (2040 and 2042) – all high- and medium-priority groundwater basins must achieve sustainability

### **Does the SGMA change existing water rights?**

The SGMA does not change existing groundwater rights. Groundwater rights will continue to be subject to regulation under article 10, section 2 of the California Constitution. The Act includes numerous provisions to protect water rights. Water Code section 10720.5(b) says that nothing in the legislation “determines or alters surface water rights or groundwater rights under common law or any provisions of law that determines or grants surface water rights.”

### **How does the SGMA relate to existing and future adjudicated basins?**

For existing adjudicated basins, which are listed in the act, the basins only have to meet annual reporting requirements which in most cases is information already prepared annually and provided to the water master or court. If only a portion of a high or medium priority basin is adjudicated, the remainder of the basin is subject to the requirements of the act.

If a new adjudication process is initiated in any of the high and medium priority basins, the basin is subject to the requirements and deadlines of the act while the litigation and adjudication process proceeds.

The SGMA and future adjudications actually work well together. Future adjudications would be made easier with the additional data and information available about the basin and pumpers as part of developing a GSP.

## SGMA Fees

Implementing the requirements of the Sustainable Groundwater Management Act (SGMA) will cost money. A Groundwater Sustainability Agency (GSA) may impose three types of fees on groundwater pumpers:

- ▶ Permit fees on groundwater extraction.
- ▶ Fees to fund the cost of a Groundwater Sustainability Plan (GSP).
- ▶ Fees to fund investigations, inspections, compliance assistance, enforcement and program administration.

A GSA cannot impose fees on *de minimis* pumpers under most circumstances – someone who extracts, for domestic purposes, two acre-feet or less per year such as an individual landowner or homeowner. “If you are extracting water through a domestic well and not supporting major agriculture or large acreage, you will likely be exempt from fees,” said Valerie Kincaid, an attorney with O’Laughlin and Paris.

GSAs are required to send notice to interested parties about GSP preparation, meetings and availability of draft documents.

The additional fee authority granted to a GSA following adoption of a GSP covers things such as one-time permit and inspection fees.

Fees could be charged to each pumper based on volume under the rationale that the more they use the more the agency will be required to do to manage. The GSA needs to set out a clear rationale for the amount of fees they are charging and tie those back to the regulatory program or they could be vulnerable to challenge under Proposition 218.

Proposition 218 was an adopted initiative constitutional amendment in the state of California on the November 5, 1996 ballot. Proposition 218 requires that all taxes and most charges on property owners are subject to voter approval and that fees for a “property-related” service be proportional to the costs of service to the property, and that property owners be charged only for services delivered to their properties. To increase utility rates under Proposition 218, a protest hearing must be held and should 50 percent plus one of those affected by the rates submit a valid protest, the rate increase may not go into effect. A GSA could enact a fee on the basis that all pumpers in a basin contribute to the costs of sustainable management regardless of whether they experience identical impacts from pumping or recharge activities. (The Association of California Water Agencies (ACWA) published a background paper on Proposition 218 in 2007. Access it here: <http://www.acwa.com/sites/default/files/documents/proposition218.pdf>.)

Interpreting SGMA fees will be guided, among other things, by a 2013 court decision called *Griffith v Pajaro River Water Management Agency*. In it, a fee applied to wells in the Pajaro River Valley was deemed acceptable to fund a project aimed at repelling saltwater intrusion caused by over-pumping.

An appellate court ruling in *City of San Buenaventura v. United Water Conservation District*, found that a groundwater pumping fee set for non-agricultural users at a higher rate than for agricultural users is not a property-related fee subject to review under Proposition 218.



Furthermore, the court denied that the fee is subject to Proposition 26, which requires a two-thirds majority vote on new taxes and fees. (California Constitution article XIII D, section 6). The court also rejected the argument that the challenged fees are taxes under Proposition 26 (California Constitution, article XIII C, section 1(e)). Rather, the court found that the fees are valid fees imposed under two exceptions to the definition of "tax" established under Proposition 26. The California Supreme Court has granted review of this decision. (Information about Proposition 26 is available in this publication prepared by ACWA in 2012 <http://www.acwa.com/sites/default/files/post/state-budget-fees/2012/07/prop-26.pdf>.)

In the other case, *Great Oaks Water Company v. Santa Clara Valley Water District*, issued March 26, the Sixth District Court of Appeal came to a contrary conclusion regarding the classification of the district's groundwater pumping fees. Here, the court found that the District's groundwater pumping fees are property-related fees subject to Proposition 218. This case is not under review by the California Supreme Court.

A three-tier charge was passed based on an election that was decided on a proportional scale based on each parcel's potential financial liability, determined by historical groundwater use. The election results were challenged based on whether Proposition 218 applied and an appellate court ruled that the agency's action's fell under conventional water service.

According to the law firm Brownstein Hyatt Farber Schreck, "the need for certainty over how to classify groundwater extraction fees is particularly acute given the financing authority GSAs now have under the new groundwater management legislation."

Some legal experts believe the blurred delineation between potential SGMA fees and their applicability to the two tax laws means determinations will likely be on a case-by-case basis.

"Ultimately, you have to look at the purpose of the fee and how its imposed," said Kelly Salt, an attorney with Best Best and Krieger in San Diego. "If it's for service that relates to property ownership, then it's Proposition 218. If not, it falls under the regulatory fee analysis under Proposition 26." (Approved by voters in 2010, Proposition 26 requires a two-thirds supermajority vote in the California state Legislature to pass many fees, levies, charges and tax revenue allocations that under the state's previous rules could be enacted by a simple majority vote.)

The ambiguity may stem from the drafting of the SGMA, which sought to avoid tying the fee structure to Proposition 218, according to Kincaid with O'Laughlin and Paris.

"You can impose a fee for anything," she said. "You can do a fee for extraction, a fee for the plan, for the management or development; it will be interesting to see how the GSAs will structure their fees, whether they will be based on service, based on extraction amounts or based on overlying acreage. There are going to be vague, unknown costs up front and that's going to be difficult."

The SGMA was amended in 2015 to further hone its intent, primarily to ensure that local agencies reach agreement to allow prompt designation of a GSA. The law now says that only high- and medium-priority basins not within a GSAs management must report to the State Water Resources Control Board. It clarifies the noticing process for becoming a GSA and clarifies the involvement of investor owned water companies and mutual water companies.

At this point in time it may be too early to tell what will happen with Proposition 26 and Proposition 218 as they related to potential SGMA fees; the picture will become clearer as GSAs are officially formed and then begin preparation of GSPs and consider how to finance the various aspects required under SGMA.

## **SGMA/Water Code Sections Related to Fees**

### **10725.4. INVESTIGATIONS**

- (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.

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

- (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.

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

- (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.

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

- (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 (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.

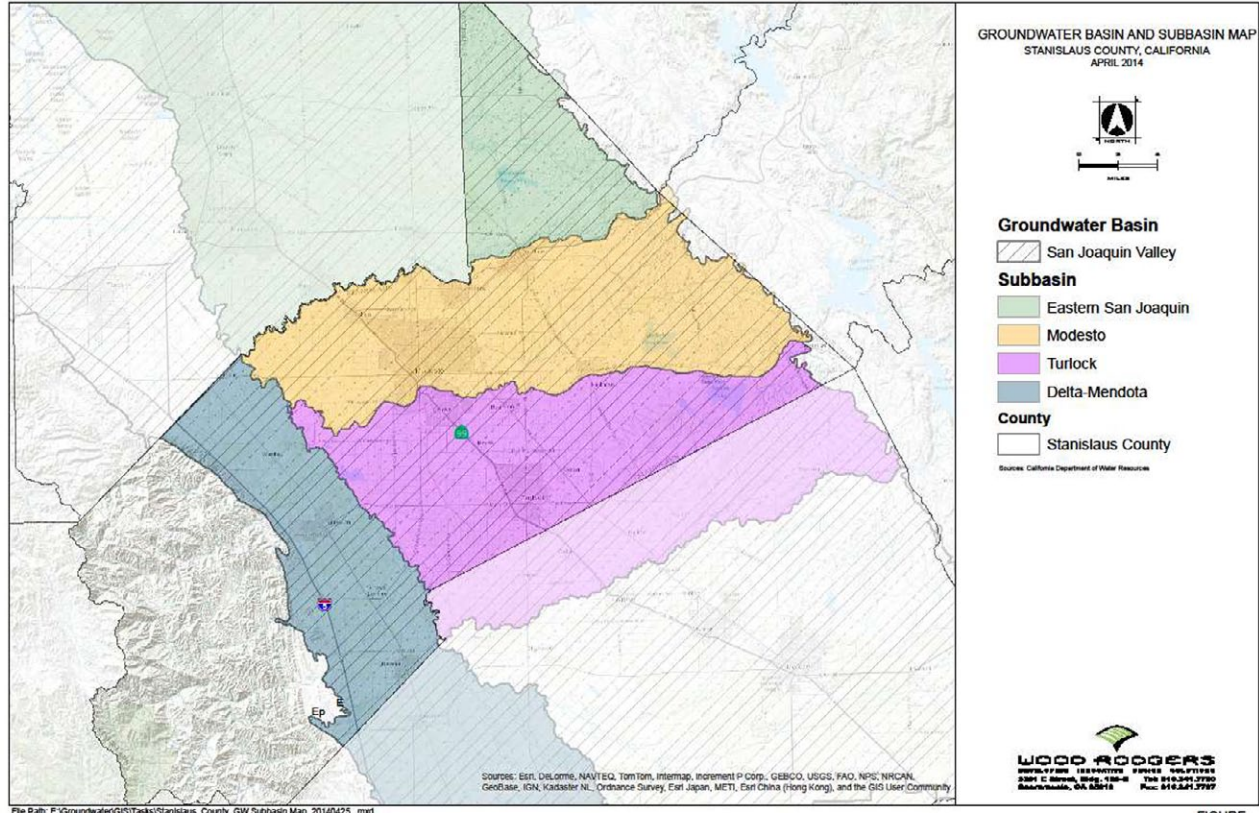
# Case Studies

Groundwater basins and county boundaries don't align so there are some areas in the state in which water agencies are assuming the dominant role in the steps to form a Groundwater Sustainability Agency (GSA) and other areas where the county is stepping forward. But for whoever steps forward now – or becomes engaged later on – there is one word of advice: coordination. Groundwater basins often underlie multiple counties, not to mention cities and water agency boundaries. And in some regions, there are other, major groundwater pumpers that are outside such boundaries. But somehow all these parties – along with a long list of other stakeholders – will need to be part of a GSA's boundaries in order to develop a plan to manage the groundwater basin.

## Stanislaus County

“Holding everyone together has been the challenge,” said Walt Ward, water resources manager for Stanislaus County. “So far the county has tried to be the convener, to build relationships and trust and let people know we’re not coming in as the new sheriff in town. We want to be seen as a partner because we have the land use authority.”

Ward, who retired from Modesto Irrigation District in 2013, has a long history within the region and he has spent much of his time going to service club meetings and other local citizen advocacy groups to get the word out about the Sustainable Groundwater Management Act (SGMA), the responsibilities of a GSA and to develop the groundwork for a cooperative program. In many ways



Stanislaus County includes portions of four groundwater basins.

Ward is serving as a “trust builder” for the county and the groundwater basins in the region as entities and individuals work to comply with SGMA.

Stanislaus County includes portions of four groundwater basins: Eastern San Joaquin, Modesto, Turlock and Delta-Mendota. The majority of the county is represented by the Modesto and Turlock subbasins in the greater San Joaquin Valley Groundwater Basin. The Modesto subbasin covers 274,000 acres. It is comprised of land primarily in the Modesto Irrigation District and the southern two-thirds of the Oakdale Irrigation District. The city of Modesto is in the southwestern portion of the subbasin.



The Stanislaus and Tuolumne Rivers’ Groundwater Basin Association (STRGBA) formed in 1994 under a Memorandum of Understanding (MOU). Its membership currently includes nearly all the local agencies within the Modesto subbasin. It has made a commitment to be the GSA for the Modesto subbasin and is reaching out to other local agencies.

The Turlock subbasin covers 347,000 acres. It includes lands in the Turlock Irrigation District, the cities of Ceres and Turlock, the Eastside Water District, and a small portion of Merced Irrigation District. Many of these districts have surface water sources. The Turlock Groundwater Basin Association was formed in the early 1990s with 15 local agencies cooperating. An official MOU was adopted in 1995 and the first subbasin groundwater management plan was adopted in 1997. A 2008 update established basin management objectives.

In the northern part of the county, there is a triangular section of land that falls into the Eastern San Joaquin basin. This is an area, Ward said, the California Department of Water Resources (DWR) has designated as a basin in critical overdraft conditions. It’s also a region in which much of the interest in water issues is centered on the nearby Sacramento-San Joaquin Delta.

Along the county's western border is yet a fourth basin: the Delta-Mendota basin. This basin, which goes all the way south to Fresno and then north to Tracy, includes Mendota, Patterson and Newman. It has a different geology than the rest of Stanislaus County and has issues related to subsidence. Parts also are reliant on water from the Central Valley Project and State Water Project where decreases in Delta exports often results in a corresponding increase in groundwater pumping.

Stanislaus County is committed to working with interests in both of these areas to help with GSA formation and ultimate implementation of a GSP.

"Everyone's used to being in their own silos and they could get away with that in the old days, but times have changed and now it's a collaboration in our county," said Terry Withrow, who serves on the Stanislaus County Board of Supervisors. He believes under the SGMA there ultimately will be four GSAs in the county with a coordinating committee overseeing the four basins and making them coordinate. "The whole goal is sustainability in this region and in this county."

Ward wants the various governmental entities, interest groups and other stakeholders to coordinate data and other information they obtain through hydrogeologists and other consultants and develop a shared mapping of monitoring wells, public wells and private wells, and coordinate data so they are reported upon in similar fashion and can be used by multiple entities – something that some might be reluctant to do.

Given "the significance of what this legislation provides," Ward said, "I don't see it succeeding unless it comes from the ground up."

Ward's final words of advice for other regions? "Get on the horse right now and go. At least create the venue and the forum to bring people into the same room to see if you can reach agreement."

## **Kern County**

The Kern County groundwater subbasin covers almost 2 million acres, with estimated water storage of 40 million acre-feet. A 40-year span of pumping caused 8 feet of subsidence in the north-central portion of the subbasin, and about 9 feet in the south-central area, according to DWR.

Kern County is an agricultural breadbasket and ground zero in the groundwater crisis. As such, it offers a key test in determining how an effective, long-term GSP can be used.

It's not just agriculture that stands to be affected. Oil production, manufacturing and urban development will all have to be accounted for as stakeholders first form a GSA by 2017 then a GSP 2020. The Kern County basin is included on the draft list of critically overdrafted basins issued in August 2015.



*Rolling hills and mountains rise behind vineyards in southern San Joaquin Valley.*

The Tulare Lake Hydrologic Region includes the Kern County groundwater subbasin.



“If we don’t come up with a plan that is approved by DWR they will come in to any basin that doesn’t achieve those things, and they will tell you how you are going to run your business,” Kern County Supervisor David Couch said June 15. “They will tell you how much groundwater you are going to pump, when you are going to pump it, and how you are going to do it.”

The threat of a state-imposed mandate is an underlying motivation for the county to create a plan that everyone feels they can live with.

“We actually have a governing body it was put together before [SGMA] was adopted,” said Eric Averett, general manager of the Rosedale-Rio Bravo Water Storage District. “What we are talking about now is how do we amend or modify it to accommodate some of the specific requirements of

the Act. We formed a joint powers authority, a coordination structure that had voting officers and a board and funding language but we did not deal with some of the specifics of what would be required with SGMA. Right now we are proposing the amendments that would allow us to transition from the coordinating entity to a GSA-type entity.”

The JPA has been “walking through” different management approaches with more than 20 stakeholders, said Averett, adding that the majority favor a single GSA. The JPA resulted in formation of the Kern Groundwater Authority in 2014.

“It’s been very cooperative and very positive,” he said.

Meanwhile, small steps are being taken in the quest to understand the nature of the groundwater basin with much work yet to be completed.

“If you are going to climb Mount Whitney, we are at the first base camp,” Averett said. “We are looking up and it’s a very long way to go.”

That process includes gathering knowledge from different areas to get a comprehensive understanding of what the view is from the basin perspective.

“We have a big puzzle and everyone knows what their piece looks like but we have never put them together,” Averett said.

The answer lies through means such as satellite technology, which quantifies the amount of evapotranspiration from plants into the atmosphere to determine consumptive demand.

How the evolving plan intersects with Integrated Regional Water Management (IRWM) remains to be seen.

“We have been handling them as two different processes,”

Averett said. “We have two IRWMs in this basin and I think intuitively as we get further along, people will start to see those connections and bring that discussion into the process.”

Fees are being evaluated.

“We have not looked into any kind of fees; we are being funded by the water district participants,” he said. “There will be administrative fee for cost of developing the GSA; things not tied to the delivery of water. Fees will be area-specific. Some GSAs will fold the costs in. Others will need to recoup those costs because of new staff and consultants.”

## **The Pajaro Valley**

The Pajaro Valley relies almost entirely on groundwater for supply, 85 percent of the water is used by agriculture, with another 13 percent used by the city of Watsonville and smaller mutual water districts. There are many individual, smaller wells that serve rural residents. The valley grows high-value crops



*DWR Engineering Geologist Chris Olvera performs a groundwater depth monitoring procedure in Kern County.*



## Members of the Kern County Groundwater Authority

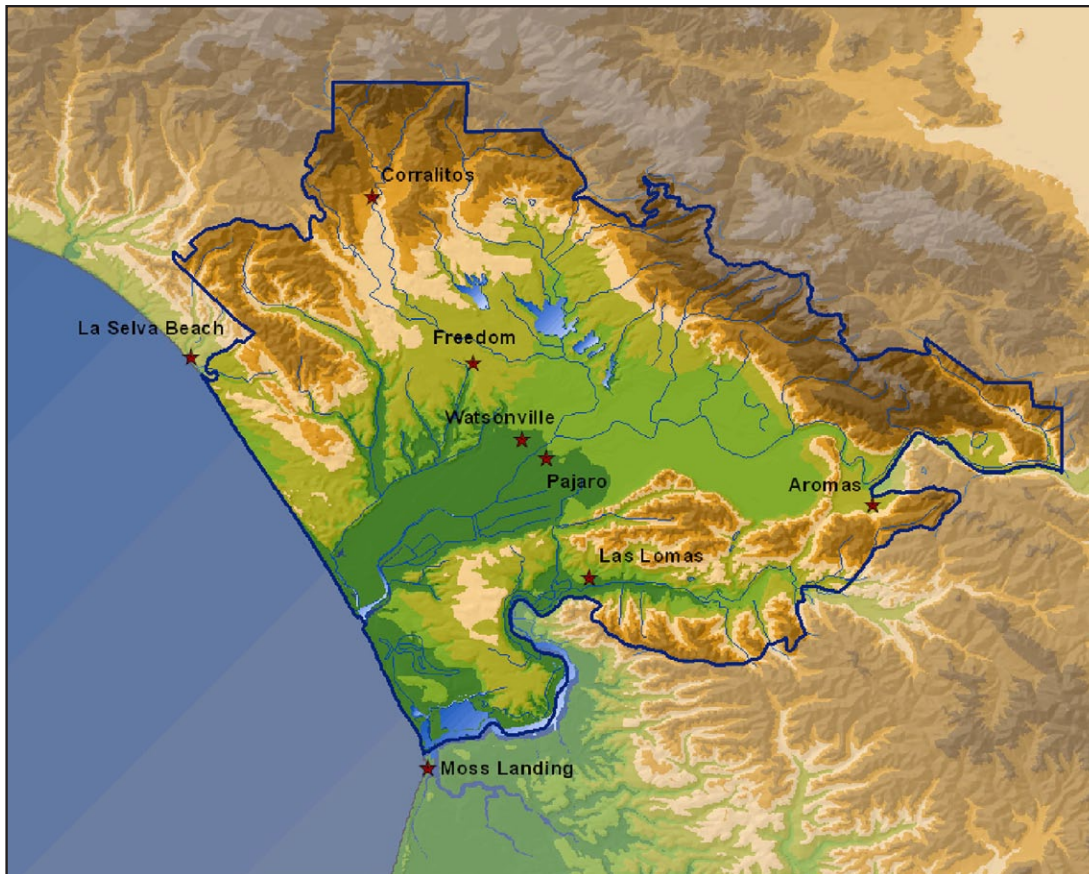
Arvin-Edison Water Storage District  
Buena Vista Water Storage District  
Cawelo Water District  
City of Shafter  
Kern County Water Agency Improvement District 4  
Kern County Water Agency  
Kern County  
Kern Delta Water District  
Kern-Tulare Water District  
Kern Water Bank Authority  
North Kern Water Storage District  
Olcese Water District  
Rosedale-Rio Bravo Water Storage District  
Semitropic Water Storage District  
Shafter-Wasco Irrigation District  
Southern San Joaquin Municipal Utility District  
Tejon-Castaic Water District  
West Kern Water District  
Westside District Water Authority  
Wheeler Ridge-Maricopa Water Storage District

such as strawberries, raspberries, blackberries, lettuce and artichokes. It is located north of the Salinas Valley along the Monterey Bay and spans Santa Cruz, Monterey and San Benito counties.

In 1980, DWR issued Bulletin 118-80, which identified 447 separate groundwater basins, subbasins and areas of potential groundwater storage throughout California. Eleven basins were identified as being in a critical overdraft – including the Pajaro Valley Basin. Community leaders recognized that local management of the basin was needed to halt seawater intrusion, which was impacting the groundwater supply for large areas of coastal farmland as well as domestic water supply wells.

In 1984 the Pajaro Valley Water Management Agency (PVWMA) was established. A state-chartered water management district, the Agency's was formed "to efficiently and economically manage existing and supplemental water supplies in order to prevent further increase in, and to accomplish continuing reduction of, long-term overdraft. The Agency also works to provide and ensure sufficient water supplies for present and future anticipated needs within its boundaries, generally the greater coastal Pajaro Valley." The seawater intrusion dates back to the 1950s, as identified in Bulletin 5, published in 1953 by DWR. In DWR's draft list of critically overdrafted basins issued Aug. 6, 2015, the Pajaro Valley is listed.

The Pajaro Valley basin as defined by DWR's Bulletin 118 covers 76,800 acres (120 square miles) and is bounded to the west by Monterey Bay and to the east by the San Andreas Fault, adjacent pre-



*Topographic and water features of the Pajaro Valley.*

Quaternary formations, and the Santa Cruz Mountains beyond. The Agency’s boundaries were drawn as closely as possible to match the same basin boundaries described in Bulletin 118-80.

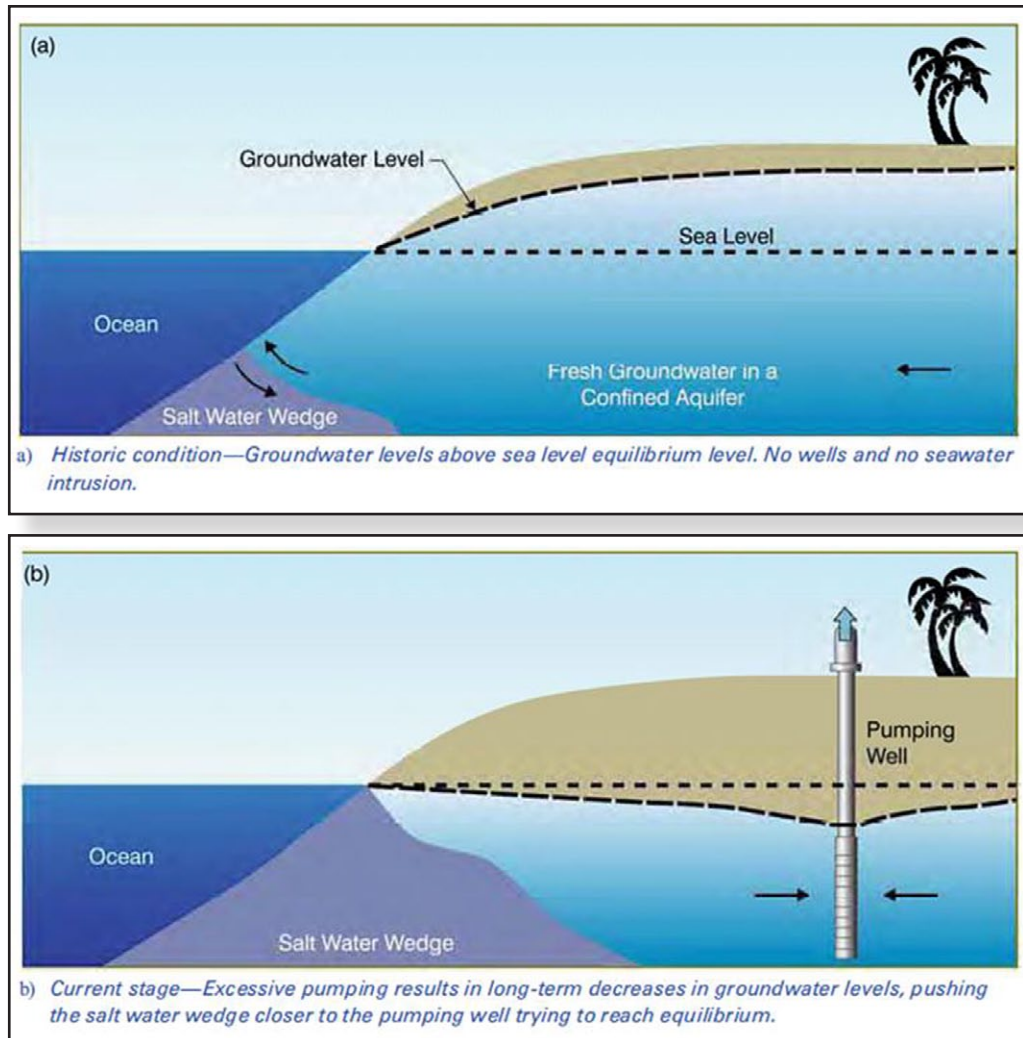
The PVWMA began managing the groundwater basin in the mid-1990s. It wasn’t easy as the new Agency introduced efforts to monitor pumping and levy fees to help finance water conservation measures and construct water recycling/groundwater recharge projects. Farmers resisted the program at first as meters were applied to their groundwater wells. “Telling a farmer to put a meter on a well sometimes can cause a visceral, emotional reaction,” said PVWMA General Manager Mary Bannister. “We have had extraction meters on wells since the emid-1990s so we already faced what other areas are now facing.”

However, 30 years later there is no longer significant pushback to the well metering program, Agency staff say, and given the importance of these projects in combination with the severity of the groundwater overdraft, many growers have come to support the Agency and its projects and programs. This was especially apparent during a two year, highly collaborative effort by a 21 member stakeholder (Ad Hoc Basin Management Planning) committee to develop an update to the Agency’s long-term water solutions plan.

Under SGMA Pajaro Valley is identified as a “high priority” basin which means it must have a Groundwater Sustainability Plan (GSP) in place by 2020 with a balanced groundwater basin required by 2040. Under section 10723 of the law, the existing PVWMA could serve as the GSA for the region –

When groundwater levels near the coast fall to near or below mean sea level, there is a natural physical tendency for seawater to flow into the groundwater basin, especially if it is in overdraft conditions.

The problem of seawater intrusion in the Pajaro Valley dates back to the 1950s. Source: Basin Management Plan of Pajaro Valley (Carollo, 2012)



giving the basin a head start in its efforts to adopt a plan and achieve a balance between groundwater use and supply. Bannister formally submitted to the Board such a proposal on Aug. 18. The Board voted in favor of becoming a GSA.

“With SGMA some of our growers now see us as a poster child: decades ahead of the other basins,” she said.

Although the PVWMA has established a record of success in developing a multi-stakeholder basin management plan (updated and adopted in 2014 just before SGMA was passed by the Legislature) the Agency has had some hiccups along the way – including losing a lawsuit related to fees levied on groundwater extraction. On May 21, 2007 the 6th District Court of Appeal in San Jose ruled that a groundwater extraction charge levied to fund groundwater basin replenishment and other water supply programs was a property related fee subject to Proposition 218 in *Pajaro Valley Water Management Agency v. Amrhein*, and the district had to repay \$12 million.

After losing the lawsuit, the Agency made a more concerted effort at transparency Brian Lockwood, senior water resources hydrologist for the PVWMA. The Agency redoubled its efforts at transparency, simplified the budget and those efforts have resulted in a positive difference in how the

water users view the Agency. What helped, in part, is the \$100 million worth of projects completed since 2000, including a recycled water facility, managed aquifer recharge and recovery facility and 20 miles of pipeline. The Agency was awarded several grants, which essentially provided half the required funding to construct the facilities, reducing costs to growers. Between 2002 and 2014 the Agency has delivered over 25,500 acre-feet of supplemental irrigation water to the coastal area, reducing groundwater production in the most impacted zone of the Pajaro Valley. The managed aquifer recharge facility successfully recharged over 7,000 acre-feet of surface water over that same time period; water that would have otherwise flowed into the ocean. But the Pajaro Valley water users still pump nearly twice the sustainable yield of the valley's groundwater basin annually, resulting in basin-wide groundwater overdraft.

Agency staff and managers, along with two community-initiated agricultural stakeholder groups (primarily composed of local landowners and growers), are currently working to improve the Agency's groundwater management and conjunctive use program through an ongoing basin-wide "Basin Management Plan" (BMP) process. The BMP, adopted in 2014, aims to not only continue to develop projects to more efficiently recycle and recharge treated wastewater but to also focus on irrigation efficiency and conservation by training growers to help them learn ways to use water more efficiently while not lowering productivity. The next step would be to determine if the BMP would work as the GSP.

But the continuing implementation of these projects and ultimately working to eliminate the overdraft will take money. Subsequent to the losing lawsuit, the PVWMA established a different fee structure, which was upheld in 2013 by court of appeal. The court held in *Griffith v. Pajaro Valley Water Management Agency* that the Agency's groundwater augmentation charges are water service fees.

Landowners in the Agency boundaries subsequently approved a rate increase earlier this year under terms of Proposition 218, in which each well owner has an equal right to protest. The fee was effective July 1, 2015. Although the PVWMA succeeded in raising the rates, Bannister said the fact that people with small wells that are not metered could have an equal say on the topic as the 800 big irrigation wells is an example of the problems other agencies might face as they work to develop a fee structure to implement the GSP.

The new recycled water facility went on line in 2009 and has been producing a valuable source of irrigation water throughout the drought. This water supply has helped the Pajaro Valley weather the current drought. But Lockwood said a problem with explaining the magnitude of our situation is that



*The Pajaro Valley grows high-value crops such as artichokes.*

growers and residents “can’t see the bathtub rings like you can with the surface water reservoirs as groundwater levels drop.”

“The valley has been experiencing a one-half foot to two feet decline per year in groundwater levels over the last few years,” he said. “But people can’t see the water level going down. We are



*PVWMA's water recycling facility went on line in 2009.*

working hard to explain the importance of conserving water.” So far, the Valley has not seen a reduction in irrigated agriculture or acreage produced so the Agency is working with partners to show growers how to make more efficient use of their water. Public education is key.

“SGMA is the most important legislation in California in 100 years,” said Bannister, who has worked for the Agency for 16 years. But she is concerned about other regions meeting the 2020 or 2022 deadline (depending if it’s a critical basin or not) for having a GSP in place, noting that it took the PVWMA years to create a plan and implement it. “There’s no silver bullet. Until we embraced what the locals said, we didn’t make that much progress.” Other

agencies and regions, she said, should move to get all the stakeholders in the room and initiate a good facilitation process.”

## **The Colusa Subbasin**

The Colusa subbasin is part of the larger Sacramento Valley groundwater basin. The 1,434-square-mile subbasin is bounded on the east by the Sacramento River, on the west by the Coast Range and foothills, on the south by Cache Creek, and on the north by Stony Creek. Most of the basin is in Colusa, Glenn and Yolo counties with a tiny portion in Tehama County.

Groundwater is a vital source of water in the Colusa subbasin, providing 26 percent of the water used by agriculture and 100 percent of urban needs according to DWR. The subbasin is classified by DWR as a medium priority basin under SGMA, meaning a GSP must be adopted by 2022.

In addition to the four counties, numerous cities and water purveyors overlie the Colusa subbasin – in fact, there are approximately 50 agencies that meet the SGMA requirements within the four county area that could perform the role of a GSA.

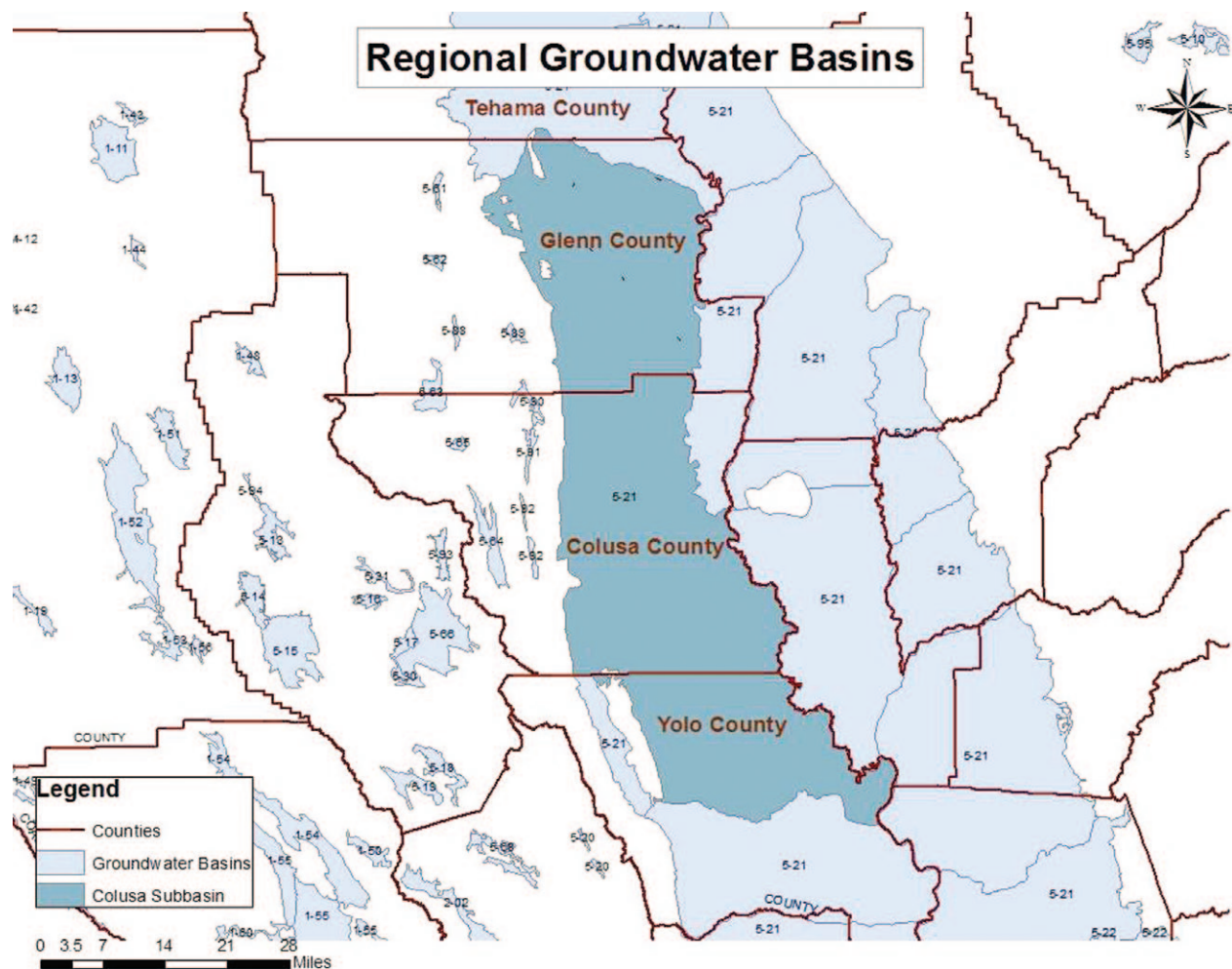
As of Sept. 15, 2015, 10 entities had submitted to DWR a notification of GSA formation for at least a portion of the Colusa subbasin. This multitude of filings, should they all proceed, would result in overlapping GSA boundaries – leading to the question “what happens then?”

The original SGMA legislation required that multiple GSAs within a given Bulletin 118 groundwater basin coordinate and use the same data and consistent methodologies for technical assumptions

when developing GSPs, but it did not address the ultimate authority in a case of overlapping. For stakeholders, the issue of overlapping boundaries raised a long list of concerns at the local level – primarily whether the state would then have authority to choose one GSA or GSP in a case of overlapping boundaries.

Cleanup legislation, SB 13, signed in September 2015 by Gov. Jerry Brown, addressed this and several other details related to the original legislation. According to Tina Cannon Leahy, principal consultant for the Assembly Committee on Water Parks and Wildlife, the revisions to SGMA (to go into effect Jan. 1, 2016) “simplifies and clarifies the SGMA notice process for becoming a GSA by eliminating redundant and confusing notice provisions and specifying that overlapping, uncoordinated notices must be resolved locally before taking effect.”

For many stakeholders in the Colusa subbasin, the goal now is to find a collaborative solution at the local level to avoid multiple, overlapping GSAs and applications have been filed with DWR for its Facilitation Support Services. Both Glenn and Colusa counties filed to be the GSA for the area of the Colusa subbasin underlying each county’s boundaries.

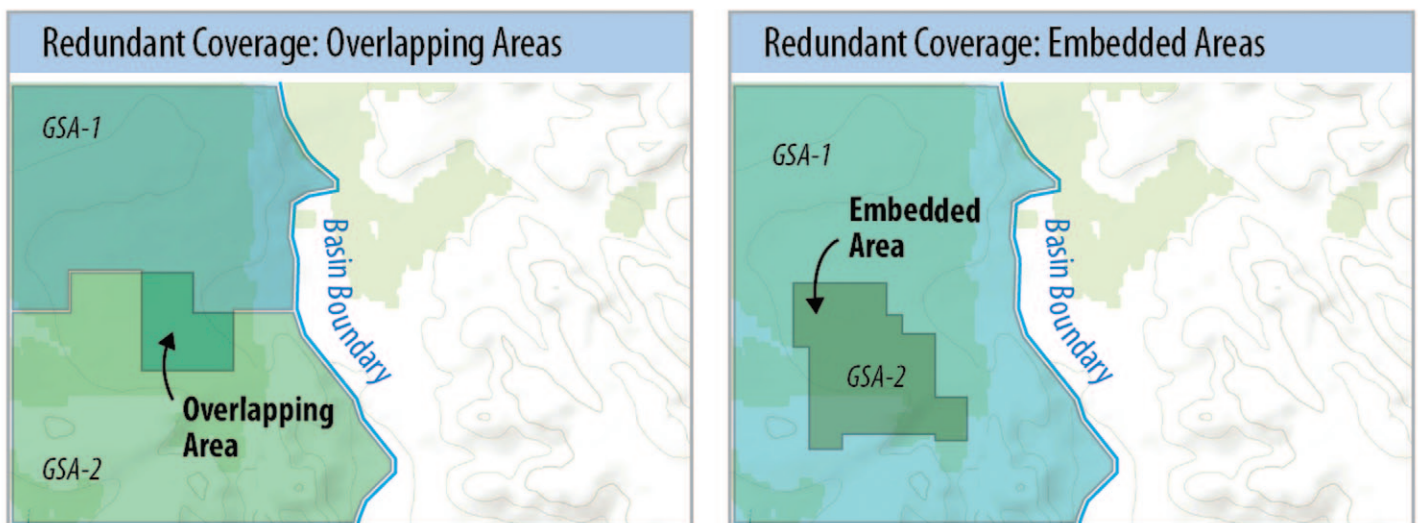


Map of the Colusa subbasin and the overlying counties.

In some ways the multiple filings to become a GSA are like the old “race to the pump house” when a groundwater basin enters a court adjudication process – it was all about local control over groundwater. The existing law set several deadlines for GSA formation, including provisions that the entity that files its intent with DWR “is presumed the exclusive groundwater sustainability agency 90 days following the posting of notice, provided that no other notice was submitted.”

“[Several] small districts rushed to file to be GSAs before we could get together and have [formal] discussions,” said Mary Fahey, Colusa County water resources coordinator. “Then the county filed and then other districts decided they better file, too.” She said town hall meetings conducted prior to the multiple GSA applications indicate that the agencies will be able to cooperate with one another.

The amendments included in SB 13, according to the Legislative Counsel’s Digest, “would require local agencies to seek to reach agreement to allow prompt designation of a groundwater sustainability agency. This bill would require a new notice to be submitted and the department to post notice if agreement is reached by the local agencies involving a material change from the information in the posted notice. This bill would require the department [DWR] to post only complete notices it receives.”



DWR illustration of overlapping GSAs where (left) some small areas overlap (possibly unintentionally), or (right) where one small GSA is fully embedded within the boundaries of one or more larger GSAs.

“We need to sit down and find out why some of these smaller agencies want to be the GSA or what part of the GSA they want to take part and see if there is an opportunity to form a JPA or some other type of joint governance,” said Lisa Hunter, water resource coordinator for Glenn County.

With a subbasin as large as Colusa, the end result likely will be the formation of multiple GSAs, with the hope of cooperation on one GSP or several coordinated GSPs that sets uniform policies to collect data, assess fees and develop overall management plans for the groundwater basin.

Boundaries for all the groundwater basins and subbasins in California were established by DWR in its Bulletin 118, *California’s Groundwater*, last updated in 2003. These boundaries are in effect under

As of Sept. 15, these entities had filed to be the GSA for at least a portion of the Colusa subbasin:

- City of Orland
- Colusa County
- Colusa County Water District
- Dunnigan Water District
- Glenn County
- Glenn-Colusa Irrigation District
- Glide Water District
- Kanawha Water District
- Orland-Artois Water District
- Provident Irrigation District and Princeton-Cordora-Glenn Irrigation District

SGMA unless DWR approves a change. DWR released draft emergency regulations in July that outline parameters for potential boundary changes. DWR must adopt final regulations by Jan. 1, 2016.

In its draft emergency regulations, DWR said such boundary changes would fall under two main classifications:

- A scientific modification to a basin boundary based on the geologic or hydrologic conditions that define a groundwater basin
- A jurisdictional modification to a basin boundary consists to promote the adoption and implementation of effective sustainable management plans and enhance local management of groundwater, including an internal boundary modification, basin consolidation, including county basin consolidation, or a basin subdivision

DWR also could grant a boundary modification outside these two categories “based on information the Department deems adequate to evaluate the modification in accordance with section 10722.2 of the Water Code.”

Fahey predicts the GSA process for the Colusa subbasin will proceed on a dual track for now as entities try to work together with facilitated meetings to determine the best governance structure(s) for their areas. “At the county level, it may be easier if there is a boundary change,” Fahey said, “but even if you adjust the basin boundary you still have to cooperate with the neighboring county,” adding that she does not anticipate Colusa County filing for a basin boundary adjustment.

Another challenge: the private pumpers who are not within the boundaries of a water district or other governmental entity. Under SGMA those pumpers will have to be included in a GSA and GSP; if not, they will be presumed to be within the appropriate county. SGMA addresses unmanaged areas or “white spaces” within a groundwater basin through the presumption that the overlying county(s) will become the responsible GSA(s) for these areas (Water Code §10724(a)). If the overlying county(s) notifies DWR that it will not be the GSA for the “white spaces” per Water Code §10724(b), the unmanaged areas would be subject to intervention by the State Water Resources Control Board. The



goal would be for these pumpers to join a GSA and agree to the terms and conditions of groundwater measurement, monitoring and management.

Approximately 40 percent of the Glenn County portion of the basin is non-jurisdictional (unorganized) private pumpers.

Hunter said that Glenn County has two additional groundwater basins within its boundaries that will be undergoing development of GSAs and GSPs under SGMA, including the Corning subbasin and the West Butte subbasin.

Noting the 2017 deadline to identify a GSA with only a few more years until a GSP must be created; Hunter said all the governmental entities and other stakeholders face a long list of tasks and a compressed deadline. Not only must they determine the basic facts of the basin and how to continue to monitor it and collect data, funding is a big issue – how to potentially charge users and assess fees to finance ongoing and future activities.

She is hoping the requested DWR facilitation will “help people begin thinking about how they’re going to participate.”

# Sustainable Groundwater Management Act

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

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

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## Sustainable Groundwater Management Act

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

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

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

(3) The local agency formation commission.

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**1831. CEASE AND DESIST ORDERS**

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

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

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

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

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

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

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

(4) A regulation adopted under Section 1058.5.

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

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

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

### **5200. FINDINGS**

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

### **5201. DEFINITIONS**

As used in this part:

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

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

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

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

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

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

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

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

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

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

**5202. APPLICABILITY OF EXTRACTION REPORTING REQUIREMENTS**

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

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

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

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

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

(1) An extraction by a de minimis extractor.

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

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

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

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

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

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

**5203. EXTRACTION REPORTING REQUIREMENTS**

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

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

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

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

(d) The capacity of the groundwater extraction facilities.

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

(f) The purpose of use.

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

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

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

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

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

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

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

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

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

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

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

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

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

**5208. ENFORCEMENT**

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

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

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

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

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

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

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

**10720. TITLE**

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

**10720.1. LEGISLATIVE INTENT**

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

(a) To provide for the sustainable management of groundwater basins.

(b) To enhance local management of groundwater consistent with rights to use or store groundwater and Section 2 of Article X of the California Constitution. It is the intent of the Legislature to preserve the security of water rights in the state to the greatest extent possible consistent with the sustainable management of groundwater.

(c) To establish minimum standards for sustainable groundwater management.

(d) To provide local groundwater agencies with the authority and the technical and financial assistance necessary to sustainably manage groundwater.

(e) To avoid or minimize subsidence.

(f) To improve data collection and understanding about groundwater.

(g) To increase groundwater storage and remove impediments to recharge.



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

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

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

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

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

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

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

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

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

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**10720.7. PLANNING DEADLINES**

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) By April 1, 2016, submit to the department a copy of a governing final judgment, or other judicial order or decree, and any amendments entered before April 1, 2016.

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

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

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

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

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

## CHAPTER 2. Definitions

**10721. DEFINITIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Significant and unreasonable reduction of groundwater storage.

(3) Significant and unreasonable seawater intrusion.

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

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

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

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

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

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

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

### CHAPTER 3. Basin Boundaries

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



- (A) Alameda County Flood Control and Water Conservation District, Zone 7.
- (B) Alameda County Water District.
- (C) Desert Water Agency.
- (D) Fox Canyon Groundwater Management Agency.
- (E) Honey Lake Valley Groundwater Management District.
- (F) Long Valley Groundwater Management District.
- (G) Mendocino City Community Services District.
- (H) Mono County Tri-Valley Groundwater Management District.
- (I) Monterey Peninsula Water Management District.
- (J) Ojai Groundwater Management Agency.
- (K) Orange County Water District.
- (L) Pajaro Valley Water Management Agency.
- (M) Santa Clara Valley Water District.
- (N) Sierra Valley Water District.
- (O) Willow Creek Groundwater Management Agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## CHAPTER 5. Powers and Authorities

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

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

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

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

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

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

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

### **10725.4. INVESTIGATIONS**

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

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

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

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

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

**10725.6. REGISTRATION OF EXTRACTION FACILITIES**

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

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

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

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

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

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

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

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

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

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

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A groundwater sustainability agency may do the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## CHAPTER 6. Groundwater Sustainability Plans

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

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

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

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

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

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

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**10727.2. REQUIRED PLAN ELEMENTS**

A groundwater sustainability plan shall include all of the following:

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

(1) Historical data, to the extent available.



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

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

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

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

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

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

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

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

(i) Demonstrates a need for an extension.

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

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

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

(c) A planning and implementation horizon.

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

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

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

(3) Mitigation of overdraft.

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

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

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

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

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

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

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

(a) Control of saline water intrusion.

(b) Wellhead protection areas and recharge areas.

(c) Migration of contaminated groundwater.

(d) A well abandonment and well destruction program.

(e) Replenishment of groundwater extractions.

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

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

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

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

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

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

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

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

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

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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.

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

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.

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

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

## CHAPTER 7. Technical Assistance

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

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

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

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

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

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

## CHAPTER 8. Financial Authority

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **10732. CIVIL PENALTIES**

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

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

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

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



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

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

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

## CHAPTER 10. State Evaluation and Assessment

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The groundwater sustainability plans.

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

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

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

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

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

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

(b) An alternative is any of the following:

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

(2) Management pursuant to an adjudication action.

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

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

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

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

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

## **CHAPTER 11. State Intervention**

#### **10735. DEFINITIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**10735.8. INTERIM PLANS**

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

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

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

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

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

(c) The interim plan may include the following:

(1) Restrictions on groundwater extraction.

(2) A physical solution.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

**10736.2. CEQA APPLICABILITY**

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

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

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

**10736.6. REPORTS AND INSPECTIONS**

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

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

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

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

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

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**[PART 2.75. Groundwater Management]**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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