

**County of San Luis Obispo Groundwater Ordinance  
Rachel M. Kramer**

**Senior Project  
City and Regional Planning Department  
California Polytechnic State University, San Luis Obispo  
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**Abstract**

This paper explores the Paso Robles Groundwater Basin and proposes a County of San Luis Obispo Groundwater Export Ordinance based on the research of groundwater management in California. In order to fully understand the situation in the Basin, an overview of groundwater rights in California and general basin management information in California are provided. The situation with the Paso Robles Groundwater Basin is explained, beginning with the hydrology of the basin. Management of the basin has become highly politicized, and all steps to achieve management are described. This paper explains the different methods of management proposed for the Basin, but ultimately focuses on a groundwater export ordinance because it most closely relates to topics studied in City and Regional Planning courses. At the commencement of this paper, a groundwater export ordinance was realistic for the Basin, however due to politics, it is no longer feasible. This paper studies the Tehama County Groundwater Export Ordinance and the Stanislaus County Groundwater Export Ordinance and utilizes aspects of them as guidance for the proposed County of San Luis Obispo Groundwater Ordinance.

## **Introduction**

The Paso Robles Groundwater Basin, located in the County of San Luis Obispo, is in need of management and the method to do so has become very controversial. The questions of whether or not the Basin is in overdraft and who is most suited to govern the Basin are the central issues. This paper discusses the hydrology of the basin, explores the different types of management that have been proposed for the Basin, and ultimately proposes a County of San Luis Obispo Groundwater Ordinance because it appears it is the most appropriate way to manage the Basin. It should be noted that, due to recent political decisions, an ordinance is not longer possible, but this was discovered after this paper was underway.

### **Groundwater Rights Overview**

Groundwater rights are an essential part of basin management because it determines who has priority to the water supply. California Water Code Section 10752 defines groundwater as “all 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.” Groundwater rights in California give priority to overlying land owners, or overlyers. Overlyers have the ability to extract percolating groundwater for reasonable and beneficial use without limitation, unless there are court ordered adjudications of the basin. Overlyers do not need approval as long as the use is deemed reasonable and beneficial. *Katz v. Walkinshaw* defined the rules of reasonable and beneficial use for overlyers (California State Water Resources Control Board, 2015). Overlyers do not have priority over any other overlyers, but if the water supply does not adequately provide water for reasonable and beneficial uses for all overlyers, the court may adjudicate the basin in order to satisfy the overlyer’s needs (Hutchins, 1957).

Appropriators are non-overlyers that utilize the surplus percolating water. These users may use the water outside of the basin or for public utility within the basin. Appropriators of groundwater’s rights are subordinate to overlyers, meaning that appropriators can only utilize groundwater as long as it does not harm overlyers. These rights can also be acquired through

prescription (Hutchins, 1957). Prescription of groundwater means that the user has continuously been appropriating water for five years. Typically, landowners will file for Quiet Title in order to state that there have been no prescriptions of rights.

### **General Basin Management**

As of 2015, there are 431 groundwater basins delineated in California, which underlies about 40 percent of the state. Of those basins, 24 are subdivided into a sum of 108 subbasins, which results in a total of 515 groundwater systems. Groundwater in California has been highly unregulated, except through judicial adjudications when basins were in overdraft.

The Department of Public Works and Division of Water Resources published the *Water Quality Investigations Report No. 3, Ground Water Basins in California* in 1952. A base index map of primary water basins was created, as directed by Section 229 of the Water Code. This section read, “investigate conditions of the quality of all waters within the State, including saline waters, coastal and inland, as related to all sources of pollution of whatever nature and shall report thereon to the Legislature and to the appropriate regional water pollution control board annually, and may recommend any steps which might be taken to improve or protect the quality of such waters.”

In 1975, *Bulletin 118, California’s Ground Water* pulled all available information from The California Department of Water Resources (DWR), U.S. Geological Survey, and other related agencies for individual groundwater basins to “help those who must make decisions affecting the protection, additional use, and management of the State’s ground water resources.”

Chapter 2 in Bulletin 118, titled “Groundwater Management in California,” goes into detail on local groundwater ordinances. As of the update in 2003, there are 27 counties with adopted groundwater ordinances. Appendix A is a list of the counties with adopted ordinances and counties that are considering ordinances. *Baldwin v. County of Tehama* (1994) holds that the State does not occupy the field of groundwater management and does not have the authority to prevent local jurisdictions from adopting groundwater ordinances under their police powers. The Public Policy

Institute of California conducted a study of California's water transfer market and concluded that twenty-two counties had adopted ordinances that require a permit to export groundwater.

Due to California's water shortage issues, Governor Edmund Brown Jr. signed legislation on September 16, 2014 to monitor basins and increase local management. He signed three bills: AB 1739 by Assemblymember Roger Dickinson and Senate Bills 1168 and 1319 by Senator Fran Pavley ("Governor Brown Signs Historic Groundwater Legislation, 2014), which can be referenced in Appendix B. This legislation is commonly referred to as the Sustainable Groundwater Management Act (SGMA) or Pavley-Dickinson and is the first legislative act for regulating groundwater in California.

SGMA requires the formation of Groundwater Sustainability Agencies (GSAs), which are locally-controlled agencies that oversee basins. GSAs must then develop Groundwater Sustainability Plans (GSPs) for basins or subbasins that the Department of Water Resources (DWR) designates as medium or high priority ("Sustainable Groundwater Management," 2015). SGMA also requires groundwater reporting requirements for extractions. This plan applies to basins that have not already been judicially adjudicated and is optional for the federal government or any federally recognized Indian tribes through a joint powers authority (JPA) or other agreements with local agencies in a basin. It does not change groundwater rights. By January 31, 2020 all high or medium priority basins designated by Bulletin 118 that are noted as having critical conditions of overdraft must be managed by a GSP and by January 31, 2022, all remaining high or medium priority basins must be managed by a GSP. The act encourages low and very low priority basins to be managed under GSPs. Local agencies may form a GSA through a JPA or memorandum or other legal form of agreement. A regulated water corporation by the Public Utilities Commission may participate in a GSA if local agencies approve. GSAs have liberal powers, including controlling groundwater extractions from individual and groundwater wells and appropriating and acquiring groundwater rights.

### **Paso Robles Groundwater Basin**

The Paso Robles Groundwater Basin serves as the primary water source for North County in the County of San Luis Obispo, California. The basin is approximately 505,000 acres and serves rural residences, urban development, agricultural uses including vineyards, and wineries (“Paso Basin,” 2014).

#### **Fugro West and Cleath & Associates Paso Robles Groundwater Basin Study, Phase I**

The Fugro West and Cleath & Associates Paso Robles Groundwater Basin Study, Phase I is a technical examination of the groundwater basin in regards to the “quantity of groundwater in the basin, the hydraulic movement of groundwater through the basin, sources and volumes of natural recharge, and trends in water quality” (Fugro West, 2002). The report was prepared for the San Luis Obispo County Public Works Department, North County public agencies, and overlying landowners and water users and the Executive Summary can be referred to in Appendix C.

The basin is approximately 505,000 acres (790 square miles) and ranges from the “Garden Farms area south of Atascadero to San Ardo in Monterey County, and from the Highway 101 corridor east to Shandon” (Fugro West, 2002). Within the basin is the Atascadero subbasin, which covers the Salinas River corridor area south of Paso Robles (Fugro West, 2002). The subbasin includes the communities of Garden Farms, Atascadero, and Templeton (Fugro West, 2002).

The base period is from July 1980 through June 1997 because there is no definitive upward or downward water level trend for the entire basin, although there are different level trends at specific locations of the basin. Groundwater in the basin typically flows northwesterly across the basin towards the Estrella area, and then northerly towards the basin outlet at San Ardo (Fugro West, 2002).

Water quality is generally good, but there are a few areas with poor quality and few significant trends of ongoing deterioration of water quality. There are six major trends of water quality deterioration, including:



1. Increasing total dissolved solids (TDS) and chlorides in shallow Paso Robles Formation deposits along the Salinas River in the central Atascadero subbasin;
2. Increasing chlorides in the deep, historically artesian aquifer northeast of Creston;
3. Increasing TDS and chlorides near San Miguel;
4. Increasing nitrates in the Paso Robles Formation in the area north of Highway 46, between the Salinas River and the Huer Huero Creek;
5. Increasing nitrates in the Paso Robles Formation in the area south of San Miguel; and
6. Increasing TDS and chlorides in deeper aquifers near the confluence of the Salinas and Nacimiento rivers (Fugro West, 2002).

It is estimated that the groundwater in storage is approximately 30,500,000 acre feet (af) in total (Fugro West, 2002). This value differs yearly due to changes in recharge and net pumpage. Between 1980 and 1997, levels increased approximately 12,400 af, or 0.04% (Fugro West, 2002). This increase can be seen as a sign of stable basin-wide conditions; however, there is evidence that “steadily decreasing storage in the 1980’s was offset by increased water storage throughout the 1990’s” (Fugro West, 2002). The Atascadero subbasin’s total groundwater in storage is roughly 514,000 af (Fugro West, 2002). There was an increase of about 2,600 af between 1980 and 1997, or 0.5% (Fugro West, 2002).

A hydrologic budget is used to show the balance of total water gains and losses from a basin. It analyses each component of the water inflows and outflows of water over the base period and then is compared to the annual change in storage by the specific yield method. For this basin, the base period is July 1980 through June 1997.

The equation is such:  $\text{Inflow} = \text{Outflow} (+/-) \text{Change in Storage}$  (Fugro West, 2002). “Inflow equals the sum of subsurface inflow, percolation of precipitation, streambed percolation,

percolation of irrigation return water, percolation of wastewater discharge, and imported water. Outflow equals the sum of subsurface outflow, gross agricultural pumpage, municipal, rural domestic, and small commercial systems pumpage, extraction by phreatophytes, and exported water.

The sum of all components of outflow exceeded the sum of all the components of inflow by an estimated 2,700 afy” (Fugro West, 2002). The Atascadero Subbasin’s sum of outflow was approximately equal to the inflow, with a total storage of about 514,000 af (Fugro West, 2002).

The perennial yield is the “rate at which water can be pumped over a long-term without decreasing the groundwater in storage,” and is a buzzword for the Paso Robles Groundwater Basin (Fugro West, 2002). The perennial yield for the basin, including the Atascadero subbasin, is roughly 94,000 afy (Fugro West, 2002). Separately, the Atascadero subbasin’s perennial yield equals approximately 16,500 afy (Fugro West, 2002).

### **Management of the Paso Robles Groundwater Basin**

The County Board of Supervisors approved the Paso Robles Groundwater Basin Resource Capacity Study that states that the groundwater basin “is approaching or has reached its perennial yield” (“Paso Basin,” 2014).

The Paso Robles Groundwater Basin Urgency Ordinance (Ordinance No. 3246) was adopted on August 27, 2013 and will expire two years later on August 25, 2015. A copy of the ordinance is in Appendix D. The Ordinance states that new development and new or expanded crop irrigation production “must offset water usage at 1:1 ratio.” New or replacement wells must obtain a well clearance from the Planning and Building Department (“Paso Basin,” 2014).

At the February 10, 2015 Board of Supervisors Meeting, the Board asked staff to return with an unrestricted discussion regarding the development of an Agricultural Offset Program. Staff returned to the February 24, 2015 meeting and proposed a program that opened itself up to public comment and discussion. The Board moved to approve the potential Agricultural Offset Program

that includes that new development must be water neutral, no vested rights, a sunset clause contingent on a Groundwater Sustainability Agency, and language that mirrors the urgency ordinance for the entire Paso Robles Water Basin. The Board will consider this in July of 2015, although an Environmental Impact Report must be prepared and adopted prior to this.

Planning Staff is in the process of preparing and presenting a proposed San Luis Obispo County Export Ordinance to the Board of Supervisors.

Governor Jerry Brown signed Assembly Bill 2453 (AB 2453), sponsored by Assemblyman Katcho Achadjian of San Luis Obispo, in September 2014 that allows for the creation of a water management district for the Paso Robles Groundwater Basin with a Board of Directors composed of basin residents and property owners (“Governor signs bill to create Paso Robles water district,” 2014). This can be referenced in Appendix E. A petition is needed for the San Luis Obispo County’s Local Agency Formation Commission in order to form the water district. This can be submitted by a petition of 10 percent of the landowners in the proposed district or by a resolution from the county Board of Supervisors (“Governor signs bill to create Paso Robles water district,” 2014). The California Water Code allows for the formation of districts through a petition process of 10 percent of the landowners in a proposed district, so AB 2453 allows for an alternative method through the form of a resolution to form a water district. The process to petition to form the district and to vote on the formation of the district requires allows for one vote per landowner. A landowner is defined in the bill as “any person who holds title to land within the boundaries of the proposed district as shown on the last assessment roll prepared by the county assessor, or a legal representative of a landowner who holds title to land within the boundaries of the proposed district as shown on the last assessment roll prepared by the county assessor.” If a person owns multiple parcels of land, they will still only have the ability to vote once. If multiple owners own one parcel of land, the owners will collectively have one vote.

The Board of Directors, according to AB 2453, will consist of nine elected directors. Directors must reside within the district, within two miles of the district boundary, or within the boundaries of the City of Paso Robles, the Atascadero Mutual Water Company, the Templeton Community Services District, the San Miguel Community Services District, or the San Luis Obispo County Service Area 16. In addition, all directors must be registered voters within the district. Landowners will elect six of the directors. Each voter will have the opportunity to cast one vote for each acre of land owned. Voters are divided into three classes for the purposes of electing directors based on the total amount of land owned. For voters owning less than one acre, the voter will have one vote and any fraction will be rounded to the nearest full acre. Large landowners, as defined by owning a total of 400 acres or more, will elect two directors. Medium landowners, as defined by owning a total of 40 acres or more but less than 400 acres or more, will elect two directors. Small landowners, as defined by owning a total of less than 40 acres, will elect two directors. It is not a requirement for directors to be landowners from the classes that they are elected from. Registered voters from the district at large will elect three directors. The board may adopt ordinances that regulate conserve, manage, and control the use and extraction of groundwater within the territory of the district. Ordinances will be subject to a public hearing and will require a majority vote of the board to be adopted. Emergency ordinances require a vote of at least four board members and will be adopted if the board determines that it is necessary to protect the public health, safety, or welfare of the district. The district also has the authority to collect data, conduct technical and other investigations, prepare annually or receive reports on groundwater and supplemental water supplies and conditions in the territory of the district, and recommend and encourage wastewater reuse and other water development projects. In addition, the district has the authorities local agencies have in Part 2.75 of Division 6.

The district also may develop, adopt, and implement a groundwater management plan to balance the water supply and demand within the basin. The plan may be utilized to control

extractions from the basin. It may also address existing groundwater storage, long-term recoverable storage, including an estimate of nonrecoverable storage, and the expected adverse effects of projected extractions. The plan may develop distinct zones or regions on the grounds of the geology of the basin, land use, water use, the location of extraction facilities, or other factors defined by the board. Lastly, the plan may include a policy for issuing new well permits. These permits will evaluate the location of the proposed wells and area of use, projected extractions, and the estimated effect of extractions on existing users and on storage. The district may consider a ban on new irrigated acreage or new municipal water system wells. The district may also develop a contingency plan for seawater intrusion, basin contamination, or other risks to the groundwater supply.

The board may exercise multiple powers to improve or protect the quantity or quality of groundwater supplies by ordinance. This is determined by the board after a noticed public hearing and considering any relevant investigations, studies, and evidence that groundwater management activities are necessary to do so. The board may:

- “(a) Require conservation practices and measures within the affected portion of its territory.
- (b) Control groundwater extractions by regulating, limiting, or suspending extraction facilities, the construction of new extraction facilities, the enlarging of existing extraction facilities, and the reactivation of abandoned extraction facilities.
- (c) Commence and prosecute legal actions to enjoin unreasonable uses or methods of use of water within the district or outside the territory of the district to the extent those uses or methods of use adversely affect the groundwater supply within the district.
- (d) Impose spacing requirements on new extraction facility construction to minimize well interference.
- (e) Impose reasonable operating regulations on extraction facilities to minimize well interference, including requiring pumpers to operate on a rotation basis.

(f) Require extraction facilities to be registered with the district within 30 days of notice being given to the operator of the extraction facility.

(g) Require that the operator of a registered extraction facility provide the district annually with the following information regarding the extraction facility:

(1) The name and address of the operator of the extraction facility.

(2) The name and address of the owner of the land upon which the extraction facility is located.

(3) A description of the equipment associated with the extraction facility.

(4) The location of the water extraction facility.

(h) Require extraction facilities to be equipped with waterflow measuring devices installed and calibrated by the district or, at the district's option, by the extraction facility operator" (California Legislative Information, 2014).

The district may also levy groundwater extraction charges through the form of ordinances. The charges may be volumetric charges that will be utilized to provide an incentive for reduced water use, on extractions from all water extraction facilities within the district in order to pay for the initiation, operations, and completing any other powers, purposes, and groundwater management activities. Groundwater extraction charges must be uniform within the district. The district may also implement an operator's extraction allocation for each facility and impose surcharges, such as volumetric surcharges intended to provide an incentive for reduced water use, for extractions in excess of allotted allocations, and late penalties of these fees. Extraction allocations and surcharges are legally allowable because they are necessary to eliminate overdraft that is caused by excess extractions and to bring the basin to safe yield within 10 years of the formation of the district and to maintain the safe yield once it is achieved. The surcharges are not meant to generate tax revenues or proceeds, but rather to discourage the use beyond extraction allocations. This is why they are not special taxes for purposes of Section 4 of Article XIII A of the

California Constitution or proceeds of taxes for purposes of Section 8 of Article XIII B of the California Constitution. The maximum amount of extractions is \$200 per acre-foot of groundwater extracted in excess, however the district has the power to increase it to the amount necessary to achieve safe yield.

The San Luis Obispo County Board of Supervisors decided to forward an application to form the Paso Robles Basin Water District to the Local Agency Formation Commission (LAFCO) at their meeting on April 21, 2015. The application's boundaries are based off of the Phase 1 Study of the Paso Basin prepared by Fugro West and Cleath & Associates. The boundaries in this study differ from Bulletin 118, so these areas covered by Bulletin 118 but not the study are Negative Spheres of Influence. This provides LAFCO the ability to "identify these areas for potential detachment in the event that an application to revise the Paso Robles boundaries in accordance with the Phase 1 Study is submitted to and approved by the DWR" (Diodati, 2015). The unincorporated areas within the Atascadero Subbasin are designated as a (positive) Sphere of Influence, meaning that it would be considered for potential inclusion if it is determined that the Subbasin cannot be separately and properly managed. The application is inclusive and consistent with every power listed in AB 2453, but requests one of the powers to be a latent power. AB 2453 states that an emergency ordinance may be adopted by an affirmative vote of only four or more board members. This will be a latent power unless and until the State Legislature amends AB 2453 to require seven or more affirmative votes. The annual estimated cost of operating the Water District and complying with SGMA is \$950,000 per year. A funding mechanism is being explored through a levy. The NBS Report assumes a \$2 per acre levy per discussion purposes, although the levy would be \$2.10 in order to fund a \$950,00 budget. LAFCO will now consider this application at a scheduled meeting to be determined. If a water district is ultimately formed, a County of San Luis Obispo Groundwater Export Ordinance will be void because the district will have the authority over these matters.

### **Case Study: Tehama County**

According to the Tehama County General Plan updated March 31, 2009, the county is located in the upper Sacramento Valley in California and is approximately the midway point between the City of Sacramento and the Oregon state border. The western boundary is located in the Pacific Coast Range and the eastern boundary is in the Cascade Mountains. Shasta County is to the north, Plumas and Butte Counties are to the east, Glenn County is to the south, and Trinity and Mendocino Counties are to the west. The Sacramento River Valley cuts through the central portion of the County. The County spans about 2,950 square miles. The California Department of Finance estimated the population to be 62,419 people as of January 2008.

Agriculture is strong in the County and is the largest contributor to the economy. National Agricultural Statistics Services (NASS) reports total farm acreage in 2002 was 862,440 acres. Total cropland in 2002 is estimated to be 141,000 acres. Orchards comprised 45,236 acres in 2002 and the most widely planted crops are walnuts. Other prevalent orchards are almonds, prunes, and walnuts. The County functions as the grazing ground for many Northern California and Southern Oregon cattlemen. It is estimated that there are 68,000 head of cattle. Sheep are the second highest livestock commodity and hogs are the third-highest livestock commodity.

Mining and exporting restrictions are included in the County of Tehama Code of Ordinances in Chapter 9.40 – Aquifer Protection and can be referenced in Appendix F. Mining is defined as the “extraction of groundwater by any means, including pumping and the use of artesian wells, from any aquifer within the County of Tehama which in contemplation of pre-existing extractions of groundwater used beneficially upon lands overlying the aquifer within the county and the reasonably foreseeable beneficial uses to which groundwater from the aquifer could be made to lands overlying the aquifer within the county which exceeds the reasonably foreseeable replenishment potential of the watersheds’ native water together with such imported water as may



be available to be applied to recharge the aquifer” (Tehama County, 2014). Mining is prohibited where the water extracted is to be transported out of the County of Tehama.

Permits are required for groundwater extractions for use off-parcel for the purposes of using or selling the water for use except on the parcel that the extraction occurs or contiguous parcels of land under the same ownership. Permits are filed with the Tehama County health agency, environmental health division. An environmental review will need to be requested as well. The health agency, environmental health division, will review the application with affected county departments, State Department of Water Resources, and the Regional Water Quality Control Board. The affected county departments and state agencies will submit comments to the health agency, environmental health division. Once the comments have been compiled, they, along with the application, will be sent to review by the county technical advisory committee. After the committee comments on the application, all of the comments and application will be sent to the planning director to review. The health agency, environmental health division, will then assemble all comments and submit them, with the application, to the Board of Supervisors. The Board of Supervisors will set a public hearing on the issuance of the permit, in accordance with Government Code Section 6061. At the hearing, the applicant may present any relevant evidence. The board may request additional geologic studies. The board will consider “all effects the proposed permit would have on the affected groundwater, and the affected aquifer or aquifers, including, but not limited to, the hydraulic gradient, hydrology, percolation, permeability, piezometric surface, porosity, recharge, safe yield, salt water intrusion, specific capacity, spreading water, transmissivity, usable storage capacity, water table, and zone of saturation” (Tehama, 2014). The board will need to determine that the permit “will not bring about an overdraft, will not bring about salt water intrusion, will not adversely affect transmissivity within the aquifer, will not adversely affect the water table and will not result in the mining of water” (Tehama, 2014). This decision on the permit is to be final. The board has the authority to impose conditions upon the permit in order

to prohibit overdraft, which may include a requirement for observation and/or monitoring wells. The permit is to be reviewed annually by staff of the health agency, environmental health division. If it is determined that an overdraft is occurring, staff may amend the permit to decrease the amount of water that is allowed to be extracted. This can be appealed to the Board of Supervisors.

It is beneficial to restrict exporting of water to contiguous parcels under same ownership in the Paso Robles Groundwater Basin because it ensures that water is not being transported, sold, and used outside of the county. The review process is comprehensive and takes into consideration all experts in the County. The required public hearing process also allows for the public to comment on the permit and keeps the political process in check.

### **Case Study: Stanislaus County**

Stanislaus County is located in the San Joaquin Valley in Central California and covers 1,521 square miles. The surrounding counties are Santa Clara County to the west, San Joaquin County to the north, Calaveras and Tuolumne Counties to the east, and Merced County to the south. There are nine incorporated cities in the County (Interwest Consulting, 2007).

The United States Census Bureau lists the Population in 2010 to be 514,451 people (2015).

Stanislaus County is an “agricultural county in transition” (Stanislaus County, 1994). The majority of the County’s population lived on farms before 1960, but now the total population of the nine incorporated cities is roughly three times larger than that of the unincorporated area. The economic base is predominately agricultural, however the economy is diversifying. An unprecedented population growth has resulted in a pressured conversion of productive agricultural lands to non-agricultural uses. This growth also has led to the expansion of the infrastructure system and public services. Housing is also in demand, which creates a higher demand of water.

The Stanislaus County Groundwater Ordinance can be found in Chapter 9.37 Groundwater of the Stanislaus County Code and can be referenced in Appendix G. Export of water is defined as “the act of conveying groundwater, or surface water for which groundwater has been substituted, out of the county” (Stanislaus, 2014). The export of water and the “unsustainable extraction of groundwater within unincorporated areas of the county” are prohibited (Stanislaus, 2014).

The Stanislaus County department of environmental resources is the primary agency responsible for the implementation of this ordinance. They are to develop their own permit system.

One exemption that would apply for the Paso Robles Water Basin is the clause allowing the export of water that “reasonably supports agricultural operations on property outside the county that is contiguous with property within the county and is under common ownership” (Stanislaus, 2014). The basin covers San Luis Obispo County and Monterey County, so this would allow for property owners that own contiguous parcels to utilize their groundwater for agricultural uses.

### **Proposal for County of San Luis Obispo Export Ordinance**

After research on the condition of the Paso Robles Groundwater Basin, it is evident that the basin is in need of regulation. An export ordinance is the most rational because the permits to extract and export will be governed by elected representatives. In addition, permits may be subject to California Environmental Quality Act review. This will ensure that the protection and conservation of the groundwater basin will be incorporated in permit review.

#### *Definitions*

1. “Board” shall mean the Board of Supervisors.
2. “County” shall mean the County of San Luis Obispo.
3. “Department” shall mean the county Department of Planning and Building.
4. “Director” shall mean the county Director of Planning and Building.
5. “Groundwater” shall mean water in the one of saturation. Groundwater is presumed to be percolating, although it does occur in known and definite channels.

6. “Groundwater basin” shall mean the Paso Robles Groundwater Basin with boundaries defined by the Fugro West and Cleath & Associates Final Report.
7. “Export” shall mean the extraction of groundwater by any means within the County of San Luis Obispo and transported, by any means, from the County of San Luis Obispo.

*Permit required for exportation of groundwater for use off-parcel*

It shall be unlawful to extract groundwater of any nature or description, or for a property owner to allow such extraction on his land, for the purpose of using or selling the water for use on other than the parcel of land on which the extraction occurs, or contiguous parcels of land under the same ownership as the parcel of land on which the extraction occurs for the purposes of reasonably supported agricultural operations, unless a permit is granted through the process listed in this chapter. This does not apply to the extraction of water by the county or the San Luis Obispo County Flood Control and Water Conservation District or their contractors.

*Application for permit*

An application for a groundwater export ordinance required in this chapter shall be filed with the County of San Luis Obispo Planning and Building Department and a request for environmental review shall be filed as required by county guidelines. Established fines shall accompany the application and request for environmental review. Upon the applicant submittal of the permit application, the Department shall review the application with affected county departments, including, but not limited to, the County of San Luis Obispo Public Works Department. The Department shall also review the application with the State Department of Water Resources and the Regional Water Quality Control Board. After the Department receives comments from affected county departments and affected state agencies, the Department will compile the application with all received comments and sent to the Board of Supervisors. Upon receipt of the application, the Board of Supervisors shall set a public hearing on the issuance of a permit pursuant to Government Code Section 6061.

*Public hearing on issuance of permit*

A hearing shall be required pursuant to Government Code Section 6061. At said hearing, the applicant shall be entitled to present any relevant evidence. The Board may request any additional geologic studies, with costs awarded to the applicant. The Board shall also hear relevant evidence and comments from the public and county staff. The Board shall consider all effects the proposed permit would have on the affected groundwater basin.

*Granting of permit*

The permit discussed in this chapter may only be granted where the Board finds and determines that the permit will not bring about or significantly contribute to overdraft, will not degrade groundwater quality, will not result in or significantly contribute to land subsidence, or will not effect the overlyers's groundwater rights. The board shall impose such conditions upon the permit in order to prevent overdraft that it deems necessary for the health, safety, and welfare of the people of the County. The applicant may also propose mitigation measures that the board shall take into consideration. The decision of the board is final. The permit shall be valid for a term set by the Board, but not to exceed one year from the date of issuance of the permit. The permit is subject to staff review and any findings of violations of the permit will be in writing. The permittee shall immediately correct any violations or may appeal to the Director within ten (10) days of the issuance of violations of the permit.

*Violation penalty*

Any person who violates any provisions in this chapter, terms and/or conditions of any permits issued under this chapter, or fails to immediately remedy violations of the permit without an appeal, with intent to do so shall be guilty of a misdemeanor. This is punishable by a fine not exceeding one thousand dollars per violations.

**Conclusion**

The purpose of the County of San Luis Obispo Export Ordinance is to prohibit the extraction of groundwater from the Paso Robles Groundwater Basin, unless a permit is granted in order to do so. The process in order to obtain a permit is very thorough because protecting the basin and ensuring water availability to overlyers is critical. The ordinance is modeled after the Tehama County ordinance due to the fact that the Tehama County ordinance was tried and upheld in court. It also incorporates aspects of the Stanislaus County ordinance. Although the adoption of an export ordinance will no longer be realistic with the approval and formation of a water district, the water district should incorporate the practices in the ordinance in order to protect the groundwater basin. As California's water supply continues to be in danger, it is imperative that local jurisdictions take responsibility to protect this vital resource, while preserving water rights.

### References

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**Appendix A****Table 4 Counties with ordinances addressing groundwater management**

<u>County</u>	<u>Year enacted</u>	<u>Key elements (refer to ordinances for exemptions and other details)</u>
Butte	1996	Export permit required (extraction & substitute pumping), Water Commission and Technical Advisory Committee, groundwater planning reports (county-wide monitoring program)
Calaveras	2002	Export permit required (extraction & substitute pumping)
Colusa	1998	Export permit required (extraction & substitute pumping)
Fresno	2000	Export permit required (extraction & substitute pumping)
Glenn	1990	Water Advisory Committee and Technical Advisory Committee, basin management objectives and monitoring network, export permit required (1990)
Imperial	1996	Commission established to manage groundwater, including controlling exports (permit required), overdraft, artificial recharge, and development projects
Inyo	1998	Regulates (1) water transfers pursuant to Water Code Section 1810, (2) sales of water to the City of Los Angeles from within Inyo Co., (3) transfer or transport of water from basins within Inyo County to another basin with the County, and (4) transfers of water from basins within Inyo Co. to any area outside the County
Kern	1998	Conditional use permit for export to areas both outside county and within watershed area of underlying aquifer in county. Only applies to southeastern drainage of Sierra Nevada and Tehachapi mountains.
Lake	1999	Export permit required (extraction & substitute pumping)
Lassen	1999	Export permit required (extraction & substitute pumping)

Madera	1999	Permit required for export, groundwater banking, and import for groundwater banking purposes to areas outside local water agencies
Mendocino	1995	Mining of groundwater regulated for new developments in Town of Mendocino
Modoc	2000	Export permit required for transfers out of basin
Mono	1988	Permit required for transfers out of basin
Monterey	1993	Water Resources Agency strictly regulates extraction facilities in zones with groundwater problems
Napa	1996	Permits for local groundwater extractions; exemptions for single parcels and agricultural use
Sacramento	1952	Water Agency established to manage and protect groundwater management zones; replenishment charges
San Benito	1995	Mining groundwater (overdraft) for export prohibited; permit required for off-parcel use, injecting imported water; influence of well pumping restrictions
San Bernardino	2002	Permit required for any new groundwater well within the desert region of the county
San Diego	1991	Provides for mapping of groundwater impacted basins (defined); projects within impacted basins require groundwater investigations
San Joaquin	1996	Export permit required (extraction & substitute pumping)
Shasta	1997	Export permit required (extraction & substitute pumping)
Sierra	1998	Export permit required or for off-parcel use
Siskiyou	1998	Permit required for transfers out of basin
Tehama	1992	Mining groundwater (overdraft) for export prohibited; permit required for off-parcel use; influence of well pumping restrictions
Tuolumne	2001	Export permit required (extraction & substitute pumping)
Yolo	1996	Export permit required (extraction & substitute pumping)

**Appendix B**

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

**Sustainable Groundwater Management Act**  
[And Related Statutory Provisions  
from  
SB1168 (Pavley), AB1739 (Dickinson), and SB1319  
(Pavley)  
as  
Chaptered]

California Code.

**Sustainable Groundwater Management Act**  
[And Related Statutory Provisions  
from  
SB1168 (Pavley), AB1739 (Dickinson), and SB1319  
(Pavley)  
as Chaptered]

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

### UNCODIFIED FINDINGS

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(a) The Legislature finds and declares as follows:

(1) The people of the state have a primary interest in the protection, management, and reasonable beneficial use of the water resources of the state, both surface and underground, and that the integrated management of the state's water resources is essential to meeting its water management goals.

(2) Groundwater provides a significant portion of California's water supply. Groundwater accounts for more than one-third of the water used by Californians in an average year and more than one-half of the water used by Californians in a drought year when other sources are unavailable.

(3) Excessive groundwater extraction can cause overdraft, failed wells, deteriorated water quality, environmental damage, and irreversible land subsidence that damages infrastructure and diminishes the capacity of aquifers to store water for the future.

(4) When properly managed, groundwater resources will help protect communities, farms, and the environment against prolonged dry periods and climate change, preserving water supplies for existing and potential beneficial use.

(5) Failure to manage groundwater to prevent long-term overdraft infringes on groundwater rights. (6) Groundwater resources are most effectively managed at the local or regional level.

(7) Groundwater management will not be effective unless local actions to sustainably manage groundwater basins and subbasins are taken.

(8) Local and regional agencies need to have the necessary support and authority to manage groundwater sustainably.

(9) In those circumstances where a local groundwater management agency is not managing its groundwater sustainably, the state needs to protect the resource until it is determined that

a local groundwater management agency can sustainably manage the groundwater basin or subbasin.

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

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

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

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

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

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

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

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

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

### **Government Code**

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

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

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

(b) An adjudication of water rights.

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



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

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

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

- (1) A city or county, within or abutting the area covered by the proposal, and any special district that may be significantly affected by the proposed action, as determined by the planning agency.
- (2) An elementary, high school, or unified school district within the area covered by the proposed action.
- (3) The local agency formation commission.
- (4) An areawide planning agency whose operations may be significantly affected by the proposed action, as determined by the planning agency.
- (5) A federal agency, if its operations or lands within its jurisdiction may be significantly affected by the proposed action, as determined by the planning agency.
- (6) (A) The branches of the United States Armed Forces that have provided the Office of Planning and Research with a California mailing address pursuant to subdivision (d) of Section 65944 ~~when, if~~ the proposed action is within 1,000 feet of a military installation, or lies within special use airspace, or beneath a low-level flight path, as defined in Section 21098 of the Public Resources Code, ~~provided that and if~~ the United States Department of Defense provides electronic maps of low-level flight paths, special use airspace, and military installations at a scale and in an electronic format that is acceptable to the Office of Planning and Research.  
  
(B) Within 30 days of a determination by the Office of Planning and Research that the information provided by the Department of Defense is sufficient and in an acceptable scale and format, the office shall notify cities, counties, and cities and counties of the availability of the information on the Internet. Cities, counties, and cities and counties shall comply with subparagraph (A) within 30 days of receiving this notice from the office.
- (7) A public water system, as defined in Section 116275 of the Health and Safety Code, with 3,000 or more service connections, that serves water to customers within the area covered by the proposal. The public water system shall have at least 45 days to comment on the proposed plan, in accordance with subdivision (b), and to provide the planning agency with the information set forth in Section 65352.5.

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

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

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

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

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

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

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

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

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

(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**

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

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

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

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

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

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

### **1831. CEASE AND DESIST ORDERS**

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

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

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

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

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

(2) Any term or condition of a permit, license, certification, or registration issued under this division. (3) Any decision or order of the board issued under this part, Section 275, [Chapter](#)

[11 \(commencing](#)

[with Section 10735\) of Part 2.74 of Division 6](#), or Article 7 (commencing with Section 13550) of

Chapter 7 of Division 7, in which decision or order the person to whom the cease and desist order will be issued, or a predecessor in interest to that person, was named as a party directly affected by the decision or order.

(4) A regulation adopted under Section 1058.5.

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

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

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

**5200. FINDINGS**

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

**5201. DEFINITIONS**

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As used in this part:

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

(b) “Board-designated local area” has the same meaning as defined in Section

5009. (c) “De minimis extractor” has the same meaning as defined in Section 10721.

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

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

(f) “Groundwater sustainability agency” has the same meaning as defined in Section 10721. (g) “Person” has the same meaning as defined in Section 10735.

(h) “Personal information” has the same meaning as defined in Section 1798.3 of the Civil Code. (i) “Probationary basin” has the same meaning as defined in Section 10735.

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

### **5202. APPLICABILITY OF EXTRACTION REPORTING REQUIREMENTS**

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

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

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

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

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

(1) An extraction by a de minimis extractor.

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

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

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

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

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

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

### **5203. EXTRACTION REPORTING REQUIREMENTS**

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

(a) The name and address of the person who extracted groundwater and of the person filing the report. (b) The name of the basin from which groundwater was extracted.

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

(d) The capacity of the groundwater extraction facilities.

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

(f) The purpose of use.

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

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

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

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

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

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(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**

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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**

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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**

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

**5208. ENFORCEMENT**

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

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

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

- (a) The board determines that the requirements of subdivision (e) of Section 5009 have been satisfied with respect to extractions subject to reporting pursuant to this part, in addition to any groundwater extractions subject to Part 5 (commencing with Section 4999).
- (b) The designated entity has made satisfactory arrangements to collect and transmit to the board any fees imposed pursuant to paragraph (2) of subdivision (b) of Section 1529.5.

**PART 2.74. Sustainable Groundwater Management**

## CHAPTER 1. General Provisions

**10720. TITLE**

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

**10720.1. LEGISLATIVE INTENT**

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

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

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

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

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

(e) To avoid or minimize subsidence.

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

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



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

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

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

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

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

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

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

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(a) Groundwater management pursuant to this part shall be consistent with Section 2 of Article X of the California Constitution. Nothing in this part modifies rights or priorities to use or store groundwater consistent with Section 2 of Article X of the California Constitution, except that in basins designated medium- or high-priority basins by the department, no extraction of groundwater between January 1, 2015, and the date of adoption of a groundwater sustainability plan pursuant to this part, 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**

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

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

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

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

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

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

(1) Beaumont

Basin. (2) Brite

Basin.

(3) Central

Basin. (4)

Chino Basin.

(5) Cucamonga

Basin. (6)

Cummings Basin.

(7) Goleta Basin.

(8) Lytle Basin.

(9) Main San Gabriel

Basin. (10) Mojave Basin

Area. (11) Puente Basin.

(12) Raymond Basin.

(13) Rialto-Colton

Basin. (14) Riverside

Basin.

(15) San Bernardino Basin Area.

(16) San Jacinto Basin.

(17) Santa Margarita River

Watershed. (18) Santa Maria Valley

Basin.

(19) Santa Paula Basin.

(20) Scott River Stream

System. (21) Seaside Basin.

(22) Six Basins.

(23) Tehachapi Basin.

(24) Upper Los Angeles River

Area. (25) Warren Valley Basin.

(26) West Coast Basin.

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

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

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

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

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

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

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

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

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

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

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

### CHAPTER 2. Definitions

#### **10721. DEFINITIONS**

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

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

(f) "Governing body" means the legislative body of a groundwater sustainability agency.

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

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

(i) “Groundwater recharge” means the augmentation of groundwater, by natural or artificial

means. (j) “Groundwater sustainability agency” means one or more local agencies that

implement the

provisions of this part. For purposes of imposing fees pursuant to Chapter 8 (commencing with Section

10730) or taking action to enforce a groundwater sustainability plan, “groundwater sustainability agency” also means each local agency comprising the groundwater sustainability agency if the plan authorizes separate agency action.

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

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

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

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

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

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

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

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



(s) "Recharge area" means the area that supplies water to an aquifer in a groundwater basin. (t) "Sustainability goal" means the existence and implementation of one or more groundwater sustainability plans that achieve sustainable groundwater management by identifying and causing the

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

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

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

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

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

(2) Significant and unreasonable reduction of groundwater

storage. (3) Significant and unreasonable seawater intrusion.

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

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

land uses. (6) Depletions of interconnected surface water that have significant and

unreasonable adverse

impacts on beneficial uses of the surface water.

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

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

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

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

### CHAPTER 3. Basin Boundaries

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

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

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

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

- (1) Information demonstrating that the proposed adjusted basin can be the subject of sustainable groundwater management.
- (2) Technical information regarding the boundaries of, and conditions in, the proposed adjusted basin.
- (3) Information demonstrating that the entity proposing the basin boundary adjustment consulted with interested local agencies and public water systems in the affected basins before filing the proposal with the department.
- (4) Other information the department deems necessary to justify revision of the basin's

boundary. (b) By January 1, 2016, the department shall adopt regulations regarding the information required to

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

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

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

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

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

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

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

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

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

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

(1) High priority.

(2) Medium

priority. (3) Low

priority.

(4) Very low priority.

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

(c) Any time the department updates Bulletin 118 boundaries pursuant to subdivision (b) of Section

12924, the department shall reassess the prioritization pursuant to Section 10933.

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

#### CHAPTER 4. Establishing Groundwater Sustainability Agencies

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

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

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

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

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

Zone 7. (B) Alameda County Water District.

(C) Desert Water Agency.

(D) Fox Canyon Groundwater Management Agency.

(E) Honey Lake Valley Groundwater Management

District. (F) Long Valley Groundwater Management

District.

(G) Mendocino City Community Services District.

(H) Mono County Tri-Valley Groundwater Management

District. (I) Monterey Peninsula Water Management

District.

(J) Ojai Groundwater Management

Agency. (K) Orange County Water

District.

(L) Pajaro Valley Water Management

Agency. (M) Santa Clara Valley Water

District.

(N) Sierra Valley Water District.

(O) Willow Creek Groundwater Management Agency.

(2) An agency identified in this subdivision may elect to opt out of being the exclusive groundwater management agency within its statutory boundaries by sending a notice to the department, which shall be posted pursuant to Section 10733.3. If an agency identified in paragraph (1) elects to opt

out of being the exclusive groundwater management agency, any other local agency or combination

of local agencies operating within the statutory boundaries of the agency that has elected to opt out may notify the department pursuant to subdivision (d) of its election to be the groundwater sustainability agency.

(3) A local agency listed in paragraph (1) may comply with this part by meeting the requirements of Section 10733.6 or electing to become a groundwater sustainability agency pursuant to this section. A local agency with authority to implement a basin-specific

management plan pursuant to its principal act shall not exercise any authorities granted in this part in a manner inconsistent with any prohibitions or limitations in its principal act unless the governing board of the local agency makes a finding that the agency is unable to sustainably manage the basin without the prohibited authority.

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



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

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

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

(a) Holders of overlying groundwater rights,

including: (1) Agricultural users.

(2) Domestic well

owners. (b) Municipal well

operators. (c) Public water

systems.

(d) Local land use planning agencies.

(e) Environmental users of groundwater.

(f) Surface water users, if there is a hydrologic connection between surface and groundwater

bodies. (g) The federal government, including, but not limited to, the military and managers of

federal lands. (h) California Native American tribes.

(i) Disadvantaged communities, including, but not limited to, those served by private domestic wells or

small community water systems.

(j) Entities listed in Section 10927 that are monitoring and reporting groundwater elevations in all or a part of a groundwater basin managed by the groundwater sustainability agency.

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

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

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

---

(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.

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

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

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

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

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

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

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

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

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

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

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

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

(b) A county described in subdivision (a) shall provide notification to the department pursuant to Section

10723.8 unless the county notifies the department that it will not be the groundwater sustainability agency for the area. Extractions of groundwater made on or after July 1, 2017,

in that area shall be subject to reporting in accordance with Part 5.2 (commencing with Section 5200) of Division 2 if the county does either of the following:

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

#### CHAPTER 5. Powers and Authorities

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

---

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

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

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

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

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

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

### **10725.4. INVESTIGATIONS**

---

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

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

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

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

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

#### **10725.6. REGISTRATION OF EXTRACTION FACILITIES**

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

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

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

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

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

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

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

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

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

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

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A groundwater sustainability agency may do the following:

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



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

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

program. (d) Perform any acts necessary or proper to enable the agency to purchase, transfer,

deliver, or

exchange water or water rights of any type with any person that may be necessary or proper to carry

out any of the purposes of this part, including, but not limited to, providing surface water in exchange for a groundwater extractor's agreement to reduce or cease groundwater extractions. The agency shall not deliver retail water supplies within the service area of a public water system without either the consent of that system or authority under the agency's existing authorities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### CHAPTER 6. Groundwater Sustainability Plans

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

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

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

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

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

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

#### **10727.2. REQUIRED PLAN ELEMENTS**

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A groundwater sustainability plan shall include all of the following:

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

(1) Historical data, to the extent available.

- (2) Groundwater levels, groundwater quality, subsidence, and groundwater-surface water interaction.
  - (3) A general discussion of historical and projected water demands and supplies.
  - (4) A map that details the area of the basin and the boundaries of the groundwater sustainability agencies that overlie the basin that have or are developing groundwater sustainability plans.
  - (5) A map identifying existing and potential recharge areas for the basin. The map or maps shall identify the existing recharge areas that substantially contribute to the replenishment of the groundwater basin. The map or maps shall be provided to the appropriate local planning agencies after adoption of the groundwater sustainability plan.
- (b) (1) Measurable objectives, as well as interim milestones in increments of five years, to achieve the sustainability goal in the basin within 20 years of the implementation of the plan.
- (2) A description of how the plan helps meet each objective and how each objective is intended to achieve the sustainability goal for the basin for long-term beneficial uses of groundwater.
  - (3) (A) Notwithstanding paragraph (1), at the request of the groundwater sustainability agency, the department may grant an extension of up to 5 years beyond the 20-year sustainability timeframe upon a showing of good cause. The department may grant a second extension of up to five years upon a showing of good cause if the groundwater sustainability agency has begun implementation of the work plan described in clause (iii) of subparagraph (B).
  - (B) The department may grant an extension pursuant to this paragraph if the groundwater sustainability agency does all of the following:
    - (i) Demonstrates a need for an extension.
    - (ii) Has made progress toward meeting the sustainability goal as demonstrated by its progress at achieving the milestones identified in its groundwater sustainability plan.
    - (iii) Adopts a feasible work plan for meeting the sustainability goal during the extension period.
  - (4) The plan may, but is not required to, address undesirable results that occurred before, and have not been corrected by, January 1, 2015. Notwithstanding paragraphs (1) to (3), inclusive, a groundwater sustainability agency has discretion as to whether to set measurable objectives and the timeframes for achieving any objectives for undesirable results that occurred before, and have not been corrected by, January 1, 2015.
- (c) A planning and implementation horizon.
- (d) Components relating to the following, as applicable to the basin:

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

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

(3) Mitigation of overdraft.

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

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

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

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

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

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

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

(a) Control of saline water intrusion.

(b) Wellhead protection areas and recharge

areas. (c) Migration of contaminated

groundwater.

(d) A well abandonment and well destruction

program. (e) Replenishment of groundwater

extractions.



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

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

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

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

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

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

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

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

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

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

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

- (a) Groundwater elevation data.
- (b) Annual aggregated data identifying groundwater extraction for the preceding water year.
- (c) Surface water supply used for or available for use for groundwater recharge or in-lieu use.
- (d) Total water use.
- (e) Change in groundwater storage.

#### **10728.2. PERIODIC REVIEW AND ASSESSMENT**

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 8. Financial Authority

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**10730.6. FEE COLLECTION AND ENFORCEMENT**

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

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

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

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

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

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

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

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

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

**10731. AUTHORITY TO DETERMINE AMOUNTS EXTRACTED**

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

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

**CHAPTER 9. Groundwater Sustainability Agency Enforcement Powers****10732. CIVIL PENALTIES**

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

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

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

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



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

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

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

## CHAPTER 10. State Evaluation and Assessment

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

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

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

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

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

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

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

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

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

basin, and the impact of those conditions on achieving sustainability. The baseline for measuring unreliability and reductions shall

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

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

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

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

### **10733.3. NOTICE REQUIREMENTS**

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

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

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

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

- (1) The groundwater sustainability plans.
- (2) An explanation of how the groundwater sustainability plans implemented together satisfy Sections 10727.2, 10727.4, and 10727.6 for the entire basin.
- (3) A copy of the coordination agreement between the groundwater sustainability agencies to ensure the coordinated implementation of the groundwater sustainability plans for the entire basin.

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

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

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

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

(b) An alternative is any of the following:

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

(2) Management pursuant to an adjudication action.

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

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

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

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

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

### CHAPTER 11. State Intervention

#### **10735. DEFINITIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



10733) and make determinations pursuant to this section. The board shall post on its Internet Web site

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

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

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

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

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

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

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

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

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(a) If the board designates a basin as a probationary basin pursuant to paragraph (1) or (2) of subdivision

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

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

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

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

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

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

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

**10735.8. INTERIM PLANS**

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

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

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

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

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

plan. (c) The interim plan may include the following:

(1) Restrictions on groundwater extraction. (2) A physical solution.

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

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

(e) The board shall include in its interim plan a groundwater sustainability plan, or any element of a plan, that the board finds complies with the sustainability goal for that portion of the basin or would help

meet the sustainability goal for the basin. Where, in the judgment of the board, an adjudication action can be relied on as part of the interim plan, either throughout the basin or in an area within the basin,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**10736.2. CEQA APPLICABILITY**

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

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

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.

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**[PART 2.75. Groundwater Management]**

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

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

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

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

**[PART 2.11. Groundwater Monitoring]****10927. ENTITIES AUTHORIZED TO ASSUME RESPONSIBILITY FOR MONITORING AND REPORTING**

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

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

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

(2) A water replenishment district established pursuant to Division 18 (commencing with Section

60000). This part does not expand or otherwise affect the authority of a water replenishment district relating to monitoring groundwater elevations.

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

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

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



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

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

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

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

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

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

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

(1) The population overlying the basin or subbasin.

(2) The rate of current and projected growth of the population overlying the basin or subbasin. (3) The number of public supply wells that draw from the basin or subbasin.

(4) The total number of wells that draw from the basin or subbasin. (5) The irrigated acreage overlying the basin or subbasin.

(6) The degree to which persons overlying the basin or subbasin rely on groundwater as their primary source of water.

(7) Any documented impacts on the groundwater within the basin or subbasin, including overdraft, subsidence, saline intrusion, and other water quality degradation.

(8) Any other information determined to be relevant by the department, including adverse impacts on local habitat and local streamflows.

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

(1) Attempt to contact all well owners within the area not being monitored. (2) Determine if there is an interest in establishing any of the following:

(A) A groundwater management plan pursuant to Part 2.75 (commencing with Section 10750).

(B) An integrated regional water management plan pursuant to Part 2.2 (commencing with Section 10530) that includes a groundwater management component that complies with the requirements of Section 10753.7.

(C) A voluntary groundwater monitoring association pursuant to Section 10935.

(d) If the department determines that there is sufficient interest in establishing a plan or association described in paragraph (2) of subdivision (c), or if the county agrees to perform the groundwater monitoring functions in accordance with this part, the department shall work cooperatively with the interested parties to comply with the requirements of this part within two years.

(e) If the department determines, with regard to a basin or subbasin, that there is insufficient interest in establishing a plan or association described in paragraph (2) of subdivision (c), and if the county decides not to perform the groundwater monitoring and reporting functions of this part, the department shall do all of the following:

(1) Identify any existing monitoring wells that overlie the basin or subbasin that are owned or operated by the department or any other state or federal agency.

(2) Determine whether the monitoring wells identified pursuant to paragraph (1) provide sufficient information to demonstrate seasonal and long-term trends in groundwater elevations.

(3) If the department determines that the monitoring wells identified pursuant to paragraph (1) provide sufficient information to demonstrate seasonal and long-term trends in groundwater elevations, the department shall not perform groundwater monitoring functions pursuant to Section 10933.5.

(4) If the department determines that the monitoring wells identified pursuant to paragraph (1) provide insufficient information to demonstrate seasonal and long-term trends in groundwater elevations, the department shall perform groundwater monitoring functions pursuant to Section 10933.5.

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

**7.5. Protection of Groundwater Basins]**

**12924. IDENTIFICATION OF GROUNDWATER BASINS**

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

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

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

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

FINAL REPORT  
PASO ROBLES GROUNDWATER BASIN STUDY

Prepared for:  
COUNTY OF SAN LUIS OBISPO PUBLIC  
WORKS DEPARTMENT

August 2002

FINAL REPORT  
PASO ROBLES GROUNDWATER BASIN STUDY

EXECUTIVE  
SUMMARY

## GENERAL

This Final Report of the Paso Robles Groundwater Basin study presents the results of efforts to investigate and quantify the hydrogeologic conditions of the basin. The work was conducted jointly by Fugro West, Inc. and Cleath and Associates, in conjunction with Peter Canessa, P.E. and ETIC Engineering, Inc.

The Paso Robles Groundwater Basin study was a technical investigation intended to provide the San Luis Obispo County Public Works Department, North County public water agencies, and overlying landowners and water users a better understanding of the basin by answering questions related to the quantity of groundwater in the basin, the hydraulic movement of groundwater through the basin, sources and volumes of natural recharge, and trends in water quality. Although this study does not address specific planning or water management issues, it provides the foundation that the community needs to participate in water resource planning. The knowledge gained by this study, including the comprehensive compilation of key data, is necessary for the community to develop a confident and consensus based decision-making process.

## BASIN DEFINITION AND BASIN BOUNDARIES

The Paso Robles Groundwater Basin encompasses an area of approximately 505,000 acres (790 square miles). The basin ranges from the Garden Farms area south of Atascadero to San Ardo in Monterey County, and from the Highway 101 corridor east to Shandon.

Internally, a single hydrologically distinct subbasin was defined. The Atascadero subbasin encompasses the Salinas River corridor area south of Paso Robles, including the communities of Garden Farms, Atascadero, and Templeton.

## GROUNDWATER OCCURRENCE, LEVELS, AND MOVEMENT

Water level data show that over the base period from July 1980 through June 1997 there is no definitive upward or downward water level trend for the whole basin.

However, different water level trends are observed at specific locations in the basin. Water levels have declined, in some areas rather dramatically, in the Estrella and San Juan areas, with rising water levels in the Creston area.

In general, groundwater flow moves northwesterly across the basin towards the Estrella area, thence northerly towards the basin outlet at San Ardo. The biggest change in groundwater flow patterns during the base period is the hydraulic gradient east of Paso Robles, along the Highway 46 corridor, which has steepened in response to greater pumping by the increasingly concentrated development of rural ranchettes, vineyards, and golf courses.

#### WATER QUALITY

In general, the quality of groundwater in the basin is relatively good, with few areas of poor quality and few significant trends of ongoing deterioration of water quality. Historical water quality trends were evaluated to identify areas of deteriorating water quality. A major water quality trend is defined as a clear trend that would result in a change in the potential use of water within 50 years, if continued.

Six major trends of water quality deterioration in the basin were identified, including:

1. increasing total dissolved solids (TDS) and chlorides in shallow Paso Robles  
Formation deposits along the Salinas River in the central Atascadero subbasin;
2. increasing chlorides in the deep, historically artesian aquifer northeast of  
Creston;
3. increasing TDS and chlorides near San Miguel;
4. increasing nitrates in the Paso Robles Formation in the area north of  
Highway  
46, between the Salinas River and the Huer Huero Creek;
5. increasing nitrates in the Paso Robles Formation in the area south of San  
Miguel;  
and
6. increasing TDS and chlorides in deeper aquifers near the confluence  
of the  
Salinas and Nacimiento rivers.

#### GROUNDWATER IN STORAGE

The total estimated groundwater in storage within the Paso Robles Groundwater Basin is approximately 30,500,000 acre feet (af). This value changes

yearly, depending on recharge and net pumpage. Between 1980 and 1997, groundwater in storage increased approximately 12,400 af, an approximate 0.04% increase. This represents an average increase in storage of 700 acre feet per year (afy). On one hand, this relatively small percentage could be viewed as an indication of stable basin-wide conditions; however, it is noted that steadily decreasing storage in the 1980's was offset by increased water in storage throughout the 1990's. Furthermore, not all areas of the basin have observed the same trends in water levels and change in storage.

In the Atascadero subbasin, total groundwater in storage averaged about 514,000 af. Approximately 2,600 af more groundwater was in storage in the subbasin in 1997 compared to 1980, a 0.5% increase in total groundwater in storage during the base period. This represents an increase of about 200 afy in storage.

#### HYDROLOGIC BUDGET

The purpose of a hydrologic budget (or water balance) is to assess all the inflows and outflows of water to the groundwater basin over the base period. The water budget was

performed by calculating each component of water inflow and outflow for each year of the base period, and comparing the totals to the annual change in groundwater in storage as determined by the specific yield method. The base period, defined in this study from July 1980 through June 1997, is a representation of the long-term average conditions of water supply.

The hydrologic budget is simply a statement of the balance of total water gains and losses from the basin, and can be summarized by the following equation:

Inflow = Outflow (±) Change in

Storage where Inflow equals the

sum of:

- c> subsurface inflow
- c> percolation of precipitation
- c> streambed percolation
- c> percolation of irrigation return water
- c> percolation of wastewater discharge, and
- c> imported water;



and Outflow equals the sum of:

- c:> subsurface outflow
- c:> gross agricultural pumpage
- c:> municipal, rural domestic, and small commercial systems pumpage
- c:> extraction by phreatophytes, and
- c:> exported water.

Using this inventory, the sum of all the components of outflow from the Paso Robles Groundwater Basin exceeded the sum of all the components of inflow by an estimated 2,700 afy.

As described earlier, an independent method of calculating the change in the volume of groundwater in storage was performed using the specific yield method and compared to the results of the inventory method. This approach indicated a slight annual increase in groundwater in storage of about 700 afy.

For the Atascadero Subbasin, the sum of all the components of outflow approximately equaled inflow during the base period, with total groundwater in storage of about 514,000 af.

The change in storage calculation showed an annual increase in groundwater over the 17-year base period of about 200 afy.

Reconciliation of the hydrologic budget shows a consistency in the results of the two methods of calculation. At first glance, the results of the hydrologic budget calculations, along with the change in storage calculations and analysis of the water level data, indicate a basin-wide stability. This conclusion, however, is tempered by the recognition that parts of the basin have experienced significant declines in water level over the past several years, particularly in the Estrella area along the Highway 46 corridor from the eastern edge of Paso Robles to Whitley Gardens as a result of relatively concentrated development of rural residential housing, golf courses, and vineyards.

#### PERENNIAL YIELD

The perennial yield of a basin, as defined in this investigation, is the rate at which water can be pumped over a long-term without decreasing the groundwater in storage. Many definitions of perennial yield (or safe yield) tie the concept of basin yield to the rate of groundwater extraction that will not create an economic impact. However, for the purposes of this study, the concept of perennial yield is more closely tied to the natural rate of replenishment or recharge to the basin, such that there is no decrease in groundwater in storage.

The results of this investigation indicate a perennial yield value of approximately

94,000 afy for the Paso Robles Groundwater Basin (which includes the Atascadero subbasin). Calculated separately, the perennial yield of the Atascadero subbasin approximates 16,500 afy.

#### BASIN CONDITIONS IN 2000

In the year 2000, groundwater pumpage in the Paso Robles Groundwater Basin was approximately 82,600 af, compared with the perennial yield estimate of 94,000 afy. Similarly, Atascadero subbasin pumpage in the year 2000 was approximately 11,100 af, compared to the perennial yield estimate of 16,500 afy.

Total net groundwater pumpage in the basin (and the subbasin) declined steadily from 1984 through 1998. Groundwater production data since 1998 show, however, that groundwater pumpage may again be increasing. Pumpage in 2000 was higher than at any previous time since 1992. It should also be noted that groundwater pumpage exceeded the perennial yield from the start of the base period in 1980 through 1990. Only in the last decade has pumpage been less than the perennial yield.

Currently, agricultural pumpage comprises 69% of total basin pumpage. Depending on new trends or pressures in the agricultural industry, it is likely that basin pumpage will approach or exceed the perennial yield in the near future. The San Luis Obispo County Master Water Plan Update (EDAW, 1998) projects future water demands for the area to be 120,620 afy by the year 2020, which suggests that future water demands may soon exceed the 94,000 afy perennial yield of the basin.

In the Atascadero subbasin, municipal, rural domestic, and small commercial water systems comprise 91% of total pumpage in the subbasin. Interpolation of data from the County Master Water Plan projects water demand in 2020 in the Atascadero subbasin to be in the range of 16,000 to 20,000 afy, compared to the perennial yield value of 16,500 afy.

It is important to note that short-term periods of groundwater extractions in excess of the perennial yield will not necessarily result in significant negative economic impacts. Groundwater in storage in the basin is sufficiently large such that short-term overdraft conditions may be acceptable to withstand drought periods.

#### RECOMMENDATIONS

It is recommended that a basin-wide numerical groundwater flow model be developed for the Paso Robles Groundwater Basin. The model will serve as a tool for quantitative evaluation of existing and future hydraulic conditions across the basin, including changing groundwater level elevations, well yields, natural and artificial recharge, and associated effects on surface water-groundwater interaction and water quality. Specifically, the objectives of the model include:

- Refining uncertain components of the hydrologic budget for the basin;

- Refining estimates of perennial yield for the basin;
- Evaluating water quality trends in response to hydraulic changes across the basin;
  - Evaluating potential impacts on groundwater levels and perennial yield as a result of continued and varied basin operations and hydraulic conditions;  
and
  - Defining operational options for comprehensive and/or localized management of groundwater use across the basin.

ORDINANCE NO. 3246

AN URGENCY ORDINANCE OF THE COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA ESTABLISHING A MORATORIUM ON NEW OR EXPANDED IRRIGATED CROP PRODUCTION, CONVERSION OF DRY FARM OR GRAZING LAND TO NEW OR EXPANDED IRRIGATED CROP PRODUCTION AND NEW DEVELOPMENT DEPENDENT UPON A WELL IN THE PASO ROBLES GROUNDWATER BASIN UNLESS SUCH USES OFFSET THEIR TOTAL PROJECTED WATER USE, INCLUDING CERTAIN EXEMPTIONS

## Section 1. Findings and Declarations.

The Board of Supervisors makes the following findings in support of the enactment of this urgency ordinance in the Paso Robles Groundwater Basin:

- A. This Ordinance is exempt from the California Environmental Quality Act (Public Resources Code §21000, et seq.) (“CEQA”) because it can be seen with certainty that there is no possibility that it will have a significant effect on the environment as it includes regulations to protect the Paso Robles Groundwater Basin from further depletion (CEQA Guidelines §15061(b)(3)); because it consists of regulations and restrictions on activities to assure the maintenance, restoration, or enhancement of a natural resources, namely the water within the Paso Robles Groundwater Basin (Class 7, CEQA Guidelines §15307); and because it consists of regulations and restrictions on activities to assure the maintenance, restoration, or enhancement of the environment, including the water resources within the Paso Robles Groundwater Basin and all of the people, species, and environs that rely on that resource (Class 8, CEQA Guidelines §15308). This Ordinance is also exempt from CEQA because it is an urgency ordinance that prevents or mitigates impacts from the sudden, unexpected failure of a large number of residential wells within the Paso Robles Groundwater Basin, which poses a clear and imminent danger to other residential and agricultural wells in the basin and to the species and environment that rely on that water, and which requires immediate action to prevent or mitigate the loss of, or damage to, life, health, property, and essential public services. This emergency project, therefore, qualifies for an exemption under Public Resources Code section 21080(b)(4) and CEQA Guidelines section 15269(c).
- B. The Paso Robles Groundwater Basin is a 505,000 acre area that supplies water to cities, unincorporated communities, rural home sites and agriculture in the northerly portion of San Luis Obispo County. For much of the area, the groundwater basin is the sole source of water for all users. Major hydrogeologic studies and pumping evaluations of the basin have been produced in 2002, 2005, 2009 and 2010. These studies are:
  - a. Fugro 2002 – Final Report; Paso Robles Groundwater Basin Study – Phase I;
  - b. Fugro 2005 - Final Report; Paso Robles Groundwater Basin Study – Phase II;
  - c. Todd 2009 – Evaluation of Paso Robles Groundwater Basin Pumping Water Year 2006
  - d. Fugro 2010 - Paso Robles Groundwater Basin Water Balance Review and Update

- C. In addition to these hydrogeologic and pumping evaluations, the County produced a Resource Capacity Study (RCS) adopted by the Board in 2011 that addresses basin water demand and future water demand projections. The RCS is completed pursuant to the County General Plan and establishes “levels of severity” for resources and services. The RCS established a Level of Severity III for the main basin and a Level of Severity I for the Atascadero sub-basin. Level of Severity III is the highest level and represents the most serious resource problem. The 2011 RCS concluded that the basin was at or approaching its safe yield, meaning that more water is pumped out than is going back in resulting in continual and widespread lowering of groundwater levels.
- D. The San Luis Obispo County Flood Control and Water Conservation District maintains monitoring well locations throughout the groundwater basin. Measurements are conducted twice a year to determine groundwater levels. The latest measurements taken in April 2013 are related in “hydrographs” which are graphic representations of changes in groundwater levels over time along with yearly rainfall. Hydrographs are developed for four areas of the main basin. These hydrographs graphically show that groundwater levels have recently fallen in all four areas:
- a. Shandon - Water levels have dropped approximately 17 feet from 2011 to 2013.
  - b. Creston – Water levels dropped approximately 25 feet from 2011 to 2013.
  - c. Estrella – Water levels have dropped approximately 25 feet from 2011 to 2013.
  - d. San Juan – Water levels have dropped approximately 5 feet from 2012 to 2013.
- E. The Board of Supervisors has heard testimony from numerous individuals throughout the basin whose wells have gone dry within the recent past. According to that testimony, provided during the general public comment period of the Board of Supervisors’ regular meeting on July 9, 2013, during a Board Business item placed on the agenda for the Board of Supervisors’ regular meeting on August 6, 2014, and during the noticed hearing on this ordinance held on August 27, 2013, several residential homeowners have experienced severe drops in the water levels in their wells. Some of those homeowners have had to drill new, much deeper wells or lower their pumps. Others have resorted to trucking water to their homes from potentially unsanitary sources. Other individuals testified that they have tested their wells and determined that they are in imminent danger of going dry. These reports have been received from throughout the basin and appear to be particularly prevalent in the Estrella, Creston and Shandon sub areas.
- F. Meanwhile, the area overlying the Paso Robles Groundwater Basin has experienced a significant increase in the amount of new irrigated agriculture being planted. A number of large areas of land have been very recently converted from dry land farming or grazing to vineyards. The Agricultural Commissioner estimates that approximately 4,000 acres of new vineyards have been planted in the basin in the last 24 months. The establishment of new grape vines is estimated to use 1.0 to 1.25 acre feet of water per acre of plantings, which translates into an additional 4,000 to 5,000 acre feet of water being used from the basin for new vineyards in the last 24 months.
- G. This year has been a particularly dry year and has resulted in increasingly severe drought conditions within the County. The United States Department of Agriculture has granted a secretarial disaster designation for the County “due to agricultural losses caused by drought beginning January 1, 2012.” This drought has likely exacerbated the effects of the recent increase in water intensive agricultural and other uses within the Basin and contributes to the emergency situation facing homeowners whose wells have very recently gone dry or are about to go dry.

- H. Currently, the County's Land Use Ordinance (Title 22 of the County Code) allows new land uses to be established that rely on water from the Paso Robles Groundwater Basin, including new irrigated agricultural uses and the building of new water-using structures such as homes, through the issuance of varying levels of permits or without permits. Some of these water-intensive uses are allowed to be established through the issuance of ministerial permits and some, such as new irrigated agriculture, require no permits at all. Yet any and all new development and agricultural expansion will contribute to the declining groundwater levels within the Basin. Based on the recent rates of decline of water levels in the Basin, the reported increase in incidences of well failures within the Basin, and the rate of establishment of new uses dependent on water from the Basin, continuing to allow the establishment of new water-intensive uses within the Basin poses a current and immediate threat to the people, species, and environs that currently depend on that Basin, and to the public, health, and welfare as a whole.
- I. In order to address these urgent water needs within the Paso Robles Groundwater Basin, the County is contemplating amendments to its general plan and/or zoning ordinance and intends to study those potential amendments within a reasonable time. In the meantime, the approval of additional subdivisions, land use permits, variances, building permits, construction permits, grading permits, well permits, or any other applicable entitlement for use required to comply with the Land Use Ordinance within the Paso Robles Groundwater Basin would threaten the public health, safety, and welfare by exacerbating the declining water levels of the Basin and contributing the failure of additional residential and agricultural wells. This urgency and interim zoning ordinance will allow County staff time to complete necessary studies and reports for the contemplated amendments to its general plan and/or zoning ordinance while preserving the resources of the Basin.
- J. This Ordinance is adopted as an urgency ordinance pursuant to the provisions of Government Code sections 25123 and 25131 and as an interim zoning ordinance pursuant to the provisions of Government Code section 65658 and shall be effective for a period of 45 days from its passage. Based on the findings set forth above in this section of the Ordinance, the Board of Supervisors finds and determines that the adoption of this Ordinance as an urgency ordinance is necessary for the immediate preservation of the public peace, health, safety, and welfare pursuant to the requirements of Government Code sections 25123, 25131, and 65858, and is necessary to provide additional time to prepare the studies and reports required to consider a comprehensive ordinance and/or general plan amendment addressing water shortages within the Paso Robles Groundwater Basin.
- K. This urgency and interim zoning ordinance does not apply to areas served by the San Miguel Community Services District (CSD) and County Service Area (CSA) 16 because urban water providers can closely manage water demand in their service area. CSDs and CSAs do this through rate structures that directly relate the cost of water to the consumer, differing from water provided from individual wells that are not metered and do not have a rate structure or separate billing. In addition, CSDs and CSAs offer various water conservation programs to benefit their users and deliver water from wells that are metered, monitored and maintained by a single entity allowing for best management practices in the delivery of water. None of these mechanisms exist for rural water users in the Basin that are outside of water service areas or districts. Also water districts or areas such as within Shandon urban reserve line, have an allocation from a supplemental water source (i.e. State Water Project) and are not completely dependent on

groundwater. The rural areas of the basin have no alternative water source making groundwater management that much more important in those areas.

## Section 2. Applicability.

This Ordinance applies to all properties within the unincorporated areas of San Luis Obispo County that overlie the Paso Robles Groundwater Basin except those properties that overlie the Atascadero Sub-Basin and those properties served by County Service Area 16 or the San Miguel Community Services District (Exhibit 2A).

## Section 3. Definitions.

For the purposes of this Ordinance, the following terms have the definitions set forth below:

- A. “Approved County Water Conservation Program” means a program, approved by the Board of Supervisors by resolution, to offset total projected water use for new or expanded irrigated crop production, conversion of dry farm or grazing land to new irrigated crop production, and new development dependent upon a well in the groundwater Basin.
- B. “Atascadero Sub-Basin” means the hydrologically distinct sub basin that encompasses the Salinas River corridor area south of Paso Robles and includes the communities of Garden Farms, Atascadero, Templeton and a portion of the City of Paso Robles’ water supply (See Attachment A1).
- C. “Conversion of Dry Farm or Grazing Land to New Irrigated Crop Production” means the conversion of a site that had been used for the purposes of farming a crop, orchard, vineyard or other agricultural product without using irrigation or for the purposes of raising or feeding of beef cattle, sheep, or goats by grazing or pasturing for the past 10 years, to new or expanded irrigated crop production. The 10 year timeframe includes such time the site was fallow, in rotation but not planted, or covered under a conservation plan prepared as part of the Conservation Reserve Program.
- D. “Director of Public Works” means the Director of Public Works and Transportation of San Luis Obispo County as established by Chapter 2.18 of Title 2, or his or her designee.
- E. “Director of Planning and Building” means the Director of the Department of Planning and Building of San Luis Obispo County as established by Chapter 2.22 of Title 2 of the County Code, or his or her designee.
- F. “Discretionary Permit” means any action, permit, or approval which requires the County, including any Board, Commission or Department of the County and any official or employee of the County, to exercise judgment or deliberation, and which contemplates the imposition of conditions by the County, including any Board, Commission or Department of the County and any official or employee of the County, in the process of approving or disapproving any such application.
- G. “Efficiency Improvement” meaning an addition, change, upgrade, improvement or replacement of a site’s existing well or water supply and distribution system (including the addition of plumbing fixtures) for an existing use or to replace a destroyed use which is for purposes of replacing a dry or otherwise non-producing well, or rendering the system more efficient and is not intended to supply water or make plumbing fixtures available to additional users of said system and does not increase the total consumption



of groundwater at that site. If a replacement well is permitted, the new well must be drilled to the same or smaller diameter as the existing well.

- H. “Ministerial Permit” means any County action, permit, or approval which requires the County, including any Board, Commission or Department of the County and any official or employee of the County, to determine merely whether there has been compliance with applicable statutes, ordinances, regulations or conditions of approval.
- I. "Minor Modification" means a modification to an existing water supply for an existing use or to replace a destroyed use that involves simple repair or replacement of pipes, fittings, faucets, hoses, pumps, meters, components of irrigation systems, sinks, tubs, toilets, showers, washing machines, and all other elements of the water supply and delivery system that will not potentially increase the amount of groundwater extraction at that site. For the purposes of this definition, swimming pools (if filled with trucked in water from a supply source that does not include groundwater from the Basin and is provided with a cover), and additional potential bedrooms, residential or agricultural accessory structures with no increase in number of restrooms, whether or not attached to a single-family dwelling unit are considered minor modifications. A minor modification can also mean an interior remodel or addition with no increase in floor area or number of restrooms or a remodel implementing an approved land use permit. Any modification or improvement that will increase the amount of groundwater extracted is not a minor modification.
- J. “New Development” means all allowable land uses pursuant to Table 2-2 of Section 22.06.030 of Title 22 of the County Code.
- K. “New or Expanded Irrigated Crop Production” means the development, new plantings, or other improvements of a property for the purposes of farming the following, including but not limited to, grains, field crops, vegetables, melons, fruits, tree nuts, flower fields and seed production, ornamental crops, tree and sod farms, other crops, orchards, vineyards or other agricultural products using irrigation. This includes increasing the density of any existing irrigated crop production. This does not include planting of annual or rotational crops where those crops have been planted within the last five years on a site.
- L. “Offset Clearance” means a ministerial permit that may be granted by the Director of the Planning and Building pursuant to this Ordinance if the requirements of this Ordinance are met.
- M. “Paso Robles Groundwater Basin” means the groundwater basin the basin encompassing an area of approximately 505,000 acres (790 square miles) that extends from the Garden Farms area south of Atascadero to San Ardo in Monterey County, and from the Highway 101 corridor east to Shandon.
- N. "Potential bedroom" means any room with a floor area equal to or greater than seventy square feet, including lofts, sewing rooms, offices, game rooms, guesthouses etc., that meet building codes for a sleeping room. A closet or lack thereof is not used in determining whether a room is a potential bedroom.

#### Section 4. Limitations on Uses.

- A. Limitation on Use – None of the following uses shall be established, commenced or initiated, and no applications filed pursuant to Chapter 8.40 of the County Code to construct, repair or modify a water system proposed to serve any of the following uses or applications for a construction permit in connection with the establishment of any of the following uses shall be approved, except in conformance with this Ordinance:
1. New or Expanded Irrigated Crop Production.
  2. Conversion of Dry Farm or Grazing Land to New Irrigated Crop Production.
  3. New Development dependent upon a well in the groundwater Basin.

#### Section 5. Activities that are not subject to the ordinance.

- A. The following categories are not subject to the requirements of this Ordinance and may be processed in accordance with the County's plans, policies and regulations:
1. A Minor Modification.
  2. An Efficiency Improvement.
  3. Existing irrigated crop production (including irrigation practices) in effect as of the effective date of this Ordinance.
  4. Any application for a land use permit, land division, general plan amendment, ordinance amendment, construction permit, grading permit or well that was submitted to the County, and accepted as complete, including any required fees, prior to the effective date of this Ordinance.
  5. Any construction permit necessary to implement a land use permit approved prior to the effective date of this Ordinance.
  6. New irrigated crop production where the crop was planted as of August 27, 2013.
  7. New ponds, reservoirs and dams constructed to regulate or store a supply of water for frost protection, seasonal irrigation, or livestock purposes.

#### Section 6. Exemptions.

- A. The following categories are exempt from the requirements of this Ordinance and may be processed in accordance with the County's plans, policies and regulations:
1. A proposed development for a public use or facility (e.g. fire station).
  2. A proposed development where the Board of Supervisors has determined there is an overriding public or emergency need for the proposed development.

3. Replacement structures (when an existing legal structure had previously existed on the property) where there is no increase to the square footage and number of bathrooms

4. Where satisfactory evidence can be provided that, prior to the effective date of this Ordinance, an applicant has secured a vested right to complete site preparation, planting, or sale of product.
5. A proposed multi-family development project.

#### Section 7. Offset Clearance

- A. Offset Clearance. New or Expanded Irrigated Crop Production, Conversion of Dry Farm or Grazing Land to New Irrigated Crop Production, and New Development dependent upon a well in the groundwater Basin shall be required to obtain an Offset Clearance prior to the issuance of a permit filed pursuant to Chapter 8.40 of the County Code to construct, repair or modify a water system, issuance of a construction permit or the use being established, commenced or initiated whichever is applicable. An Offset Clearance is a ministerial permit and may be granted if the following requirements are met.
1. Application content. Requests for an Offset Clearance shall be accompanied by the following:
    - a. Evidence that the net new water demand (based on actual water data or by approved assumptions about the water demand for that use) has been offset (based on actual water data or by approved assumptions about the water demand for that use) at a ratio of at least 1:1 through verifiable evidence or participation in an Approved County Water Conservation Program. The offset must occur before, or at the same time as, the new water use is developed.
  2. Metering and Monitoring. The following requirements apply to all issued Offset Clearances.
    - b. Within 30 days of installation of a well for which a permit has been issued pursuant to Chapter 8.40 of the County Code, or prior to final building inspection, whichever is applicable, evidence shall be submitted to the Public Works Director that the property owner has installed a meter on the well serving the use to measure all groundwater used from that well. The configuration of the installation shall conform to a drawing prepared by the property owner and shall conform to the technical standards set forth by the Public Works Director.
    - c. On or near the first day of each month the property owner or other person designated by the property owner shall read the water meter and record the data. These records shall be maintained by the property owner.
  3. Discretionary Permits. In approving a Site Plan, Minor Use Permit, Conditional Use Permit, Variance or other discretionary application, the Review Authority shall impose reasonable conditions as needed to satisfy the requirements of this ordinance, including proposed offset requirements for the proposed use that would be equivalent to offsetting the net new water demand at a ratio of at least 1:1 and metering and monitoring consistent with this Ordinance.

Section 8. Enforcement.

A violation of this Ordinance is deemed to be a violation of Titles 8 and 22. In the event of a violation of this Ordinance or any requirement imposed pursuant to this Ordinance, the County may, in its discretion and in addition to all other remedies, take such enforcement action as is authorized under Title 8 and/or Title 22 of the County Code and any other action authorized by law.

Section 9. Severability.

If any section, subsection, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 10. Effective Date.

In light of the recitals in this Ordinance, the Board of Supervisors declares that this Ordinance is necessary as an urgency measure for preserving the public health, safety and welfare. This Ordinance shall take effect immediately upon its passage and shall expire 45 days thereafter unless extended pursuant to law.

**Assembly Bill No. 2453**  
CHAPTER 350

An act to add Part 8.2 (commencing with Section 37900) to Division 13 of the Water Code, relating to water.

[ Approved by Governor September 16, 2014. Filed with Secretary of State September 16, 2014. ]

LEGISLATIVE COUNSEL'S DIGEST

AB 2453, Achadjian. Paso Robles Basin Water District.

Existing law, the California Water District Law, provides for the formation of California water districts and grants these districts authority relating to, among other things, the production, storage, transmission, and distribution of water. That district law generally requires the members of the board of a California water district, and the voters of that district, to be landowners, but provides for the modification of these requirements by the board of that district.

This bill would, until January 1, 2019, provide for the formation of the Paso Robles Basin Water District, and would set forth the composition of, and method of election by landowners and registered voters for, the board of directors for the Paso Robles Basin Water District, the boundaries of which would be established and may be modified by the San Luis Obispo County Local Agency Formation Commission. The bill would require the district to be formed in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, except as specified. The bill would prescribe various powers of the district relating to the use and extraction of groundwater that the district, by ordinance, would be authorized to exercise, including, among others, collecting data, conducting investigations, and requiring conservation practices and measures under specified circumstances.

The bill would authorize the district to develop, adopt, and implement a groundwater management plan to control extractions from the Paso Robles Groundwater Basin aquifers, as specified. The bill would also authorize the district to impose groundwater extraction charges, to establish extraction allocations, and to impose extraction surcharges to, among other things, discourage the use of groundwater beyond the extraction allocation. The bill would provide that the moneys collected by the district shall be available for expenditure by the district to carry out its groundwater management functions.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of San Luis Obispo.

Because an intentional violation of the act's provisions would be a crime, and because the bill would expand the crime of perjury, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

## DIGEST KEY

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

## BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Part 8.2 (commencing with Section 37900) is added to Division 13 of the Water Code, to read:

**PART 8.2. Paso Robles Basin Water District**

**CHAPTER 1. General Provisions**

**37900.** (a) For purposes of this part, the following definitions apply:

(1) "Aquifer" means a geologic formation or structure that transmits water in sufficient quantities to supply pumping wells or springs.

(2) "Available supply" means that quantity of groundwater that can be withdrawn in any given year from a groundwater basin or aquifer without resulting in or aggravating conditions of overdraft, subsidence, or groundwater quality degradation. Available supply of a groundwater basin or aquifer includes the natural water supply, imported water, or other water that has been spread to a basin or aquifer or otherwise added to a basin or aquifer, and return flows to the basin or aquifer attributable to these sources reaching the groundwater basin or aquifers in the course of use.

(3) "Board" means the board of directors of the Paso Robles Basin Water District.

(4) "Conjunctive use" means the coordinated operation of a groundwater basin and groundwater and surface water supplies. Conjunctive use includes increased groundwater use or decreased groundwater replenishment with surface supplies in years when surface supplies are less than normal and, in years of more abundant surface supplies, the increased use of surface water in lieu of groundwater, either to allow groundwater levels to recover or to replenish artificial groundwater supplies. Conjunctive use also includes long-term storage of water in a groundwater basin.

(5) "County" means the County of San Luis Obispo.

(6) "District" means the Paso Robles Basin Water District, the boundaries of which shall be established and may be modified by the San Luis Obispo County Local Agency Formation Commission.

(7) "Excess extractions" means those extractions in excess of an operator's extraction allocation or adjusted extraction allocation.

(8) "Extraction" means the act of obtaining groundwater by pumping or other controlled means.

(9) "Extraction allocation" means the amount of groundwater that may be extracted from an extraction facility during a calendar year before a surcharge is imposed.

(10) "Extraction surcharge" means a surcharge assessed annually each time an operator exceeds his or her extraction allocation.

(11) "Extraction facility" means any device or method for the extraction of groundwater within a groundwater basin or aquifer.

(12) "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.

(13) "Groundwater basin" means a geologically and hydrologically defined area containing one or more aquifers that store and transmit water yielding significant quantities of water to wells.



(14) “Groundwater management activities” means programs, measures, or actions taken to preserve, protect, and enhance groundwater resources within the territory of the district.

(15) “Groundwater rights adjudication” means the determination of substantially all rights in a groundwater basin or the area subject to the adjudication.

(16) “Operator” means a person who operates a groundwater extraction facility. In the event the district is unable to determine who operates a particular extraction facility, then “operator” shall mean the person to whom the extraction facility is assessed by the county assessor or, if not separately assessed, the person who owns the land upon which the extraction facility is located.

(17) “Overdraft” means the condition of the groundwater basin or aquifer where the average annual amount of water extracted exceeds the average annual supply of water to a basin or aquifer.

(18) “Program” means a groundwater management program prepared by the district pursuant to this act.

(19) “Recharge” means the natural or artificial replenishment of groundwater storage by percolation or injection of one or more sources of water at the surface.

(20) “Replenishment” means spreading water over a permeable area for the purpose of allowing it to percolate to groundwater basins or aquifers, or otherwise adding water to groundwater basins or aquifers.

(21) “Safe yield” means the condition of a groundwater basin when the total average annual groundwater extractions are equal to, or less than, the total average annual groundwater recharge, either naturally or artificially.

(22) “Supplemental water” means surface water or groundwater imported from outside the watershed or watersheds of the groundwater basin or aquifer and floodwaters that are conserved and saved within the watershed or watersheds that would otherwise have been lost or would not have reached the groundwater basin or aquifers.

(23) “Well interference” means a substantial water level decline in a short time period in a localized area caused by pumping from extraction facilities.

(b) This part shall apply only to the Paso Robles Basin Water District.

**37901.** The Legislature finds and declares that the provisions of this part are enacted in order to provide a governmental framework for the district to balance the supply to and consumption of groundwater within the basin underlying the district, and thereby pursue stabilizing that basin and sustaining its resources for the beneficial use of all who use water within the district.

**37902.** The creation of the district is not intended to and shall not modify the powers of the County of San Luis Obispo and the San Luis Obispo County Flood Control and Water Conservation District, carried out consistent with applicable law, to manage and protect groundwater resources within the County of San Luis Obispo, including the Paso Robles Groundwater Basin.

**37903.** If formed, the district shall not involve itself in activities normally and historically undertaken by the county, the San Luis Obispo County Flood Control and Water

Conservation District, or other local agency, without the agreement of the agency.

**37904.** If formed, the board shall provide by resolution the dates on which and the time and place at which regular meetings of the board shall be held. A copy of each resolution establishing the date, time, and place of a regular meeting shall be filed with the secretary of the board and the clerk, or secretary of the legislative body of each of the members. The board shall comply with the provisions of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).

#### **CHAPTER 1.5. Formation**

**37905.** The formation process shall comply with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code), with the exception of the following provisions:

(a) On or before January 1, 2019, 10 percent of landowners may petition for, or an affected local agency within the county, including the county and the San Luis Obispo County Flood Control and Water Conservation District, may apply for by resolution, the formation of a district, consistent with the following definitions:

(1) "Landowner" means any person who holds title to land within the boundaries of the proposed district as shown on the last assessment roll prepared by the county assessor, or a legal representative of a landowner who holds title to land within the boundaries of the proposed district as shown on the last assessment roll prepared by the county assessor.

(2) "Landowner" does not include individuals, partnerships, corporations, or public agencies holding easements or less than fee interests, including leaseholds of any nature.

(3) "Legal representative" means either of the following:

(A) A duly appointed and acting guardian, executor, or administrator of the estate of a holder of title to land.

(B) One of the following:

(i) If the holder of title is a trust, any trustee of the trust may vote on behalf of the trust.

(ii) If the holder of title is a corporation, the president, vice president, secretary, or other duly designated officer may vote on behalf of the corporation.

(iii) If the holder of title is a limited liability company, any managing member may vote on behalf of the limited liability company.

(iv) An officer or partner with managerial responsibilities of a legal entity not listed in clauses (i) to (iii), inclusive, may vote on behalf of the entity.

(b) Following a successful petition by the landowners or a resolution of application by an affected local agency, an election among landowners shall be conducted on the matter of whether to form the district.

(c) For purposes of a petition to form the district and a vote on the matter to form the district, the following applies:

(1) Each voter, who shall be a landowner as defined in this section, may cast one vote on the matter of a petition and one vote on the matter of an election to form the district. Ownership of multiple parcels of land, in full or in part, shall not entitle any voter to more than one vote.

(2) For land held jointly, owners collectively get one vote. Nothing in this section should be construed to indicate that multiple owners of a property get more than one vote.

(3) In the event any landowner that is a member of the same commonly controlled group,

as defined in Section 25105 of the Revenue and Taxation Code, or is a member of a combined reporting group, as defined in paragraph (3) of subdivision (b) of Section 25106.5 of Title 18 of the California Code of Regulations, or under common ownership with, another landowner in the district, all members of the commonly controlled group or combined reporting group will be deemed a single landowner for the purpose of this subdivision.

(4) Each public agency that holds title to land within the district shall be entitled to one vote.

(5) No person shall vote by proxy unless his or her authority to cast that vote is evidenced by an instrument acknowledged and filed with the board of election.

(6) If from the election returns a majority of the votes cast at the election were in favor of the formation of the district, the formation of the district shall be complete.

(d) Recognizing that an election is needed to form the Paso Robles Basin Water District, the protest provisions of the Cortese-Knox-Hertzberg Reorganization Act of 2000 as they pertain to the formation of a district, do not apply.

## **CHAPTER 2. Elections**

**37910.** Notwithstanding any other law or the bylaws of the district, all elections for the board of directors of the district shall be conducted in accordance with this part.

**37911.** The composition of the board of directors shall be as follows:

(a) There shall be a total of nine directors. A person may only be a candidate for one director.

(b) Six of the directors shall be qualified for office by being persons who hold title to land within the district or persons authorized to vote in elections by landowners, as provided in Section 37913. Each director shall be elected by landowners within the district as provided by Article 1 (commencing with Section 35003) of Chapter 1 of Part 4, except that each voter shall be entitled to cast one vote for each acre owned by the voter within the district. If the voter owns less than one acre, the voter shall be entitled to one vote and any fraction shall be rounded to the nearest full acre.

(1) For the purposes of election of the six directors described by this subdivision, landowners within the district shall be divided into three classes as follows:

(A) "Large landowners," meaning holders of title owning a total of 400 acres or more.

(B) "Medium landowners," meaning holders of title owning a total of 40 acres or more but less than 400 acres.

(C) "Small landowners," meaning holders of title owning a total of less than 40 acres of land.

(2) Of the six directors elected pursuant to this subdivision, large landowners shall elect two directors, medium landowners shall elect two directors, and small landowners shall elect two directors.

(3) Candidates for the six directors elected pursuant to this subdivision may be within any landowner class.

(c) Three of the directors shall be elected by registered voters within the district at large.

(d) (1) All directors qualified under subdivision (b) shall reside within the district, within two miles of the district boundary, or within the boundaries of the City of Paso Robles, the Atascadero Mutual Water Company, the Templeton Community Services District, the

San Miguel Community Services District, or the San Luis Obispo County Service Area 16.

(2) All directors qualified under subdivision (c) shall be registered voters residing within the district.

**37912.** District elections shall be conducted in conformance with the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code) and the laws generally applicable to districts created and operated pursuant to this division, provided the following shall apply:

(a) Separate ballots shall be prepared and separate elections shall be conducted for those director positions which will be elected by resident voters and for those which will be elected by landowner voters. Notwithstanding Section 10555 of the Elections Code, these landowner voter elections and resident voter elections shall be conducted simultaneously.

(b) District elections shall be conducted by all-mailed ballots pursuant to Section 4108 of the Elections Code. Separate voter lists of resident voters and landowner voters eligible to vote within the district shall be prepared and maintained according to applicable provisions of law, including Section 10525 of the Elections Code. Separate all-mailed ballot elections shall be held for the directors to be elected by resident voters and for those to be elected by landowner voters.

(c) The directors elected upon formation of the district shall hold office pursuant to Section 10505 of the Elections Code. For the purposes of implementing this section, the director positions elected by large landowners shall be divided into two director term classes, the directors elected by medium landowners shall be divided into two director term classes, the directors elected by small landowners shall be divided into two director term classes, and the directors elected by registered voters shall be divided into two director term classes.

(d) Elections of directors shall be held on the first Tuesday after the first Monday in October of each odd-numbered year.

(e) The voters list used for the purpose of an election of directors shall be based upon the last assessment roll prepared by the county assessor, which shall be conclusive evidence of ownership and the acreage for purposes of electing directors in accordance with subdivision (b) of Section 37911. The voters list shall be amended if satisfactory evidence of a change in ownership is presented at least 45 days prior to the election to the elections official in the case of the formation election, and thereafter to the district secretary. The county assessor shall be reimbursed by the district for all costs incurred in determining the ownership and acreage information and providing the information to the county clerk.

(f) For purposes of the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code), the district is a landowner voting district.

**37913.** Notwithstanding any other provision of this division or the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code), for the purposes of election participation by landowners, the following definitions apply:

(a) "Landowner" means any person who holds title to land within the boundaries of the proposed district as shown on the last assessment roll prepared by the county assessor, or

a legal representative of a landowner who holds title to land within the boundaries of the proposed district as shown on the last assessment roll prepared by the county assessor.

(b) "Landowner" does not include individuals, partnerships, corporations, or public agencies holding easements or less than fee interests, including leaseholds of any nature.

(c) "Legal representative" means either of the following:

(1) A duly appointed and acting guardian, executor, or administrator of the estate of a holder of title to land.

(2) One of the following:

(A) If the holder of title is a trust, any trustee of the trust may vote on behalf of the trust.

(B) If the holder of title is a corporation, the president, vice president, secretary, or other duly designated officer may vote on behalf of the corporation.

(C) If the holder of title is a limited liability company, any managing member may vote on behalf of the limited liability company.

(D) An officer or partner with managerial responsibilities of a legal entity not listed in subparagraphs (A) to (C), inclusive, may vote on behalf of the entity.

### **CHAPTER 3. Groundwater Management Authority**

**37920.** All powers in this part are subject to review and approval by the San Luis Obispo County Local Agency Formation Commission, upon formation, change of organization, or reorganization under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code).

**37921.** The board may adopt ordinances for the purpose of regulating, conserving, managing, and controlling the use and extraction of groundwater within the territory of the district. All ordinances shall be adopted, after noticed public hearings by a majority vote of the board. Notice of the adoption of all ordinances shall be given. The ordinances of the district shall become effective on the 31st day after adoption except that the board may, by the vote of at least four members of the board, dispense with notice of public hearing and adopt an emergency ordinance that shall become effective immediately upon adoption, if the board determines that the public health, safety, or welfare so requires.

**37922.** Any person who intentionally violates any provision of this act or any district ordinance shall be guilty of an infraction and may be required to pay a fine to the district not to exceed five hundred dollars (\$500).

**37923.** Any person who negligently or intentionally violates any provision of this act or any district ordinance may also be liable civilly to the district for a sum not to exceed one thousand dollars (\$1,000) per day for each day of violation, in addition to any other penalties that may be prescribed by law.

**37924.** Upon the failure of any person to comply with any provision of this act or any district ordinance, the district may petition the superior court for a temporary restraining

order, preliminary or permanent injunction, or other equitable relief as may be appropriate. The right to petition for injunctive relief is an additional right to those that may be provided elsewhere in this act or otherwise allowed by law.

**37925.** The district may petition the superior court of the county to recover any sums due the district. In order to preserve and manage the groundwater resources within its territory, the district may also commence, maintain, intervene in, defend, compromise, and assume the costs and expenses of legal actions and administrative proceedings now or hereafter begun involving groundwater, including, but not limited to, groundwater rights adjudication.

**37926.** The district may contract with the county, the San Luis Obispo County Flood Control and Water Conservation District, or other local district for staff and other services and may hire other contractors and consultants as it considers appropriate.

**37927.** The district may exclude from any of the requirements of this act, or the operation of any ordinance, any operator who extracts less than a minimum amount of groundwater as specified by ordinance adopted by the board.

**37928.** The district may collect data and conduct technical and other investigations deemed necessary in order to carry out the provisions of this act. All hydrological investigations and studies carried out by or on behalf of the district shall be conducted by or under the supervision of licensed engineers or other persons qualified in groundwater geology or hydrology.

**37929.** The district may prepare annually or receive reports on groundwater and supplemental water supplies and conditions in the territory of the district, including groundwater management and conjunctive use objectives and a plan for implementation of those objectives.

**37930.** The district may recommend and encourage wastewater reuse and other water development projects, if those projects will enhance and contribute to the responsible management of groundwater resources, as part of its annual plan for implementation of groundwater management objectives.

**37931.** In addition to the powers identified here, the district shall have the authority afforded to local agencies as provided in Part 2.75 (commencing with Section 10750) of Division 6 as that part may be amended, consistent with the requirements and limitations of applicable law.

#### **CHAPTER 4. Groundwater Management Plans**

**37940.** In order to balance the water supply and demand within the Paso Robles Groundwater Basin, the district may do the following:

- (a) Develop, adopt, and implement a groundwater management plan to control extractions from the Paso Robles Groundwater Basin aquifers with the objective of balancing water supply and demand in the region.
- (b) The groundwater management plan may also include and address the following:
  - (1) Existing groundwater storage.
  - (2) Long-term recoverable storage, including an estimate of nonrecoverable storage.
  - (3) The expected adverse effects of projected extractions.

**37941.** The groundwater management plan may establish distinct zones or regions based on the geology of the basin, land use, water use, the location of extraction facilities, or other concerns as determined by the board.

**37942.** The groundwater management plan may include a policy for the issuance of new well permits that takes into consideration the location of proposed wells and area of use, projected extractions from the wells, and the effect of the extractions on existing users and on storage. In developing the management plan, the district may consider a ban on new irrigated acreage or new municipal water system wells. The district may include a contingency plan to deal with seawater intrusion, basin contamination, or other risks that could impair the ability to rely on the basin for groundwater.

## **CHAPTER 5. Groundwater management**

**37950.** If the board determines after a noticed public hearing, and consideration of any relevant investigations, studies, and evidence, that groundwater management activities are necessary in order to improve or protect the quantity or quality of groundwater supplies within a groundwater basin or aquifer, the board may, by ordinance, exercise any of the following powers:

- (a) Require conservation practices and measures within the affected portion of its territory.
- (b) Control groundwater extractions by regulating, limiting, or suspending extractions from extraction facilities, the construction of new extraction facilities, the enlarging of existing extraction facilities, and the reactivation of abandoned extraction facilities.
- (c) Commence and prosecute legal actions to enjoin unreasonable uses or methods of use of water within the district or outside the territory of the district to the extent those uses or methods of use adversely affect the groundwater supply within the district.
- (d) Impose spacing requirements on new extraction facility construction to minimize well interference.
- (e) Impose reasonable operating regulations on extraction facilities to minimize well interference, including requiring pumpers to operate on a rotation basis.
- (f) Require extraction facilities to be registered with the district within 30 days of notice being given to the operator of the extraction facility.
- (g) Require that the operator of a registered extraction facility provide the district annually with the following information regarding the extraction facility:

- (1) The name and address of the operator of the extraction facility.
- (2) The name and address of the owner of the land upon which the extraction facility is located.
- (3) A description of the equipment associated with the extraction facility.
- (4) The location of the water extraction facility.
- (h) Require extraction facilities to be equipped with waterflow measuring devices installed and calibrated by the district or, at the district's option, by the extraction facility operator.

**37951.** When an extraction facility is equipped with a waterflow measuring device, the record of extraction, as disclosed by the waterflow measuring device, may, at the election of the board, be presumed to be accurate, and shall be used as the basis for computing the water extraction of the extraction facility in completing the groundwater extraction statement.

**37952.** The district may, by ordinance, require proof of the accuracy of the waterflow measuring device from the operator and may, absent adequate proof of accuracy, order the operator, at the operator's sole cost, to have the waterflow measuring device calibrated in a manner acceptable to the district. If the district has probable cause to believe that the extraction of groundwater from any extraction facility is in excess of the amount reported in groundwater extraction statements, or if no statements are filed covering an extraction facility, the district may investigate the extraction of water from each extraction facility.

**37953.** The board may, by ordinance, establish reasonable methods to be used in computing the amount of water extracted by extraction facilities.

**37954.** The district may, by ordinance, require the operator of each extraction facility to file semiannually, or more frequently, with the district, a groundwater extraction statement that contains, but is not limited to, the following information:

- (1) Total extraction in acre-feet of water from the extraction facility for the preceding groundwater extraction statement period.
- (2) The static groundwater level for the extraction facility.
- (3) A description of the location of the extraction facility.
- (4) The crop types or other uses and the acreage served by the extraction facility.
- (5) The method of measuring or computing groundwater extraction.
- (6) Other information deemed reasonable and necessary by the board to meet the purposes of this act.

**37955.** If required by ordinance, each groundwater extraction statement shall be verified by a written declaration under penalty of perjury that the information contained in the statement is true and correct. The operator of an extraction facility that has been permanently abandoned after January 1, 2015, shall give written notice of the



abandonment to the district.

## **CHAPTER 6. Groundwater Extraction Charges**

**37960.** The district may, by ordinance, levy groundwater extraction charges, including volumetric charges intended to provide an incentive for reduced water use, on the extraction of groundwater from all water extraction facilities within the territory of the district for the purposes of paying the costs of initiating, carrying on, and completing any of the powers, purposes, and groundwater management activities described in this act. Any groundwater extraction charges shall be uniform for groundwater extraction within the territory of the district.

**37961.** The Legislature hereby finds and determines that the groundwater management activities of the district are of equal benefit to all operators of groundwater extraction facilities within the territory of the district.

**37962.** If any operator of any extraction facility fails to pay a groundwater extraction charge when due, the district may charge and collect interest at the rate of 11/2 percent each month on the delinquent amount of the groundwater extraction charge. In addition, the district may exercise any of the provisions of Sections 75630 to 75633, inclusive, for the purpose of collecting delinquent groundwater extraction charges.

**37963.** All moneys collected by the district pursuant to this act shall be available for expenditure by the district to carry out its groundwater management functions pursuant to this act.

**37964.** The district may, by ordinance, establish an operator's extraction allocation for each groundwater extraction facility located within the district. The district may, by ordinance, impose upon the operator of any groundwater extraction facility located within the district, extraction surcharges, including volumetric surcharges intended to provide an incentive for reduced water use, for extractions in excess of his or her extraction allocation and late penalties for nonpayment of extraction surcharges.

**37965.** The Legislature hereby finds and declares the following:

(a) Extraction allocations and extraction surcharges authorized pursuant to this chapter are necessary to eliminate overdraft caused by excess extractions from the aquifer systems within the district and to bring the groundwater basins underlying the territory to safe yield within 10 years of the formation of the district and to sustain that safe yield thereafter.

(b) The extraction surcharges are intended to discourage the use of groundwater beyond the extraction allocation. They are not intended to generate tax revenues or proceeds from regulatory licenses, user charges, or user fees. Consequently, they are not special taxes for purposes of Section 4 of Article XIII A of the California Constitution or proceeds of

taxes for purposes of Section 8 of Article XIII B of the California Constitution.

**37966.** The maximum amount of the extraction surcharge shall be two hundred dollars (\$200) per acre-foot of groundwater extracted in excess of the extraction allocation, except that the district may increase the maximum amount of the extraction surcharge to an amount that is necessary to achieve safe yield.

**37967.** If an operator of a groundwater extraction facility fails to pay the extraction surcharge when due, the district shall charge and collect a late penalty at the rate of 11/2 percent each month, or portion thereof, on the delinquent amount of the extraction surcharge.

**37968.** The district may bring a cause of action, in any court having jurisdiction, against an operator of a groundwater extraction facility for the collection of any delinquent extraction surcharge, and Article 5 (commencing with Section 75630) of Chapter 3 of Part 9 of Division 21 applies to those actions.

**37969.** In addition to any other authority, the district may order that an extraction surcharge or late penalty be a personal obligation of the operator or an assessment against the property on which the extraction facility is located. The assessment constitutes a lien upon the property, and the lien attaches upon recordation in the office of the county recorder. The assessment may be collected at the same time and in the same manner as ordinary ad valorem taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for those taxes. All laws applicable to the levy, collection, and enforcement of ad valorem taxes shall be applicable to an assessment, except that, if any real property to which the lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon prior to the date on which the first installment of the taxes would become delinquent, the lien that would otherwise be imposed by this section shall not attach to the real property and an assessment relating to the property shall be transferred to the unsecured roll for collection.

**SEC. 2.** The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances in the service area of the Paso Robles Basin Water District.

**SEC. 3.** No reimbursement is required by this act pursuant to Section 6 of Article XIII□B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII□B of the California Constitution.

## **Appendix F**

### Chapter 9.40 - AQUIFER PROTECTION

#### Sections:

#### 9.40.010 - Definitions.

The definitions applying to this chapter shall be those definitions found in Section 15.56.020, Title 15 of this code together with the definitions set out in this section. In the event of conflict between a definition in this section and one found in Section 15.56.020, the definition in this section shall control for the purposes of this chapter.

1. "Conjunctive use" and "conjunctive operation" shall mean the coordinated operation of a groundwater basin and surface water supplies. One purpose is to artificially recharge a basin during years of above-average precipitation so that groundwater can be withdrawn during years of below-average precipitation, when surface supplies are less than normal. Conjunctive operation also refers to meeting the needs of an area within the county through the coordinated use of groundwater during years when surface water is not available.
2. "Culture (land use)" shall mean the land use or land cover existing under natural conditions or as modified by man.
3. "Domestic water well" shall mean a well devoted exclusively to the residential and related yard, garden and barnyard uses within the curtilage of a dwelling located on the same parcel of land as the served dwelling house or upon another parcel of land respecting which the owner of the served dwelling has a legally cognizable interest in the nature of real property. Such uses as recognized in this

section do not include the growing of crops, or production of other agricultural commodities for commercial purposes.

4. "Groundwater" shall mean water in the zone of saturation. Groundwater is presumed to be percolating, although it does occur in known and definite channels.
5. Groundwater, Confined. "Confined groundwater" shall mean a body of groundwater overlain by material sufficiently impervious to sever free hydraulic connection with overlying groundwater except at the intake.
6. Groundwater, Free (Unconfined). Unconfined water is found in the zone of saturation whenever the upper surface of the zone forms a water table under atmospheric pressure, free to rise and fall with changes in volume of stored water.
7. "Hydraulic gradient" shall mean slope of the water table.
8. "Hydrology" shall mean the origin, distribution, and circulation of water through precipitation, stream- flow, infiltration, groundwater storage, and evaporation.
9. "Imported water" shall mean water transported into a watershed from a different watershed. Native water is water naturally within a watershed.
10. "Mining" shall mean extraction of groundwater by any means, including pumping and the use of artesian wells, from any aquifer within the County of Tehama which in contemplation of pre-existing extractions of groundwater used beneficially upon lands overlying the aquifer within the county and the reasonably foreseeable beneficial uses to which groundwater from the aquifer could be made to lands overlying the aquifer within the county which exceeds the reasonably foreseeable replenishment potential of the watersheds' native water together with such imported water as may be available to be applied to recharge the aquifer.
11. "Overdraft" shall mean the condition of a groundwater basin where the amount of water withdrawn exceeds the amount of water replenishing the basin over a period of time. Also, as the point at which extractions from the basin exceed its safe yield plus any temporary surplus.
12. "Percolation" shall mean the movement of water through the soil to the groundwater table.
13. "Permeability" shall mean the capability of soil or other geologic formation to transmit water.
14. "Piezometric surface" shall mean the surface to which the water in a confined aquifer will rise.
15. "Porosity" shall mean voids or open spaces in alluvium, other soils and rocks that can be filled with water.
16. "Radius of influence" shall mean the radial distance from the center of a well bore to the point where there is no lowering of the water table or potentiometric surface (the edge of the well's cone of depression).

17. "Recharge" shall mean flow to groundwater storage from precipitation, infiltration from streams, irrigation, spreading basins, and other sources of water.
18. "Safe yield" shall mean the maximum quantity of water which can be withdrawn annually from a groundwater supply under a given set of conditions without causing an undesirable result. The phrase "undesirable result" is intended to refer to a gradual lowering of the groundwater levels resulting in, or tending to result in, the eventual depletion of or the substantial diminution of the supply of water.
19. "Salt water intrusion" shall mean the movement of salt water into fresh water aquifers.
20. "Specific capacity" shall mean the volume of water pumped from a well in gallons per minute per foot of drawdown.
21. "Spreading water" shall mean discharging native or imported water to a permeable area for the purpose of allowing it to percolate to the zone of saturation. Spreading, artificial recharge and replenishment all refer to operations used to place water in a groundwater basin.
22. "Transmissivity" shall mean the rate of flow of water through an aquifer.
23. "Usable storage capacity" shall mean the quantity of groundwater of acceptable quality that can be economically withdrawn from storage.
24. "Water table" shall mean the surface where groundwater is encountered in a well in an unconfined aquifer.
25. "Zone of saturation" shall mean the area below the water table in which the soil is completely saturated with groundwater.

(Ord. 1617 § 5(part), 1994)

9.40.020 - Mining of groundwater prohibited.

It shall be unlawful to conduct any mining for water within this county, or for the owner of real property to allow groundwater of any nature, or connate water, to be mined, where the water extracted is transported, by any means, from the County of Tehama.

(Ord. 1617 § 5(part), 1994)

9.40.030 - Permit required for extraction of groundwater for use off-parcel.

It shall be unlawful to extract groundwater of any nature or description, or for a property owner to allow such extraction on his land, for the purpose of using the water or selling the water for use on other than the parcel of land upon which the extraction occurs, or contiguous parcels of land under the same ownership as the parcel from which the extraction occurs, without first obtaining a permit as provided in this chapter. This provision does not apply to the extraction of water for the purposes of supplying a "public water system," a "community water system," a "noncommunity water system," or "state small water system" as defined by Division 5, Part 1, Chapter 7 of the California Health and Safety Code commencing with Section 4010, serving residents of the County of Tehama.

(Ord. 1617 § 5(part), 1994)

9.40.040 - Radius of influence of well restricted.

It shall be unlawful for any person to operate, or for a property owner to allow any person to operate, any well, excepting a domestic well as defined by Section 9.40.010(3), or a well serving any "public water system," "community water system," "noncommunity water system," or "state small water system," in such a manner that the radius of influence of such well extends beyond the boundaries of the parcel of land upon which the well is located, or alternatively, beyond the boundaries of contiguous parcels of land under the same ownership as that parcel upon which the well is located.

(Ord. 1617 § 5(part), 1994)

9.40.045 - Restriction on radius of influence not applicable to pre-existing operating wells.

The prohibition of Section 9.40.040 shall not be applicable to any well actually in operation in calendar year 1991 or any prior year.

(Ord. 1617 § 5(part), 1994)

9.40.050 - Application for permit.

An application for a permit required in this chapter shall be filed with the Tehama County health agency, environmental health division, on forms provided by said division and shall contain all information required by such division. Concurrently, a request for environmental review thereof shall be filed as required by county guidelines. The application for permit and request for environmental review shall be accompanied by the fees established therefor. Upon receipt of the permit application, the health agency, environmental health division, shall review the application with affected county departments including, but not limited to, the agricultural commissioner and planning director. The health agency, environmental health division shall also review the application with the State Department of Water Resources and the Regional Water Quality Control Board. After obtaining the comments of the affected county departments and the affected state agencies, the health agency, environmental health division, shall cause the application together with all received comments to be reviewed by the county technical advisory committee and file a written report incorporating the observations and recommendations, if any, of the technical advisory committee, accompanied by the planning director's review, with the board of supervisors, with a copy to the applicant. Upon receipt of such report, the board of supervisors shall set a public hearing on the issuance of the permit. Said hearing shall be noticed pursuant to Government Code Section 6061 and said hearing may not be held within fifteen days of the time that the board of supervisors receives the report from the health agency, environmental health division.

(Ord. 1617 § 5(part), 1994)

9.40.060 - Public hearing on issuance of permit.

At said hearing, the applicant shall be entitled to present any relevant evidence to his application. The board may request any additional geologic studies it deems necessary to obtain information required for its decision. The cost of such studies shall be borne by the applicant. The board shall also hear relevant evidence presented by the public and county staff. The board shall consider all effects the proposed permit would have on the affected groundwater, and the affected aquifer or aquifers, including, but not limited to, the hydraulic gradient, hydrology, percolation, permeability, piezometric surface, porosity,

recharge, safe yield, salt water intrusion, specific capacity, spreading water, transmissivity, usable storage capacity, water table, and zone of saturation.

(Ord. 1617 § 5(part), 1994)

9.40.070 - Granting of permit.

The permit referred to in this chapter may only be granted where the board, after having reviewed the potential effects referred to in Section 9.40.060, finds and determines that the permit will not bring about an overdraft, will not bring about salt water intrusion, will not adversely affect transmissivity within the aquifer, will not adversely affect the water table and will not result in the mining of water. The decision of the board of supervisors shall be final. The board shall impose such conditions upon the permit so as to prohibit overdraft, and may impose conditions including, specifically but not limited to, a requirement for observation and/or monitoring wells, that it deems necessary for the health, safety and welfare of the people of the County of Tehama. Notwithstanding the foregoing, the board may issue the permit if the board finds that the applicant has provided for mitigation which will offset any adverse effect that is determined to exist.

(Ord. 1617 § 5(part), 1994)

9.40.075 - Temporary emergency permits.

- A. Notwithstanding any other provision of this chapter, the board of supervisors may grant a temporary emergency permit in accordance with this section without undertaking the procedures set forth in sections 9.40.050 through 9.40.070, and without a public hearing.
- B. A temporary emergency permit may be issued if the board finds that the proposed use of water on other than the parcel of land upon which the extraction occurs is necessary to prevent or mitigate an emergency, as defined in Public Resources Code section 21060.3. Replacement of domestic water supplies rendered unavailable due to drought conditions for which a state of emergency has been proclaimed by the governor shall constitute mitigation of an emergency under this section.
- C. A temporary emergency permit shall be issued only if the board finds that such approval is exempt from review under the California Environmental Quality Act pursuant to Public Resources Code sections 21080, subdivision (b), 21172, or California Code of Regulations, title 2, section 15269 or successor provisions.
- D. A temporary emergency permit may only be granted if the board finds and determines that the permit will not bring about an overdraft and will not result in the mining of water.
- E. The board shall impose such conditions upon the temporary emergency permit to prohibit overdraft, and may impose conditions including, but not limited to, identification of the well or water source to be used for water acquisition, the timing and quantity of water to be transferred at any time, and a requirement for county observation and/or monitoring of the well identified for use, that it deems necessary for the health, safety, and welfare of the people of the County of Tehama.
- F. A temporary emergency permit issued under this section shall be effective for the limited term specified by the Board, not to exceed one hundred eighty days.

G. The decision of the board of supervisors shall be final.

(Ord. No. 1992, § 2, 7-29-2014)

9.40.080 - Annual review of permit.

The permit granted pursuant to this chapter shall be subject to an annual staff review. In the event the health agency, environmental health division, determines that an overdraft is occurring because of the conditions then existing, the permit may be amended by order of the health agency, environmental health division, to decrease the amount of water allowed to be extracted. Said decision by the health agency, environmental health division, may be appealed to the board of supervisors by the applicant or any other affected person.

(Ord. 1617 § 5(part), 1994)

9.40.090 - Inspection.

The director or his or her representative, with good cause, may at any and all reasonable times enter any and all places, property, enclosures and structures, for the purposes of making examinations and investigations to determine whether any provision of this chapter is being violated.

(Ord. 1617 § 5(part), 1994)

9.40.100 - Violation-Criminal penalty.

Any person who violates any provision of this chapter, or the terms and/or conditions of any permit issued pursuant to this chapter, with intent to do so shall be guilty of a misdemeanor, punishable by fine not exceeding one thousand dollars per violation, or by imprisonment not exceeding six months, or by both such fine and imprisonment; and any person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any such violation is committed, continued, or permitted, and for each and every separate well with which any such violation is committed, continued, or permitted; and for each such subject violation of day or well, shall be subject to the same punishment as for original offense.

(Ord. 1617 § 5(part), 1994)

9.40.110 - Severability.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held illegal, invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The board hereby declares that it would have passed this chapter and each section, subsection, sentence, clause, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid or unconstitutional.

(Ord. 1617 § 5(part), 1994)



**Appendix G**

ORDINANCE NO. C.S. \_\_\_\_\_

**AN ORDINANCE AMENDING CHAPTER 9.37 RELATING TO  
GROUNDWATER**

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

**Section 1.** The title of Chapter 9.37 of the Stanislaus County Code is amended to read as follows: “Groundwater.”

**Section 2.** Section 9.37.010 of the Stanislaus County Code is amended to read as follows:

The ordinance codified in this Chapter may be cited as the Stanislaus County “Groundwater Ordinance.”

**Section 3.** Section 9.37.020 of the Stanislaus County Code is amended to read as follows:

The Stanislaus County Board of Supervisors hereby finds:

1. The protection of the health, welfare, and safety of the residents of the County require that the groundwater resources of Stanislaus County be protected from adverse impacts resulting from the specific acts of unsustainable groundwater extraction within the County and the export of water outside of the County; and
2. Groundwater is an essential resource for continued agricultural production within the County which production includes, but is not limited to, field crops, nut and fruit crops, vegetable crops, seed crops, poultry and livestock and products which significantly contribute to the gross value of the total agricultural production of the County; and

3. Groundwater is an essential resource for municipal, industrial and domestic uses within the County; and

4. The unsustainable extraction of groundwater resources within the County and the export of water outside of the County each could have adverse environmental impacts on the County, including but not limited to increased groundwater overdraft, land subsidence, uncontrolled movement of inferior quality groundwater, the lowering of groundwater levels, and increased groundwater degradation; and

5. The unsustainable extraction of groundwater resources within the County and the export of water outside of the County each could have adverse economic

impacts on the County, including but not limited to, loss of arable land, a decline in property values, increased pumping costs due to the lowering of groundwater levels, increased groundwater quality treatment costs, and replacement of wells due to declining groundwater levels, replacement of damaged wells, conveyance infrastructure, roads, bridges and other appurtenances, structures, or facilities due to land subsidence; and

6. California Constitution, Article X, Section 2, as well as Water Code Section 100 prohibit the waste, unreasonable use, unreasonable method of use, and unreasonable method of diversion of water. The County finds that the unsustainable extraction of groundwater and the export of water outside of the County are presumptively inconsistent with the California Constitution and the California Water Code.

7. Nothing in this Chapter 9.37 determines or alters surface water rights or groundwater rights under common law or any provision of law that determines or grants surface water rights.

8. There is a critical need for water well extraction data to analyze and understand the degree of groundwater depletion or recharge, to establish water budgets, and to balance conjunctive use of groundwater resources. The County finds and determines that such data is critical to the implementation of groundwater regulation under this Chapter 9.37. The County finds and determines that such data from Persons is presumptively confidential and proprietary information, including geological and geophysical data, plant production data, or trade secrets. The County further finds and determines that the need to receive or obtain such data, and to maintain its confidentiality, outweighs the public need for site specific private information and that the public will have access to the aggregate of such information which is a better measure of the cumulative status of groundwater resources.

**Section 4.** Section 9.37.030 of the Stanislaus County Code is amended to read as follows:

The following words and phrases shall have the following meanings when used in this Chapter:

1. "County" means the County of Stanislaus.
2. "Board" means the Board of Supervisors of Stanislaus County.

3. “Person” means and includes natural persons, corporations, firms, partnerships, joint stock companies, associations and other organizations of persons, and public entities.
4. “Groundwater” means water that occurs 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.
5. “Public water agency” means any local public agency, mutual water company, or nonprofit tax-exempt unincorporated association within, or partially within, Stanislaus County that has authority to undertake water-related activities.
6. “Unsustainable extraction of groundwater” means the extraction of groundwater in a manner that is not sustainable groundwater management as defined in Chapter 9.37 or State law.
7. “Export of water” means the act of conveying groundwater, or surface water for which groundwater has been substituted, out of the County.
8. “Sustainable groundwater management” means the management and use of groundwater in a manner that can be maintained during the planning and implementation horizon as defined in subdivision (q) of Water Code section 10721 without causing or substantially contributing to undesirable results.
9. “Undesirable result” means one or more of the following:
  - “a. 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. “b. Significant and unreasonable reduction of groundwater storage.
  3. “c. Significant and unreasonable degraded water quality, including the migration of contaminant plumes that impair water supplies.
  - “d. Significant and unreasonable land subsidence that substantially interferes with surface land uses.
  - “e. Surface water depletions that have significant and unreasonable adverse impacts on beneficial uses of the surface water.
10. “De minimis extractor” means a Person who extracts two (2) acre-feet or less per year.

11. “Groundwater sustainability plan” means a plan adopted pursuant to Water Code section 10727 et seq.

**Section 5.** Section 9.37.040 of the Stanislaus County Code is amended to read as follows:

Except as otherwise provided in this Chapter, the following actions are prohibited:

A. The unsustainable extraction of groundwater within the unincorporated areas of the County.

B. The export of water.

**Section 6.** Section 9.37.045 is added to the Stanislaus County Code to read

as follows:

“9.37.045 Application.

A. The prohibition set forth in Paragraph A of Section 9.37.040 is applicable to the extraction from any groundwater well for which an application for a new Well Construction Permit pursuant to Chapter 9.36 is filed after November 25, 2014. Applications for a Well Construction Permit submitted after that date shall demonstrate, based on substantial evidence, that either (1) one or more of the exemptions set forth in Section 9.37.050 apply, or (2) that extraction of groundwater from the proposed well will not constitute unsustainable extraction of groundwater. This paragraph shall not apply to a well designed to replace an existing well that has been permitted under Chapter 9.36 prior to November 25, 2014 if the replacement well has no greater capacity than the well it is replacing.

B. Effective upon adoption of an applicable groundwater sustainability plan, the prohibition set forth in Paragraph A of Section 9.37.040 shall be applicable to the extraction from any groundwater well for which the County reasonably concludes that the extraction of groundwater constitutes unsustainable extraction of groundwater. In the event of such determination by the County, the affected holder or holders of a Well Construction Permit issued pursuant to Chapter 9.36 for such well shall be notified and shall be required to demonstrate, based on substantial evidence, that continued extraction of groundwater will not result in an unsustainable extraction of groundwater as defined in Paragraph 6 of Section 9.37.030.

C. This Section does not limit the application of Paragraph B of Section 9.37.040.

D. The regulations and prohibitions set forth in this Chapter 9.37 apply only to the unincorporated areas of Stanislaus County.

**Section 7.** Section 9.37.050 of the Stanislaus County Code is amended to read as follows:

A. The following water management practices are exempt from the prohibitions in Section 9.37.040:

1. Water resources management practices of public water agencies that have jurisdictional authority within the County, and their water rate payers, that are in compliance with and included in groundwater management plans and policies adopted by that agency in accordance with applicable state law and regulations, as may be amended, including but not limited to the California Groundwater Management Act (Water Code Sections 10750 et seq.), or that are in compliance with an approved Groundwater Sustainability Plan.
2. De minimis extractions as set forth in Section 9.37.030 (10) of this Chapter.
3. Groundwater extraction or the export of water in compliance with a permit issued by the Stanislaus County Department of Environmental Resources pursuant to this Chapter.

B. The following water management practices are exempt from the prohibition against export of water in this Chapter:

1. De-watering of shallow water tables where the net benefits of the removal of subsurface water substantially outweighs the loss of water because of damage the high water table reasonably may cause to agriculture, industry, commerce and other property uses. The groundwater in some areas of the County is very near the surface and if not removed by interceptor ditches or subsurface tile drains, the water can seriously impact crop root zones for agricultural production or destroy foundations, equipment, materials, buildings and infrastructure used for residences, industry, utilities or commerce. This groundwater may or may not be reused for other purposes and at times may leave the County and its groundwater system.
2. Reasonable use of groundwater resources to supplement or replace surface water released for other reasonable and beneficial purposes, including but not limited to fisheries, ecosystem habitat or downstream water quality or quantity needs, when required pursuant to federal and state law, regulations, licenses or permit conditions.
3. Conservation of water in compliance with applicable state law that authorizes public water agencies to transfer water outside its usual place of use. Conservation investments may include, but are not limited to, irrigation practices in agricultural areas where the crops grown use less water, or communities that produce recycled water, fix leaks or promote other water saving devices and methods to conserve water on a temporary or permanent basis.
4. Recharge of groundwater in locations in the County that are capable of improving groundwater conditions in order to meet total water demands of beneficial uses in the hydrologic and groundwater basin area including but not limited to the following sources: surface water, treated municipal drinking water, recycled water and stormwater. The amount of recaptured groundwater transferred out of the area should not exceed the amount of water used to recharge the aquifer. The transfer can be accomplished by either

direct or indirect transfer, that is, a public water agency can leave the water in the ground and transfer other supplies in lieu of pumping out the recharge water.

5. Remediation of contaminated groundwater that is pumped and treated to remove contaminants that are in violation of standards for beneficial uses. The extracted and treated water may be released out of the County, resulting in a net loss to the groundwater basin, if the release complies with discharge permits issued by the federal, state or state resource agencies.

6. Export of water that reasonably supports agricultural operations on property outside the County that is contiguous with property within the County and is under common ownership.

7. Export of water from a private water source that is bottled in compliance with a private water source operator license issued by the state pursuant to Health and Safety Code Section 111120.

C. The exemptions set forth in Paragraphs A and B above do not exempt the activities described in those subsections from paragraph B of Section 9.37.045.@

**Section 8.** Section 9.37.060 of the Stanislaus County Code is amended to read as follows:

A. The Stanislaus County Department of Environmental Resources shall have the primary responsibility for implementation of this Chapter and regulations adopted by the Board of Supervisors. That responsibility shall include any preparation, approval, and/or certification of any environmental document pursuant to the California Environmental Quality Act (CEQA) for issuance of any permit for a groundwater well, to the extent required by CEQA, or a determination that such permit is not subject to, or is exempt from, CEQA.

B. The Department of Environmental Resources shall establish a system of permits to authorize water management practices otherwise prohibited by this Chapter. The Department may issue a permit for a water management practice to the extent that such practice is consistent with the statements of County policy set forth in Section 9.37.020 of this Chapter, and provided that such practice is for a reasonable and beneficial use of groundwater resources, supports sustainable groundwater management, and promotes the public interest. The term of a groundwater extraction permit issued by the Department pursuant to this Paragraph shall not exceed the remaining term of any applicable groundwater sustainability plan.

C. The Department of Environmental Resources shall have authority to investigate any activity subject to this Chapter. Compliance with this Chapter will be determined based on the submission of a technical report to the Department of Environmental Resources on a form provided by the County. The Department is authorized to enforce the prohibition of any activity that is determined to be in violation of this Chapter or regulations adopted by the Board of Supervisors.

D. Any interested person or entity may appeal an administrative determination made by the Department under this Chapter which (1) finds that an application is complete or incomplete; (2) establishes or modifies operating conditions; (3) grants or denies a permit; or (4) suspends or revokes a permit. Administrative appeals under this section must be made in writing, must clearly set forth the reasons why the appeal ought to be granted, and must be received by the Chief Executive Officer within fifteen days of the postmark date on the envelope that transmits the administrative determination. Any appeal that is not timely filed, or that is not accompanied by the required fee, will be deemed ineffective and the administrative determination that is being appealed will become final. The Chief Executive Officer shall fix a reasonable time for the hearing of an appeal of an administrative determination, and shall provide written notice of the appeal hearing to the appellant and all interested parties, and to all landowners within one-quarter mile of the parcel where operations will occur. An appeal review committee comprised of the Chief Executive Officer or designee, the Chairman and Vice Chairman of the Board of Supervisors shall hear the appeal and issue a decision within thirty days after the hearing. The appeal review committee may take any appropriate action upon the original administrative action that was appealed, including granting or denying the appeal in whole or in part, or imposing, deleting or modifying operating conditions of the permit. The decision of the appeal review committee shall be final.

AE. Any interested person or entity may appeal to the Board of Supervisors the following decisions and determinations of the Department regarding a groundwater well permit: (1) a decision to approve or deny a negative declaration, (2) a decision to certify or refuse to certify an environmental impact report, or (3) a determination that a permit is not subject to, or is exempt from, CEQA. @

**Section 9.** Section 9.37.065 is added to the Stanislaus County Code to read as follows:

“9.37.065 Groundwater Monitoring.

A. All Persons, including Public Water Agencies that extract groundwater within the County shall cause to be prepared and submitted to the County Department of Environmental Resources periodic reports of groundwater information that are reasonably necessary to monitor the existing condition of groundwater resources within the County, to determine trends, or to develop effective sustainable groundwater management plans and policies. A ‘De minimis extractor’ shall not be required to submit such information.

B. The Department shall develop and recommend regulations to be adopted by the Board that establish the frequency and timing of required reports, and the required information to be monitored, including without limitation water level and pumping data, or other data necessary for any other method to determine groundwater production.

C. The county presumes that information submitted pursuant to this Section will be exempt from disclosure under the California Public Records Act. The regulations developed under paragraph B of this Section shall include a process for submitters to confirm that their information is exempt from disclosure. Any document that aggregates information submitted under this section shall not be treated as exempt from disclosure if

such document neither identifies the sources of that information nor permits the reader to otherwise determine the sources of that information.

**Section 10.** This ordinance shall take effect thirty (30) days from and after the date of its passage and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the members voting for and against the same, in the Modesto Bee, a newspaper published in the County of Stanislaus, State of California.

Upon motion of Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_, the foregoing resolution was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, the \_\_\_\_\_ day of \_\_\_\_\_, 2014, by the following called vote:

AYES: Supervisors: NOES: Supervisors: ABSENT: Supervisors:

ATTEST:

Christine Ferraro Tallman

Clerk of the Board of Supervisors of the County of Stanislaus, State of California

By \_\_\_\_\_ Deputy

\_\_\_\_\_ Jim DeMartini, Chair of the Board of Supervisors of the County of Stanislaus, State of California

APPROVED AS TO FORM:

By \_\_\_\_\_ John P. Doering  
County Counsel