

AGENDA
Borrego Water District Board of Directors
Special Meeting
February 17, 2015 9:00 a.m.
806 Palm Canyon Drive
Borrego Springs, CA 92004

I. OPENING PROCEDURES

- A. Call to Order
- B. Pledge of Allegiance
- C. Roll Call
- D. Approval of Agenda
- E. Comments from Directors and Requests for Future Agenda Items
- F. Comments from the Public and Requests for Future Agenda Items (comments will be limited to 3 minutes)

II. CURRENT BUSINESS MATTERS

- A. Public meeting to discuss Groundwater Sustainability Plan Policy Recommendations
 - a. Borrego Water Coalition Policy Recommendations (3-8)
 - b. Downey Brand article on Groundwater Legislation (9-13)
 - c. Association of California Water Agencies (ACWA) Groundwater Fact Sheet (14-15)
 - d. ACWA Frequently Asked Questions (16-18)
 - e. BWD Frequently Asked Questions (19-20)
 - f. Timeline (21)
 - g. Borrego Valley Groundwater Basin Historical Delineations (22)
 - h. Sustainable Groundwater Management Act (23-75)
- B. Review of Town Hall agenda (76)
- C. Solar Request For Proposal Presentation, discussion and possible approval (77-98)
- D. Discussion of potential agenda items for February 25th board meeting

III. CLOSING PROCEDURE

The next Regular Meeting of the Board of Directors is scheduled for February 25, 2015 at the Borrego Water District.

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BORREGO WATER COALITION MEMBER LIST

November 6, 2014

| # | NAME | INTEREST AREA | AFFILIATION |
|----|----------------------------|---|---|
| 1 | Bill Bauer | Agriculture | AAWARE/Borrego Farms |
| 2 | David Bauer (alternate) | Agriculture | AAWARE/Borrego Farms |
| 3 | Dennis Jensen | Agriculture | AAWARE/Oasis Ranch Management |
| 4 | Duane Young | Agriculture | AAWARE/Cocopah Nurseries |
| 5 | Jim Seley | Agriculture | AAWARE/Seley Ranches |
| 6 | Mike Seley (alternate) | Agriculture | AAWARE/Seley Ranches |
| 7 | Ryan Hall (alternate) | Agriculture | AAWARE/Borrego Farms |
| 8 | Bill Berkley | Recreation | Rams Hill Partners/Rams Hill Golf Course |
| 9 | Dan Wright | Recreation | The Springs at Borrego and Road Runner Club |
| 10 | Jack Cameron (alternate) | Recreation | Borrego Springs Resort & Spa |
| 11 | Jim Moxham | Recreation | Borrego Springs Resort & Spa |
| 12 | Jim Wermers | Recreation | de Anza Country Club |
| 13 | Beth Hart | District Rate Payers; Registered Voters | Borrego Water District |
| 14 | Jerry Rolwing | District Rate Payers; Registered Voters | Borrego Water District |
| 15 | Lyle Brecht | District Rate Payers; Registered Voters | Borrego Water District |
| 16 | Marshal Brecht (alternate) | District Rate Payers; Registered Voters | Borrego Water District |
| 17 | Anne Bogardt (alternate) | School District | Borrego Springs Unified School District |
| 18 | Martha Deichler | School District | Borrego Springs Unified School District |
| 19 | Jim Wilson | Public Use Area | Christmas Circle Community Park Foundation |
| 20 | Linda Haddock | Commercial Businesses | Borrego Springs Chamber of Commerce |
| 21 | Jack McGrory | Resorts and Lodging | La Casa Del Zorro Resort & Spa |
| 22 | Casey Brown (alternate) | Resorts and Lodging | La Casa Del Zorro Resort & Spa |
| 23 | Kathy Dice | Watershed & Desert Ecosystems | Anza-Borrego Desert State Park |
| 24 | Paige Rogowski (alternate) | Watershed & Desert Ecosystems | Anza-Borrego Foundation |
| 25 | Ralph Singer | Watershed & Desert Ecosystems | Anza-Borrego Foundation |
| 26 | Laura Peters | not applicable; non-voting member | CA Department of Water Resources |
| 27 | Tim Ross | not applicable; non-voting member | CA Department of Water Resources |
| 28 | Jim Bennett | not applicable; non-voting member | San Diego County Planning & Dev. Services |

For assistance with contacting one of your representatives, contact Linda Haddock, Executive Director, Borrego Springs Chamber of Commerce at (760) 767-5555 or lhaddock@bscvb.com, or Dorian Fougeres, Facilitator, Center for Collaborative Policy, CSUS at (916) 531-3835 or dfougeres@ccp.csus.edu

BORREGO WATER COALITION
GROUNDWATER MANAGEMENT
POLICY RECOMMENDATIONS

This document articulates policies the Borrego Water Coalition’s (BWC; “the Coalition”) members recommend to the Borrego Water District’s (BWD; “the District”) Board of Directors (“the Board”).¹

The Coalition recommends the inclusion of the following policies in the Borrego Valley’s Groundwater Sustainability Plan (GSP) required under the Sustainable Groundwater Management Act (SGMA; the Act; collectively SB 1168, SB 1319 and AB 1739, as amended):²

- (1) The Coalition recommends a Physical Solution of sufficient reductions in Basin withdrawals from the baseline in order to achieve a Sustainable Yield goal of approximately 5,600 acre-feet per year (AFY).³ These reductions shall be achieved at a minimum within a 20-year period beginning no later than January 31, 2020, with 5-year minimum interim reduction targets of ⁴:

No Later Than February 1, _____:

- a. 2025: approximately 20% from the Baseline
- b. 2030: approximately 40% from the Baseline
- c. 2035: approximately 60% from the Baseline
- d. 2040: approximately 70% from the Baseline⁵

¹ See Memorandum of Understanding for Borrego Water Coalition dated March 29, 2013 at: http://water.manager.borregospringschamber.com/bwc/documents/BWCMOUFinal-Revision_12-05-13.pdf.

² The Act establishes that it is the policy of the State of California that groundwater resources be managed sustainably for long-term water reliability and multiple economic, social, or environmental benefits for current and future beneficial uses [SB 1168, Section 1.(a)].

³ United States Geological Survey, 2014, “Hydrogeology, Hydrologic Effects of Development, and Simulation of Groundwater Flow in the Borrego Valley, San Diego County, California. Draft Report.” Claudia C. Faunt, Christina L. Stamos, Peter Martin, Lorraine E. Flint, Michael T. Wright, Matthew K. Burgess, Michelle Sneed, Justin Brandt, and Alissa L. Coes.

⁴ January 31, 2020 is the final due date established by the SGMA legislation for a basin in critical overdraft to have a GSP approved by DWR. All GSPs must include a reduction schedule with no more than 5-year benchmarks. A GSP may be approved and commence without penalty at any date before this final date.

⁵ The precise percentage is the amount necessary to achieve Sustainable Yield. This percentage reduction will be refined during the GSP period based on difference of actual withdrawals from the Sustainable Yield goal.

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- (2) The Coalition recommends a Baseline be established for each Owner based on either documented metered usage or on estimated average annual usage for the 10-year period 2004-2014 that fairly establishes historical Production at full operation;
- (3) The Coalition recommends that the GSP include an annual Non-Compliance Fee based on an Owner's Production (acre-feet of withdrawals) exceeding the interim targets and thereafter exceeding the proportionate permanent reductions in annual withdrawals required to achieve the Physical Solution. The purpose of the Non-Compliance fee is primarily to deter Owners from exceeding their annual extraction limits and secondarily to support implementation of the GSP⁶. Accordingly, the Non-Compliance Fee should be set at a level consistent with a fee for the unauthorized diversion of water;
- (4) The Coalition recommends and supports the development of separate funding mechanisms, both public and private, including acquiring and/or following agricultural land as a way to expedite bringing the basin into balance; for transfers of pumping rights among Owners; for paying for the implementation of the Physical Solution. Without such funding, support for these recommendations from all the members of the Coalition should be considered to be non-binding;
- (5) The Coalition recommends and supports the imposition of an approved, defined, and reasonable fee to be imposed on Owners specifically to cover the Administrative Costs of the GSP as may be required by the California Department of Water Resources (DWR) SGMA regulations;
- (6) The Coalition recommends that the County and District establish a Joint Powers Agreement (JPA), or similar legal structure, comprised of the appropriate Basin agencies and stakeholders, including Borrego Water Coalition members, for purposes of

⁶ AB-1739, Chapter 8 (Financial Authority), 10730(a) states: "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."

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effectively implementing the Physical Solution. Also, the JPA should work to align the County's General Plan, land-use policies, and the well permitting practices of the Department of Environmental Health (DEH) with the GSP, in support of Basin sustainability;⁷

- (7) The Coalition recommends that the District review its Policy for Water and Sewer Service to New Developments and its Water Credits Policy (WCP) so as to bring these policies into alignment with the Physical Solution and that the policies facilitate economic growth and free market trading among Owners to arrive at a Sustainable Community Solution (SCS);
- (8) The Coalition recommends that Owners be mandated to install meters on their Production wells and submit verified withdrawals data twice a year to the Basin Engineer. The Coalition agrees that a penalty be imposed for Owners failing to meter their Production wells no more than two-years from the date of the approved GSP;
- (9) The Coalition recommends that Owners be required to allow access to their Production wells for the collection of Water Quality Data (WQD), as required by state regulations. The Coalition agrees that a penalty be imposed for Owners failing to provide access to their Production wells for sampling by the Basin Engineer or other designated qualified water quality professional as specified by the GSP;
- (10) The Coalition recommends that the GSP include how it will involve the Coalition in an ongoing role in developing, monitoring, and periodically reviewing the elements of the GSP and include such mechanism(s) as a formal component of the GSP.

Definitions

Acre-feet per year (AFY) - a unit of measuring water usage over time corresponding to covering one acre of land with one foot of water over the course of one year. An acre-foot of water equals 43,560 cubic-feet of water or 325,851.4 U.S. gallons. A football field is about 1.1 acres. One cubic-foot contains 7.48 gallons of water.

⁷ The Act requires the County planning agency, before adopting or substantially amending a general plan, to review and consider the GSP for the Basin.

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Administrative Costs – legitimate and necessary GSP administration, legal, engineering, planning, technical and other costs not covered by State and/or Foundation grants and/or bond financing.

Basin – groundwater underlying the Borrego Valley alluvial basin boundaries that underlie the District and San Diego County and under their authority as determined by SGMA. Note: this is only a part of the basin as defined by DWR in its 2003 Bulletin 118, which includes other land within the jurisdiction of San Diego County, Imperial County, the Bureau of Land Management, and potentially the California Department of Parks and Recreation.

Basin Engineer – qualified professional engineering firm hired by the Groundwater Sustainability Agency to administer the implementation of the GSP.

Groundwater Sustainability Agency (GSA) – Agencies that have been created by statute to manage groundwater are deemed the exclusive agency to comply with the Sustainable Groundwater Management Act (“the Act”) within their boundaries unless the agency elects to opt out [Section 10723 (c)(1) and (c)(2)]. Otherwise, any local agency or combination of local agencies overlying a groundwater basin may elect to be a GSA [Section 10723]. Local agencies, such as the District [California Water Code Section 35562] and the County, have until June 30, 2017 to form a GSA [Section 10735.2(1)]. A GSA may adopt rules, regulations, ordinances, and resolutions for the purposes of the Act.

Joint Powers Agreement (JPA) – formal agreement of how two or more agencies plan to work together to achieve a common purpose.

Non-Compliance Fee – an annual fee for Owners failing to meet their withdrawals reduction target. The fee would be assessed on the basis of Production exceeding an Owner’s reduction target.

Physical Solution - A physical solution is a technical legal term for an operational plan that: (i) preserves water rights and, at the same time; (ii) enables all water users to exercise those rights fully even when there might not be sufficient water if there was strict compliance with the water rights system.

Policy for Water and Sewer Service to New Developments – see http://www.borregowd.org/uploads/Borrego_WD_2013_Proposed_New_Development_Policy_with_Detail_Sheet_and_Who_Pays_for_Growth_Policy_Feb_20_2012_Cle.pdf.

Owner – a person owning a groundwater extraction facility or an interest in a groundwater extraction facility in the Basin.

Production – annual groundwater withdrawals from the Basin.

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Sustainable Community Solution – the transfer of sustainable Production among Owners that results in the desired mix of economic activity that achieves withdrawals within the Sustainable Yield of the Basin.

Sustainable Yield – the average annual natural recharge to the Basin as determined by the US Geological Survey (USGS)

Water Credits Policy – http://www.borregowd.org/uploads/Water_Credit_policy_revision_06.25.2014.pdf

Water Quality Data (WQD) – data required under the various state agency programs, as amended (e.g. Salt and Nutrient Monitoring Program) that preserves the privacy of Owners' wells' data.

All: This is being provided because it is a good summary of the Groundwater Legislation. No endorsement of Downey Brand LLP is intended or implied.

DOWNEY BRAND

Related People

- David R. E. Aladjem
- Meredith E. Nikkel
- Kevin M. O'Brien

Related Industries

- Food & Agriculture
- Water Rights & Resources

Related Practices

- Water Law

The New Groundwater Legislation: Opportunities and Challenges

September 2, 2014

Governor Brown is expected in the near future to sign into law a package of legislation that brings comprehensive groundwater regulation to California. The legislation aims to give local agencies the means to manage groundwater basins in a manner that is sustainable over the long-term. The key element of the legislation is the development of "groundwater sustainability plans" by groundwater sustainability agencies (*i.e.*, one or more local public agencies that extract groundwater from the basin). The new legislation grants groundwater sustainability agencies a broad array of new authorities, including the ability to investigate and determine the sustainable yield of a groundwater basin and the authority to limit extractions, impose fees for groundwater management, and enforce the terms of a groundwater sustainability plan. Groundwater basins that are in a state of overdraft will need to develop groundwater sustainability plans by 2020; most of the remaining large basins in California will need to develop such plans by 2022. Where no local agency completes an adequate groundwater sustainability plan in a timely fashion or fails to implement an adopted plan, the new laws give the State Water Resources Control Board the authority to intervene in what the legislation terms a "probationary basin" to develop an "interim plan" for that basin. The new legislation presents water managers, and holders of rights to surface water and groundwater, with a series of new opportunities and challenges.

It is indisputable that, with the exception of the 2009 Comprehensive Water Package, the current groundwater legislation is the most significant set of water reforms to pass the Legislature since at least the Burns-Porter Act in 1960 that authorized the State Water Project. This e-alert provides a brief summary of the new legislation and our initial thoughts on the opportunities and challenges it will create.

The New Laws

The key elements of the legislation have been widely publicized in the media since the passage of the three bills last Friday. (For a good collection of the news stories, see: <http://mavensnotebook.com/2014/08/31/daily-digest-weekend-edition-groundwater-legislation-heads-to-the-governors-desk-conservation-conundrum-water-use-varies-across-the-state-the-drought-the-water-bond-the-bdcp-and-more>.) Here is a brief summary of the key provisions:

Key Principles

Protection of Water Rights. The Brown Administration and the two principal authors of the legislation (Senator Pavley and Assemblymember Dickinson) have, to their credit, consistently stated that nothing in the legislation is intended to change rights to surface water or rights to groundwater. Though

it will not appear in the Water Code itself. section 1(b)(4) of AB 1739 declares that the legislation is intended to respect overlying and other proprietary rights to groundwater, consistent with Water Code section 1200, which generally limits the authority of the State Water Resources Control Board (SWRCB) to surface waters and "subterranean streams flowing through known and definite channels." Similarly, new 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 provision of law that determines or grants surface water rights." Thus, the stated intent of the legislation is to require local agencies and the SWRCB to respect all rights to surface water and groundwater.

Sustainable Groundwater Management. The thrust of the legislation is to give local agencies the means to manage the groundwater basins upon which they rely in a manner that is sustainable over the long-term. As the bills moved through the Legislature, there was much discussion over what the term "sustainable" really means. From the legislative authors' experience, it means that a groundwater basin must be managed to maintain the "safe yield" of the basin (as defined by existing case law), while also considering the economic, social and environmental effects of limiting groundwater extractions to the safe yield of the basin. This directive is consistent with the way in which many local agencies have been managing groundwater for some time. The legislation, however, gives local agencies greater authority and responsibility.

Groundwater Sustainability Plans

Groundwater Sustainability Plans. A key element of the legislation is the new requirement that groundwater sustainability agencies (i.e., one or more local public agencies that extract groundwater from the basin) develop "groundwater sustainability plans." As a general matter, groundwater basins that have already been adjudicated (chiefly in Southern California) or those agencies that have ongoing and successful groundwater management programs will only need to provide annual reports to the Department of Water Resources demonstrating that the groundwater basin is being managed in a manner that is consistent with the long-term "sustainable yield" (essentially the historical concept of safe yield). Other groundwater basins that are in a state of overdraft will need to develop groundwater sustainability plans by 2020. Most of the remaining non-overdrafted basins will need to develop such plans by 2022. Significantly, the development of groundwater sustainability plans is exempt from the requirements of CEQA. In the opinion of the authors, this exemption will save at least a year in the development of the required plans.

New Local Authorities. One of the criticisms of past groundwater legislation (AB 3030 and SB 1938) has been that these laws did not give local agencies the authority they needed to bring groundwater extractions into balance with the sustainable yield of the basin. The new legislation grants groundwater sustainability agencies a broad array of new authorities, modeled on the specific authorities that the Legislature has in the past granted to specific groundwater management agencies. Such authorities include not only the ability to investigate and determine the sustainable yield of a groundwater basin, but also the ability to limit groundwater extractions, impose fees for groundwater management, and enforce the terms of a groundwater

sustainability plan.

Consideration of Multiple Interests. In developing a groundwater sustainability plan, a groundwater sustainability agency must consider the interests of a variety of different stakeholders, including beneficial users of water, environmental interests, disadvantaged communities, and others. (Water Code section 10723.2). However, after considering those interests and developing a groundwater sustainability plan, any judicial challenges to the plan are treated with the same deferential standard that applies to challenges to a general plan. (Water Code section 10726.6(e)). Thus, the ability of interests that are dissatisfied with the terms of a groundwater sustainability plan to challenge that plan in court will be quite limited. This provision of the law is extremely important; without it, groundwater sustainability plans would likely be tied up in court for years.

Rewarding Sound Management. One of the final amendments to the legislation dealt with the situation where most of a groundwater basin is being managed in a sound manner but some area (perhaps an area outside the boundaries of a local water district) resists the limitations on pumping, or the imposition of charges for the groundwater sustainability plan that are being imposed on the remainder of the basin. In these cases, the legislation now limits the ability of the SWRCB to penalize those portions of the basin that are managing groundwater in a sustainable fashion, and instead directs the "state intervention" to focus on the areas that are resisting sound management. (Water Code section 10735.2(e)).

State Intervention. The Administration has insisted, from the beginning of this effort, that the SWRCB must be able to intervene under certain conditions: (i) no local agency is willing to serve as a groundwater sustainability agency; (ii) the groundwater sustainability agency does not complete a groundwater sustainability plan in a timely fashion; (iii) the groundwater sustainability plan is inadequate, and remains so after a review by the Department of Water Resources and efforts to cure the deficiencies; or (iv) the groundwater sustainability plan is being implemented and simply does not work. There has been general agreement to this set of conditions; the objections have all been to the standards that the SWRCB will use to intervene in what the legislation terms a "probationary basin" and the standards that the SWRCB will apply in developing an "interim plan" for the basin. The late amendment to the bills, contained in section 10735.2(e), that prevents state intervention in areas that are engaged in sustainable groundwater management tempers these concerns to some extent by limiting the SWRCB's authority only to areas that have taken deliberate actions to thwart groundwater management.

Opportunities and Challenges

The new legislation presents water managers and water rights holders with a series of new opportunities and challenges. Here are a few:

Opportunities. From a landowner's perspective, the simple and straightforward language quoted earlier in this e-alert regarding the protection of water rights offers strong evidence that the Legislature – contrary to a chorus of voices that have filled the news media over the past year – fully intends to respect existing water rights and has no desire to

change the current water right system.

From the perspective of local agencies, the legislation offers many water district managers an impressive set of tools that they can use to manage groundwater in a sustainable manner. Prior to this legislation, ambiguity existed as to the authority of local agencies to take specific actions to manage groundwater such as, for example, curtailing groundwater pumping to prevent overdraft. The new groundwater legislation fixes this problem.

Challenges in Developing Groundwater Sustainability Plans. With responsibility comes the challenge of actually developing good groundwater sustainability plans. In many groundwater basins, it has been difficult to develop the political consensus needed to make hard choices about groundwater. After all, the members of local governing boards are often landowners or residents of their respective districts; the last thing that they want to do is to impose hardships on their friends and neighbors. The intent of the legislation is to give local governing boards the right and ability to manage groundwater for their own long-term self-interest, with the threat of state intervention if local agencies fail to act. We are confident that, in the vast majority of cases, local agencies will meet this challenge.

One of the key ways that the State of California can (and hopefully will) ease the challenge of developing sound groundwater management strategies is through the provision of technical and financial assistance to local agencies. Many local agencies are barely able to meet the ongoing demands of providing water service to their ratepayers and landowners; the cost of developing and implementing a thoughtful and comprehensive groundwater sustainability plan in five to seven years will be very significant. The Brown Administration, to its credit, has indicated that the Department of Water Resources will be directed to assist local agencies in developing groundwater sustainability plans, and there is the possibility that funds from Proposition 1 (if it passes) could be used to fund these efforts. However, given the importance of moving quickly toward improved groundwater management, the authors believe that the Brown Administration should seek substantial additional funding to assist local agencies in this effort.

Challenges in Implementing the Legislation. In the authors' view there are four other potential pitfalls in the legislation. First, the legislation is vague about which local agencies will become the groundwater sustainability agency for a particular basin and how multiple agencies will coordinate their efforts. This ambiguity was intentional; there are too many different circumstances across California to legislate a "one-size-fits-all" approach to identifying a groundwater sustainability agency. However, in addition to the challenge within each local agency in determining how best to manage groundwater (discussed above), there is the additional challenge associated with coordinating multiple agencies in large groundwater basins. If the development and implementation of groundwater sustainability plans bogs down, this lack of clarity in the legislation is one likely culprit.

Second, section 10733.2 directs the Department of Water Resources to adopt regulations to evaluate the development and implementation of groundwater sustainability plans, as well as the coordination agreements needed to manage large groundwater basins. That section also directs the Department to evaluate baseline conditions for the availability (or lack of availability) of surface water. The Department is required to adopt these

regulations as emergency regulations, without review or comment by the Office of Administrative Law. Developing regulations that are sufficiently broad to address the variety of groundwater basins in California and yet that provide sufficiently detailed guidance to help local agencies through a very complicated set of technical issues will be quite difficult. Adding to the difficulty is the requirement that the Department issue these regulations by June 1, 2016. The Department would be wise to rely heavily on the experience and expertise of a "blue-ribbon" committee of water managers drawn from across California in developing these regulations. Without that "on the ground" experience, it seems likely that the regulations will interfere with the development of sound groundwater sustainability plans.

Third, as noted above, the legislation attempts to provide for state intervention where local efforts are not successful, consistent with the "light touch" that SWRCB Chair Felicia Marcus has been advocating. However, the language of the legislation is sufficiently broad so as to allow the SWRCB to intervene prematurely. It will be critically important that the SWRCB work cooperatively with local agencies and the Department of Water Resources to develop sustainable groundwater management and not be quick to pull out the regulatory hammer. The SWRCB has been successful in the past in navigating similar terrain – most notably in assisting parties in coming to the so-called "Phase 8 Settlement" relating the Bay-Delta hearings – and it is to be hoped that the SWRCB can continue to avoid the pitfall of intervening prematurely in groundwater disputes across the state.

Fourth, but perhaps most important, in section 10735.8(b)(1) the legislation grants the SWRCB the authority to impose an interim plan on basins where groundwater extractions result in "significant depletions of interconnected surface waters." On its face, this language seems to be limited to those situations where there is a direct and substantial relationship between surface waters and groundwater and so would be the groundwater equivalent of a "subterranean stream flowing through a known and definite channel." After all, the term "interconnected surface water" is a longstanding term of art in water law, with a series of cases defining the relationship between surface and groundwater. However, the question of what constitutes a "significant depletion" is likely to prove controversial. If the SWRCB were to take the position that any groundwater extraction that causes or contributes to a stream reach being a "losing reach" (i.e., a reach where water in the stream percolates into the ground), then it would effectively assert control over all uses of water in the Central Valley. On the other hand, if the SWRCB were to follow the historic case law on interconnected streams, it would only develop interim plans in the most obvious cases of excessive groundwater extractions, thereby living up to Chair Marcus' promise to intervene with a "light touch." The challenge for the SWRCB and its staff will be, as mentioned above, to not pull out the regulatory hammer before all other avenues have been exhausted.

For more information, please feel free to contact each of us using the contact information accompanying this e-alert.

Fact Sheet

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

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

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

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

GSAs and Local Sustainability Plans

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

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

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

Preparation of groundwater sustainability plans is exempt from CEQA.

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

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

Plans will be evaluated every five years.

State Involvement and Technical Assistance

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

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

State Review and Intervention

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

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

Financial Assistance

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

Key Implementation Dates

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

Frequently Asked Questions

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

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

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

Q: What authority will GSAs have?

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

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

Q: Is there any funding available to assist GSAs?

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

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

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

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

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

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

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

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

Q: What does sustainable groundwater management mean?

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

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

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

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

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

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

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

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

Q: Will this legislation make future adjudications more complicated?

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

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

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

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

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

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

A: Information is available from the following resources:

California Department of Water Resources Groundwater Information Center

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

ACWA's Recommendations for Achieving Groundwater Sustainability

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

California Water Foundation Information / Recommendations on Groundwater Sustainability

www.californiawaterfoundation.org

Borrego Water District
FREQUENTLY ASKED QUESTIONS
Borrego Valley Groundwater Sustainability Planning Process
January 20, 2015

DRAFT

1) What is a Groundwater Sustainability Plan?

In September 2014, California Governor Jerry Brown signed the Sustainable Groundwater Management Act to address the overdraft of groundwater basins throughout the State. Starting January 2015, the California Department of Water Resources (DWR) will no longer be accepting Groundwater Management Plans, but instead, will be issuing a set of guidelines by January 2016 on how to establish a Groundwater Sustainability Plan (GSP). The design is to allow for "local control" of each groundwater basin by local groundwater agencies or county government. If no local or county agency steps up, the State Water Resources Control Board (SWRCB) will take necessary actions to achieve groundwater basin sustainability without any local input.

2) What is a groundwater "overdraft"?

The Borrego Springs area has no connection to any outside sources of water. We are totally reliant on the Borrego Valley Groundwater Basin. Although the basin is very large, we are extracting more water than can be naturally replenished. This situation is referred to as an "overdraft" and much like a bank account overdraft, prolonged abuse can result in depleting the supply. At present, the United States Geological Survey estimate our natural recharge is 5,600 acre feet per year and the Borrego Water District estimates the Valley pumpers are extracting as much as 19,000 acre feet. In order to achieve sustainability, the Valley users will have to reduce pumping by 70% over the next 20 years.

3) What is the Borrego Water Coalition?

The Borrego Water Coalition (BWC) is a group of major groundwater pumpers and users in the Borrego Valley. The membership consists of farmers, golf course owners, resort/hotel owners, the Anza Borrego Foundation, Borrego Springs Chamber of Commerce, Christmas Circle Park, Borrego Springs Unified School District, Anza-Borrego Desert State Park and the Borrego Water District, with technical assistance by the DWR and San Diego County. The group met privately for over one year to create a set of recommendations to be submitted to the Borrego Water District for possible inclusion in an updated groundwater management plan.

4) Why don't we just let the County or State create a Plan?

A Plan designed and implemented "locally", will address local issues that outside authorities would not consider. Issues like, how will this reduction affect the local economy, or if we remove farming from Borrego, how do we handle blowing sand from the vacant properties. We have a chance to control our own destiny and we should not give away our legal rights.

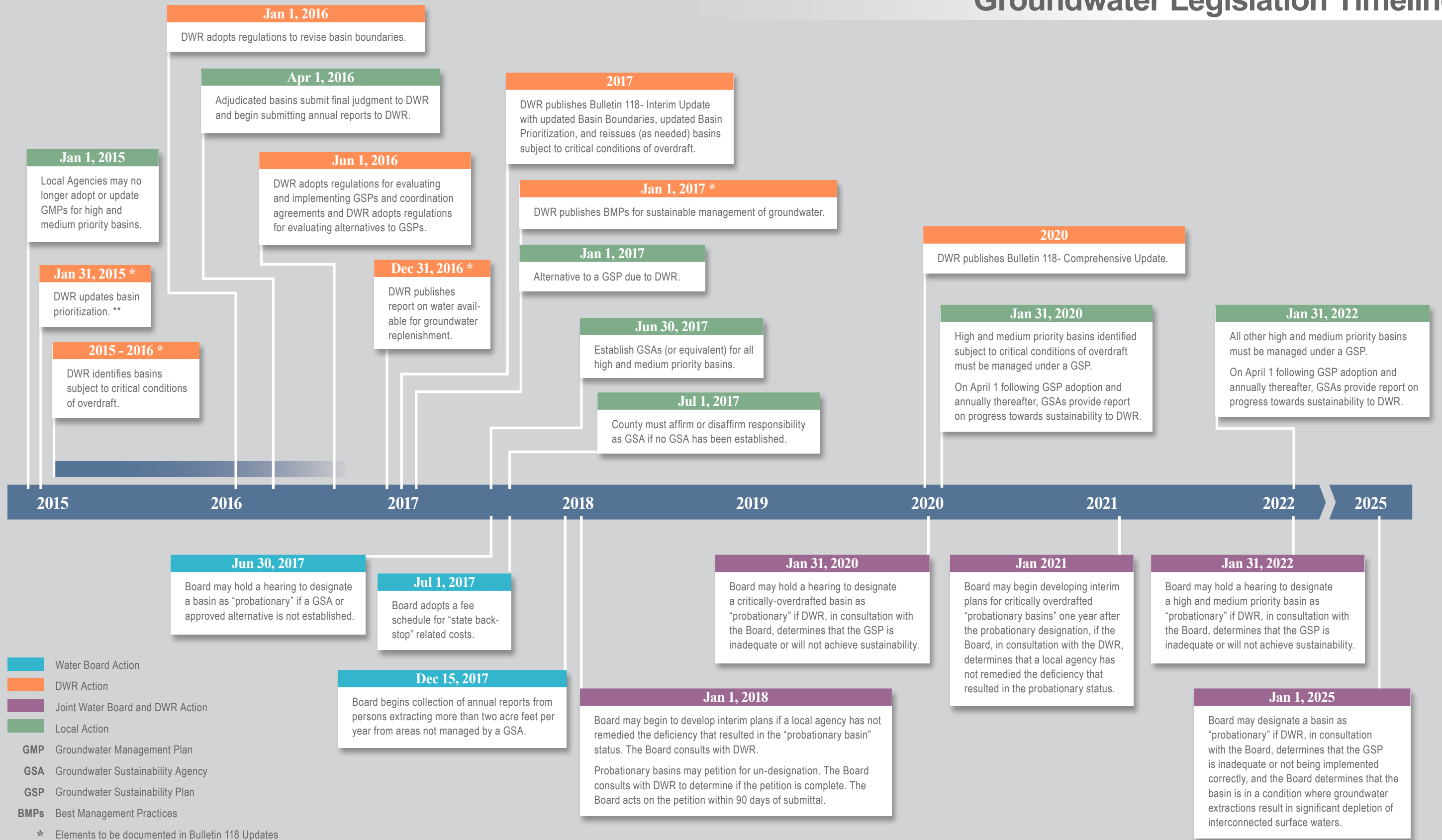
5) Will private domestic wells be affected in the reduction plan?

The majority of the private domestic residences utilize Borrego Water District for the household and landscaping water supplies. Some homes not located adjacent to the public distribution system have private wells for these needs. Private domestic wells, with annual usage under two acre feet per year, will probably not be required to reduce their usage, but they may be required to pay an extraction fee just like all other pumpers in the Valley. That number will be based on the amount of water pumped by each well owner in the Valley.

6) Who will set the water restrictions and possible water extraction fee?

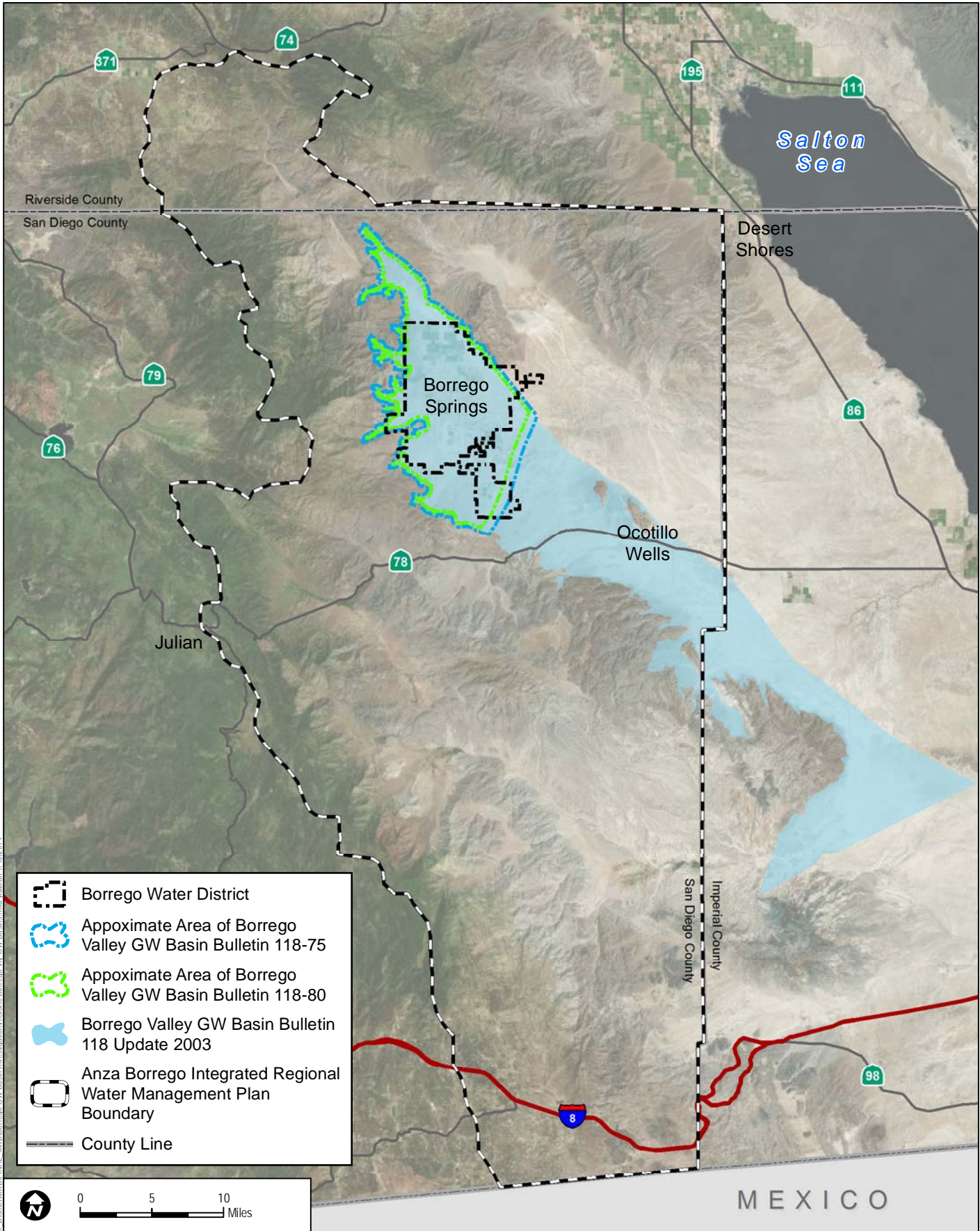
The Borrego Water District is the local public agency with an elected Board of Directors by the people of Borrego Springs. The District is setting up a series of public comment/input meetings to incorporate all of the special needs and requirements of the community into the Groundwater Sustainability Plan.

Groundwater Legislation Timeline










- Water Board Action
- DWR Action
- Joint Water Board and DWR Action
- Local Action
- GMP** Groundwater Management Plan
- GSA** Groundwater Sustainability Agency
- GSP** Groundwater Sustainability Plan
- BMPs** Best Management Practices

* Elements to be documented in Bulletin 118 Updates
 ** Basin prioritization will be updated prior to each Bulletin 118 Update (estimated to be every 5 years)



Z:\Hydro\Projects\Borrego\Water_District\WX\DFINAL_MX\Borrego_GW_Basin_Investigation\Historic_Borrego_Vn_GW_Basins.mxd_Kubran_9/18/2014

-  Borrego Water District
-  Approximate Area of Borrego Valley GW Basin Bulletin 118-75
-  Approximate Area of Borrego Valley GW Basin Bulletin 118-80
-  Borrego Valley GW Basin Bulletin 118 Update 2003
-  Anza Borrego Integrated Regional Water Management Plan Boundary
-  County Line

 0 5 10 Miles

DUDEK

SEPTEMBER 2014

SOURCE: BING 2014; DWR 1975; DWR 1980; DWR 2003; Borrego Water District 2009.

Borrego Valley Groundwater Basin Historical Delineations

Borrego Water District

FIGURE 1

DRAFT

Sustainable Groundwater Management Act

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

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

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Sustainable Groundwater Management Act

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California Code.

UNCODIFIED FINDINGS

(a) The Legislature finds and declares as follows:

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

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

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

(12) Sustainability groundwater management is part of implementation of the California Water Action Plan.[†]

(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.*[†]

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

Government Code

65350.5. REVIEW AND CONSIDERATION OF GROUNDWATER REQUIREMENTS

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

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

(b) An adjudication of water rights.

[†] *Italicized findings language represents finding language included in AB1739 (Dickinson) that does not appear in SB1168 (Pavley).*

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

65352. REFERRAL OF PROPOSED GENERAL PLAN UPDATES TO OTHER AGENCIES

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

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

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

(3) The local agency formation commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Agricultural users.

(B) Commercial users.

(C) Industrial users.

(D) Residential users.

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

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

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

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

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

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

Water Code

113. STATE POLICY OF SUSTAINABLE, LOCAL GROUNDWATER MANAGEMENT

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

348. EMERGENCY REGULATIONS FOR ELECTRONIC FILING

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

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

1120. RECONSIDERATION OF STATE WATER BOARD DECISIONS AND ORDERS

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

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

(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

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

(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

(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

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.

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.

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.

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.

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

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

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

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

10720.1. LEGISLATIVE INTENT

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.

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.

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.

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

(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

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

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

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

(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

(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

(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

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

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

- (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

(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

(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

(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

(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

(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

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

(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

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

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

(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

(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

(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.

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

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.

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

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

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

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

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

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

10728. ANNUAL REPORTING BY GROUNDWATER SUSTAINABILITY AGENCY TO DEPARTMENT

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

(a) Groundwater elevation data.

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

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

(d) Total water use.

(e) Change in groundwater storage.

10728.2. PERIODIC REVIEW AND ASSESSMENT

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

10728.4. ADOPTION OR AMENDMENT OF PLAN FOLLOWING PUBLIC HEARING

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

10728.6. CEQA NOT APPLICABLE TO PLAN PREPARATION AND ADOPTION

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

(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

(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

(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

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

(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

(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

(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

(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

(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

(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

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

10733.4. SUBMITTAL OF PLANS TO DEPARTMENT FOR EVALUATION

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

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

(1) The groundwater sustainability plans.

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

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

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

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

10733.6. ALTERNATIVE SUBMITTALS

(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

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

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

(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

(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

(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

(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

(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

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

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

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

10736.6. REPORTS AND INSPECTIONS

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

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

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

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

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

* * *

[PART 2.75. Groundwater Management]

10750.1. LIMITATION ON AUTHORITY TO ADOPT NEW PLANS

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

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

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

[PART 2.11. Groundwater Monitoring]

10927. ENTITIES AUTHORIZED TO ASSUME RESPONSIBILITY FOR MONITORING AND REPORTING

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

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

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

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

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

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

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

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

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

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

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

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

(a) ~~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

- (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.

DRAFT AGENDA

- 1) Greetings and Introductions (5 min) by {TBD}
- 2) State of the District briefing on infrastructure, groundwater levels, basin inflow/outflow, water quality and the general direction of the groundwater management by General Manager Jerry Rolwing (10 min)
- 3) What is the Sustainable Groundwater Management Act by [TBD] (15 min)
- 4) How does the Sustainable Groundwater Management Act affect the citizens of Borrego Springs by Board President Beth Hart (10 min)
- 5) What is the role of San Diego County in the Groundwater Sustainability Plan by [TBD] (10 min)
- 6) Who will pay for the planning for the basin to be sustainable by Board Vice-president Lyle Brecht (10 min)
- 7) Moderated, written questions from the audience for specific presenters (20 min)
- 8) Comments from the audience

February 2, 2015

BORREGO WATER DISTRICT

REQUEST FOR PROPOSALS TO PROVIDE A 50 kW PV SOLAR POWER SYSTEM (Expandable to 100 kW)

Due By: March 5, 2015 at 2:00 PM

1. **Purpose of RFQ:** The purpose of this RFQ is to identify a qualified contractor/vendor to provide the Borrego Water District (District) with a reliable electrical energy source from solar power, and to provide the District with the ongoing electrical power at a lower cost than is currently available from SDG&E for a minimum of 25 years.

2. **District's Immediate Objectives:** The objective of this Request for Proposal (RFP) is to identify and select the most qualified turnkey photovoltaic (PV) system Contractor/Vendor to develop, design, permit (including any costs for environmental work), fabricate, deliver, install, operate, insure, and maintain a PV solar system at the District wastewater treatment plant (WWTP) located at 4861 Borrego Springs Road in Borrego Springs, California. Upon selection of the most qualified Contractor/Vendor, The District intends to purchase the entire system outright. The size of the proposed PV solar system shall be **50 kW, expandable to 100 kW at a future date.**

3. **Background:** The District is a small public water and wastewater district serving approximately 2,200 customers in beautiful Borrego Springs, California (Borrego), a retirement and resort community located about 90 miles drive NE of San Diego in San Diego County (county) and surrounded by the Anza-Borrego Desert State Park (the park), the largest state park and wilderness area in the State of California (state).

The District is a significant power consumer in Borrego Springs, relying on grid-purchased electricity from SDG&E to run its various facilities, including the Waste Water Treatment Plant ("WWTP") located at 4861 Borrego Springs Rd. The District consumes approximately **161,000 kWh** annually for the WWTP operations.

With SDG&E steadily increasing the kWh electricity rates charged to BWD year after year, BWD is seeking a means to minimize its reliance on SDG&E and to achieve both long-term electricity cost savings and cost certainty through the use of solar. The proposed solar system would interconnect to the grid under the

SDG&E Net Energy Metering (“NEM”) program. Under NEM, the electric energy generated by on-site solar is used to offset the electric energy provided by SDG&E to the District’s WWTP. NEM is the standard program for commercial and residential solar systems in SDG&E territory and in the State of California. The proposed solar system would reduce, or eliminate in full, the net amount of electricity purchased from SDG&E.

4. General:

The scope of services provided by the Contractor/Vendor shall include all tasks required to design, fabricate, deliver, install, operate, and maintain the PV system for the District. The scope shall also include, but not be limited to, securing all permits and approvals from governing agencies, all labor, taxes, services, permit fees, and equipment necessary to produce a fully operational solar PV system. The proposal shall contain a detailed explanation of the complete project and delineation of all work tasks to be performed by the awarded Contractor/Vendor.

Contractor/Vendor should prepare system summary detailing the equipment/size, and a sample cash flow analysis detailing expected savings (both kwh and dollar) and potential buyout implications to long-term savings.

The PV system will be located on property owned by the District. Proposer is to determine the feasibility and costs for installing the PV system at the District WWTP.

5. Scope of Project:

5-1 Design, Engineering, & Permitting

Design/engineer the solar PV system to maximize the solar energy resources, taking into consideration the District’s electrical demand and load patterns, proposed installation site, available solar resources, existing site conditions, proposed future site improvements, and other relevant factors.

Provide design documents that provide the following minimum information:

- Timeline/Project Schedule

- System description
- Equipment details and description
- Preliminary Layout of installation
- Preliminary Layout of equipment
- Selection of key equipment
- Specifications for equipment procurement and installation
- All engineering associated with structural and mounting details
- Performance of equipment components, and subsystems
- Integration of solar PV system with other power sources
- Electrical grid interconnection requirements
- Controls, monitors, and instrumentation
- System performance monitoring

Awarded Contractor/Vendor will secure from governing agencies and the utility company all required rights, permits, approvals, and interconnection agreements at no additional cost to the District. The District will become the signatory on applications, permits, and utility agreements only where necessary. The awarded Contractor/Vendor will complete and submit in a timely manner all documentation required to qualify for available rebates and incentives.

5-2 Installation

Supply all equipment, materials, and labor necessary to install the solar PV systems and integrate them with other power sources.

5-3 Electrical Interconnections

Supply and install all equipment required to interconnect the solar PV systems to SDG&E distribution system. The awarded Contractor/Vendor will fulfill all application, studies, and testing procedures to complete the interconnection process. All costs associated with utility interconnection shall be borne by the awarded Contractor/Vendor.

5-4 Commissioning & Acceptance Testing

During the start-up, the District, and/or its independent engineer/consultant, shall observe and verify each system performance. Required commissioning and acceptance test services include:

- Starting up the solar PV systems until it achieves the performance requirements
- Conducting the performance testing over a consecutive twenty-four (24) hour period
- Conducting the successful delivery of power within thirty (30) days following completion of the system, meeting each benchmark.

5-5 Operation and Maintenance Manuals and As-Built Drawings

Provide three (3) sets of operation, maintenance, and parts manuals for the solar PV system. The manual shall cover all components, options, and accessories supplied. It shall include maintenance, trouble-shooting, and safety precautions specific to the supplied equipment. It shall also delineate responsibilities of both parties.

Provide three (3) sets of as-built drawings including one (1) on CAD. These requirements shall be delivered prior to acceptance of the solar PV system.

5-6 Monitoring

Monitoring of system performance and providing public education and outreach is a required element of the RFP.

Provide the equipment and services to tie into the SDG&E system to allow the District to monitor, analyze, and display historical and live solar electricity generation data. The regularly collected data should reflect, but not be limited to, the following:

- System performance
- System availability
- Average and accumulated output

- Capacity factor
- Degradation
- Cost avoidance

The data acquisition system shall be designed for turnkey, remote operation. Data shall be transmitted via Internet or telephone from the site to a server. Data format shall be coordinated with requirements of the SDG&E. The data acquisition system must not require a dedicated or always-on personal computer.

Provide a long term cost for electricity (kWh) for the term of the awarded contract and any assumptions used in these calculations.

6. Warranties and Guarantees

The vendor/contractor shall warrant to the District that during the one (1) year period from and after the date on which the work was completed (“warranty date”) the solar array and all appurtenances thereto including all materials, hardware and other improvements shall be free from defects caused by faulty workmanship and defective materials. If a defect or faulty workmanship is identified within the one year warranty period, the vendor/contractor shall immediately make the necessary repairs at no cost to the District.

7. Operation and Maintenance

Provide a financial impact or price for operating and maintaining the PV system on the District’s behalf for a twenty five (25) year service term. Perform all required regularly scheduled maintenance activities (at an additional cost as identified in the cost proposal) in order to keep the system operational and performing to production guarantees.

8. Insurance

The contractor/vendor is responsible and shall pay for insurance for the project during construction and maintenance activities. Insurance shall include both general liability (\$2,000,000) and property insurance (\$1,000,000). The District shall be named as additional insured on the policies.

9. Licensing/Certification

Contractor/Vendor must be properly licensed in the State of California. The Contractor license shall appear clearly on Contractor/Vendor's proposal and the license expiration date appear on the Contractor/Vendor's Proposal.

10. Operation & Maintenance Requirements

The Contractor's operation and maintenance service program should provide the following minimum requirements:

- Annual on-site system inspection, including:
- System testing (operating current of each electrical string)
- Routine preventive maintenance
- Repair and/or replacement of regularly scheduled replacement parts (including equipment and labor)
- System performance monitoring and historical data access for customer via secure website. Data should include:
 - System energy and power production
 - Ambient temperature
 - Wind speed
 - Insolation

11. Contractor Qualification

Please provide the following information:

- Status (private/publicly-held)
- Number of employees
- States in which you do business
- Target customers (residential, commercial, industrial, government, etc.)
- Project team profile, including resumes of personnel to be directly involved with the development of the proposed systems.
- Team leader identification for the entire Proposal, including full contact information.

- Identification of each entity, sub-contractor, person or firm involved in the Proposal and their role/responsibility, e.g. design, installation, permitting, equipment supply by component, operations and maintenance.
- Identification of the lead person responsible for each of the entities or firms described in above.

12. Contractor Experience

Provide overview of the firm(s) commercial grid-connected PV experience (do not include residential PV experience)

- Average commercial grid-connected PV system size installed by your company during the last five years.
- Total commercial MW of grid-connected PV systems installed
- Experience with SDG&E.
- Experience with local government projects.

13. Contractor References

List five (5) or more commercial grid-connected PV projects installed in the United States over the last five years. Include for each project:

- Exact role(s) your organization performed for the project (e.g. material supplier, lead contractor, electrical subcontractor, design, consulting, etc.).
- Location.
- Application description.
- Product name/type.
- Customer name and contact information.
- Date installed.
- Project cost.
- PV module used.
- KW rating.
- Current operational status of system.

Provide actual system data for five (5) of the grid-connected projects that demonstrates 90% or better availability of the PV projects used as customer references. Proposals shall demonstrate a proven, robust data acquisition system that includes tracking of site-specific actual kWh production and actual meteorological data including tracking of solar irradiance, ambient temperature, and module temperature, with data available remotely.

Proposals shall provide evidence that the proposed technology and equipment would meet or exceed all currently applicable and proposed safety and interconnection standards. All equipment components must be UL certified, and meet existing facility structural and fire safety requirements.

Proposals shall provide evidence that the proposed technology and equipment would meet or exceed all currently applicable and proposed environmental standards.

14. Pricing

Provide pricing for a turnkey (design/build) PV system located at the District WWTP. Pricing shall include:

1. US dollars for selling the entire 50 kW PV system to the District upon completion of construction and acceptance by the District.

The lump sum price shall be broken down into the following

- (1) Preliminary activities: including but not limited to site review, equipment specifications, engineering, design package submittal, prepare SDG&E interconnection applications, prepare application for rebates, coordinate final design with suppliers, hold pre-construction meeting, electrical engineer PE review and stamp, and permitting.
- (2) Delivery and installation of equipment: Included but not limited to all necessary equipment, trenching wiring, mounting, etc. to make a functional

50 kW system (expandable to 100 kW at a later date). Also include construction inspections, meetings and documentation.

- (3) Final start-up, commissioning and reports.
2. Include estimated regular and scheduled maintenance of the 50 kW PV system over the 25 year period.
3. When comparing District cost savings, assume a 3.0% annual escalator in SDG&E prices.
4. Proposed payment terms.

15. Schedule

The Contractor/Vendor shall provide a proposed schedule for completion of the project.

16. Walk Through

A non-mandatory project walkthrough date for all interested vendors/contractors has been scheduled for **February 4, 2015 at 10:00am** at the project site located at 4861 Borrego Springs Road in Borrego Springs, California. Access to the project site is available only on the scheduled walk through date.

17. Incurring Cost

The District is not liable for any cost incurred by entities prior to executing a contract.

18. Selection Process

The Strategic Planning Committee has been tasked with overseeing the identification and recommendation of a qualified contractor/vendor for the board of directors of the District to approve.

Proposals will be evaluated by the District based on:

- The competence to perform the services as reflected by past experience in providing the services outlined herein.
- The ability to meet the requirements of this RFP.

- Overall package and financial benefit to the District.

The District reserves the right to select or short-list any Contractor/Vendor that, in its opinion and at its sole discretion, is deemed to be most advantageous and in the best interests of the District, including granting a preference to local contractors. The District also reserves the right to delay or discontinue this selection process at any time during the process. The District shall not be liable for any cost incurred by any Contractor/Vendor during the selection process. The District also reserves the right to reject the selected Contractor/Vendor and contract with another party if the District and the selected Contractor/Vendor cannot successfully negotiate a contract for the proposed work.

19. Proposal Deadline

Three copies of the Proposal to Provide a Solar Power System must be delivered to:

Jerry Rolwing, General Manager
Borrego Water District
806 Palm Canyon Drive
Borrego Springs, CA 92004

By: **March 5, 2015 at 2:00 PM**

20. Inquires

Inquiries can be directed to Jerry Rolwing, General Manager at

Borrego Water District
806 Palm Canyon Drive
Borrego Springs, CA 92004

or by phone at 760-767-5806
or email at jerry@borregowd.org

February 2, 2015

BORREGO WATER DISTRICT

REQUEST FOR PROPOSALS TO PROVIDE A 50 kW PV SOLAR POWER SYSTEM (Expandable to 100 kW)

Due By: March 5, 2015 at 2:00 PM

1. **Purpose of RFQ:** The purpose of this RFQ is to identify a qualified contractor/vendor to provide the Borrego Water District (District) with a reliable electrical energy source from solar power, and to provide the District with the ongoing electrical power at a lower cost than is currently available from SDG&E for a minimum of 25 years.

2. **District's Immediate Objectives:** The objective of this Request for Proposal (RFP) is to identify and select the most qualified turnkey photovoltaic (PV) system Contractor/Vendor to develop, design, permit (including any costs for environmental work), fabricate, deliver, install, operate, insure, and maintain a PV solar system at the District wastewater treatment plant (WWTP) located at 4861 Borrego Springs Road in Borrego Springs, California. Upon selection of the most qualified Contractor/Vendor, The District intends to purchase the entire system outright. The size of the proposed PV solar system shall be **50 kW, expandable to 100 kW at a future date.**

3. **Background:** The District is a small public water and wastewater district serving approximately 2,200 customers in beautiful Borrego Springs, California (Borrego), a retirement and resort community located about 90 miles drive NE of San Diego in San Diego County (county) and surrounded by the Anza-Borrego Desert State Park (the park), the largest state park and wilderness area in the State of California (state).

The District is a significant power consumer in Borrego Springs, relying on grid-purchased electricity from SDG&E to run its various facilities, including the Waste Water Treatment Plant ("WWTP") located at 4861 Borrego Springs Rd. The District consumes approximately **161,000 kWh** annually for the WWTP operations.

With SDG&E steadily increasing the kWh electricity rates charged to BWD year after year, BWD is seeking a means to minimize its reliance on SDG&E and to achieve both long-term electricity cost savings and cost certainty through the use of solar. The proposed solar system would interconnect to the grid under the

SDG&E Net Energy Metering (“NEM”) program. Under NEM, the electric energy generated by on-site solar is used to offset the electric energy provided by SDG&E to the District’s WWTP. NEM is the standard program for commercial and residential solar systems in SDG&E territory and in the State of California. The proposed solar system would reduce, or eliminate in full, the net amount of electricity purchased from SDG&E.

4. General:

The scope of services provided by the Contractor/Vendor shall include all tasks required to design, fabricate, deliver, install, operate, and maintain the PV system for the District. The scope shall also include, but not be limited to, securing all permits and approvals from governing agencies, all labor, taxes, services, permit fees, and equipment necessary to produce a fully operational solar PV system. The proposal shall contain a detailed explanation of the complete project and delineation of all work tasks to be performed by the awarded Contractor/Vendor.

Contractor/Vendor should prepare system summary detailing the equipment/size, and a sample cash flow analysis detailing expected savings (both kwh and dollar) and potential buyout implications to long-term savings.

The PV system will be located on property owned by the District. Proposer is to determine the feasibility and costs for installing the PV system at the District WWTP.

5. Scope of Project:

5-1 Design, Engineering, & Permitting

Design/engineer the solar PV system to maximize the solar energy resources, taking into consideration the District’s electrical demand and load patterns, proposed installation site, available solar resources, existing site conditions, proposed future site improvements, and other relevant factors.

Provide design documents that provide the following minimum information:

- Timeline/Project Schedule

- System description
- Equipment details and description
- Preliminary Layout of installation
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