Sustainable Groundwater Management

I. Introduction and Background

This document is the first draft of the Administration’s groundwater management proposal. At this early stage, the proposal—and accompanying legislative language—is intended to help foster the ongoing discussion about the best way to ensure local, sustainable management of our groundwater resources. These discussions will extend beyond the budget in June. The administration will continue working with the Legislature and all stakeholders.

It is critical that this proposal, as well as the topic of groundwater, is viewed in a larger context. There is broad agreement that the state’s water management system is unsustainable. The system is unable to reliably meet human, economic, and ecological needs; too exposed to wet and dry climate cycles and natural disasters; and inadequate to handle the additional pressures of climate change and future population growth. Solutions are complex and expensive, and they require the cooperation and sustained commitment of all Californians working together.

To address these issues, the administration released the California Water Action Plan in January 2014. The Plan has three broad, long-term objectives: more reliable water supplies, the restoration of important species and habitat, and a more resilient, sustainably managed water resources system—including water supply, water quality, flood protection, and the environment—that can better withstand inevitable and unforeseen pressures in the coming decades. The Plan sets forth specific actions to take in the next five years that address urgent needs and provide the foundation for sustainable management of California’s water resources.

As the Plan explains, the state must improve its groundwater management through supply side and demand side measures. Groundwater accounts for more than one third of the water used annually by cities and farms, much more in dry years when surface water is scarce. Some of California’s groundwater basins are sustainably managed, but, unfortunately, many are not. The problem has persisted for decades. We rely on local groundwater agencies to manage the resources, but many do not have the tools, resources, and authorities to do the job. Pumping more than is recharged lowers groundwater levels, which makes extracting groundwater more expensive and energy intensive. Excessive groundwater pumping can cause irreversible land subsidence, which damages infrastructure and reduces the capacity of aquifers to store water.

This proposal is founded on the principal that groundwater resources are best managed at the local level and that every region is unique. This proposal gives local entities the tools and authorities needed to manage groundwater resources sustainably. It provides guidance and technical assistance to local agencies. It includes a state backstop, by which the State Water Resources Control Board can adopt a temporary plan when local agencies have been unable or have been unwilling to correct major problems. The backstop is
designed to complement the goal of local sustainable groundwater management by providing an incentive to local agencies to take responsibility themselves. In the rare instances where the state must provide a backstop, it would return responsibility to local agencies as soon as they are ready. Ultimately, if the goal of sustainable groundwater is to be met, it will be local agencies that get us there.

II. Proposal for Sustainable Groundwater Management

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

The proposal includes a statement that it is the policy of the state that groundwater be managed sustainably, and it defines sustainable groundwater management to serve as an objective for local groundwater management plans.

   It is the policy of the state that groundwater resources be managed sustainably. Sustainable groundwater management means the management of groundwater to provide for multiple long-term benefits without resulting in or aggravating conditions that cause significant long-term overdraft, land subsidence, ecosystem degradation, depletions from surface water bodies, and water quality degradation, in order to protect the resource for future generations. Sustainable groundwater management requires the development, implementation and updating of local water budgets, plans and programs based on the best available science, monitoring, forecasting and use of technological resources.

The definition clarifies that sustainable groundwater management requires a long-term perspective; continuous investment, management, and planning; consideration of the impacts of management decisions; and a solid technical foundation.

2. Recognize Groundwater Recharge as a Beneficial Use

To encourage the use of surface water to recharge groundwater basins, the proposal would amend Water Code Section 1242 to clarify that the diversion of water to underground storage is a diversion for beneficial use (provided the water is put to a beneficial use consistent with the water right). The beneficial uses of the diverted water include protection of water quality or other beneficial uses made while the water is in underground storage.

3. Provide State Technical Assistance

The Department of Water Resources currently provides assistance to local water agencies on a variety of water management programs. Working from this traditional role, DWR will provide technical assistance to local groundwater management agencies for development and implementation of sustainable groundwater management plans in California.

DWR will update Bulletin 118 every five years utilizing information from local agencies on groundwater levels and groundwater use to conduct a comprehensive assessment of
groundwater conditions. The Bulletin 118 updates will identify challenges and opportunities to improve sustainable management, provide overall vision and evaluation of resource management strategies, and will help focus, align, and maximize resources to achieve sustainable groundwater management without overburdening low priority basins.

Further, DWR will provide technical assistance to local and regional agencies related to collection and reporting of local groundwater data, preparation and updating of groundwater management plans, assessment of the status of local groundwater basins (e.g., overdraft), establishment of appropriate and effective groundwater governance (based on the status of the basin), and preparation of local water balances to determine safe yield. Technical assistance will include development of guidance documents, standards, and protocols; participation in local groundwater advisory groups; review of local basin assessment reports; and overview presentations of statewide groundwater management conditions.

Through DWR's Water Data Library and CASGEM websites, DWR will expand and improve online data availability. Improvements will include statewide exchange of groundwater data and groundwater management-related information, and availability of tools and guidance documents to promote analysis and implementation of sustainable groundwater management. DWR will promote coordination with integrated water management groups, and conduct public education/outreach on groundwater resource assets and issues.

DWR will assist the State Water Board as needed with technical information to support its role as a backstop authority when local groundwater management actions have been insufficient. DWR will periodically audit groundwater management plans and annual groundwater management plan reports for completeness and summarize the status of sustainable groundwater management actions.

DWR and the State Water Board will also develop a technical advisory group to coordinate development of best practices and tools that promote and guide sustainable groundwater management.

With this assistance, local groundwater management agencies will be better equipped to assess and manage groundwater resources.

Summary

- Update Bulletin 118 every 5 years
- Provide local technical assistance with data collection, assessment, plan development, governance, and local water balances to determine safe yield (Funding request in budget and could be available as soon as July 1, 2014)
- Improve data availability and utility in Water Data Library and CASGEM
- Provide technical information and analysis to the State Water Board to inform its backstop function
Periodically audit groundwater management plans and summarize the status of sustainable groundwater management actions
In coordination with State Water Board create a technical advisory group to coordinate development of best practices and tools

4. Empower Local Agencies To Achieve Sustainability

Groundwater is best managed at the local or regional level. To achieve sustainable groundwater management, local agencies need all the necessary tools and authorities. Building on the existing AB 3030 structure and SB1938 Plan requirements, the proposal provides local agencies with unambiguous authority to carry out groundwater management on the local or regional level and is designed to provide those agencies with maximum flexibility to get to sustainability at the sub-basin. Local agencies will decide what authorities to use and how best to use them when tailoring solutions to local conditions. The authorities are granted to existing local agencies in compliance with AB 3030 upon enactment and to new local agencies organizing under the AB 3030 process upon creation. The authorities include, but are not limited to:

- Measuring and reporting of groundwater conditions
- Conducting investigations and studies
- Regulating groundwater pumping
- Registering and permitting wells
- Assessing fees
- Cooperating with other agencies, the United States, and Indian tribes
- Providing technical assistance to groundwater extractors
- Enforcing compliance with a groundwater management plan

Additionally, counties, which sometimes were not permitted to undertake groundwater management under AB 3030, are given broader authority to do so.

By January 1, 2018, locals will have to provide aggregated groundwater extraction reporting to DWR, based on guidance provided by the DWR. By January 1, 2020, local agency groundwater authority is suspended unless if a local plan does not meet the requirements of law, but allows the local agency to continue funding its program in order to bring it into compliance. This will require agencies to incorporate concepts of sustainability into their plans by 2020, ensure that plans cover an entire sub-basin by 2020, and by 2020 develop plans for critically overdrafted basins that will eliminate overdraft by 2035.

Consistent with the current SB 1938 structure, local agencies are not mandated to adopt a plan, but the proposal includes several incentives to do so within a specified, reasonable timeframe. After five years, agencies without a plan will lose eligibility for state grants, will lose ability to use the new fee authority for implementing any plans that they have (they would retain authority to assess fees to create a plan), and the State Water Board would be able to exercise its backstop authority. It is expected that, in some cases, local agencies will
seek special legislation to obtain an effective governance structure that suits their situation, as many successful groundwater management agencies have done in the past.

To be adequate, plans must satisfy all of the requirements of SB 1938 and plans in critically overdrafted basins must be designed to achieve sustainability within 20 years. Plans in that will not achieve sustainability within five years must include five-year milestones to measure progress toward eliminating the overdraft, a key indicator of an unsustainable basin. Because the specific aspects of sustainability are difficult to define, the proposal includes protection against private lawsuits that would limit a local agency’s ability to fund its program, if the challenge is based on the plan’s consistency with the sustainability standard. If a plan is inadequate, the local agency would lose eligibility for state grants and fee authority, and the state may intervene to impose its own plan. Over time, DWR and local agencies will establish more concrete indicators for sustainability as DWR develops technical assistance and best management practices and as local agencies develop plans.

Areas without serious groundwater problems, such as adjudicated basins, are not required to adopt a plan.

There is no automatic state review of plans, in part because it would be difficult to provide meaningful review of hundreds of plans. Rather, the quality of the plans will be determined by local agencies, technical assistance and BMPs from DWR, the potential loss of state grants and fee authority for inadequate plans, and the potential of state intervention.

Summary

- Amends AB 3030 and SB 1938 to require that plans meet SB 1938 requirements and expands those requirements to include managing for sustainability and submission of groundwater extraction data to DWR starting January 1, 2018
- Expands the authority that local agencies meeting AB 3030 and SB 1938 can exercise, including providing a framework for regulatory fee authority
- Suspends the enhanced authority January 1, 2020 if the plan does not meet the requirements of law, but allows the local agency to continue funding its program in order to bring it into compliance
- Consistent with existing law, development of a plan is voluntary, but those without plans by January 1, 2020 will no longer be eligible for state funding
- The State Water Board may take action to develop a plan for any subbasin without a plan after January 1, 2020

5. Improve the Linkage Between Land-Use and Groundwater Planning

The proposal includes provisions to improve coordination between land-use planners and water managers, which is essential to sustainable groundwater management as the state continues to grow and develop.
Cities and counties would share General Plan amendments with groundwater management authorities. Groundwater management agencies, likewise, would share information (such as recharge areas, percolation basins, etc.) with cities and counties.

Cities and counties must review, and update as necessary, their General Plans upon certain events, including the adoption of groundwater management plans.

To provide an incentive to local agencies to form basin-wide plans, and to address the persistent problem of large new groundwater pumping in completely unmanaged areas, the proposal includes a place holder to discuss options for limiting extractions after 2020. The limitation would apply if a basin is not subject to a groundwater management plan. The intent is to avoid making the situation worse and to encourage the development of sustainable groundwater management plans. The administration is interested in exploring options that do not create a rush to drill and that protect unexercised, overlying correlative water rights, while not exacerbating the condition of overdraft.

Summary

- Requires Cities and Counties to share General Plan amendments with groundwater management authorities
- Requires groundwater management authorities to share plans and other relevant information with Cities and Counties
- Requires Cities and Counties to review groundwater management plans submitted to them, upon completion, to determine whether general plan updates are needed to account for the new information
- Provides a placeholder to discuss appropriate limitations on limitations after 2020 if a plan is not in place

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

The proposal would allow the State Water Board to backstop and, if necessary, draft and adopt a plan for an area that has serious groundwater problems and has either not adopted a plan, failed to implement a plan, or adopted an inadequate plan. The backstop is designed to provide an incentive to local agencies to take action prior to, during, and after the State Water Board initiates formal proceedings. The adoption of a temporary, state-drafted plan is the last of several incremental steps that allow the State Water Board flexibility to engage with, encourage, and incentivize local agencies to solve the problems themselves. The proposal includes procedures and hearings at several steps to ensure a fair process, as well as mechanisms that allow local agencies to cure their deficiencies. The State Water Board may also adopt elements of successful local plans and programs within a basin, to avoid undoing progress made by responsible local agencies. Local agencies have a two-year safe haven to form a basin-wide governance structure and five years to adopt an adequate plan before the board can adopt its own plan. When drafting a plan, the State Water Board must follow water rights to the extent feasible.
The backstop has four incremental steps. In step one, the State Water Board would engage with local agencies before any initiating any formal process. With other authority related to groundwater quality, the State Water Board has successfully brokered local solutions to groundwater quality problems in Ventura County and San Gabriel Valley without formally intervening. Under the proposed backstop, many cases would be resolved similarly, which would conserve time and resources for the board and local agencies.

In step two, the State Water Board may issue a declaration of a basin's condition. The board would issue findings that (1) the basin is in a condition of long term over-draft or that groundwater pumping is dewatering streams in a manner that significantly harms beneficial users, and (2) no management plan exists that would fix the problems. The designation serves to put local agencies on notice that, if they do not promptly adopt a groundwater management plan, the State Water Board will. Designation also initiates requirements to report groundwater extraction, which will provide information of value to either a local agency or the board in preparing a plan. Informal negotiations with local agencies could continue; the board is not required to proceed to the next step. When the threat of the board action causes a large rush to drill new wells, the proposal includes a placeholder to consider avenues by which the board may issue a limitation on extractions. Doing so would not overturn water rights of overlying users; it is intended to provide a pause while the State Water Board and local groundwater management agencies develop a solution.

In step three, the State Water Board may adopt a temporary groundwater management plan. The State Water Board is not required to proceed with this step. Even while a plan is being drafted, the board can put the process on hold if the locals diligently pursue an adequate plan or by initiating adjudication. The board’s authority to adopt a plan would not begin for two years (where there is no local governance structure) or five years (where there is no local plan). When drafting a plan, the board must follow water rights to the extent feasible.

In step four, after the State Water Board has adopted a groundwater management plan, it is required to return control to a local agency when the local agency has subsequently adopted an adequate plan or completed adjudication. The State Water Board also may rescind the plan short of the completion of a local plan or adjudication, based on the diligent progress made by a local agency or by adjudication. Upon the petitioner’s request, the State Water Board may rescind only part of the plan and allow other parts to remain in effect.

Because the backstop is triggered by the condition of the basin and the lack of an effective plan or program to fix the problem, local agencies cannot avoid state action by adopting an ineffective plan or by ineffectively implementing a plan. Also, the basin conditions that could trigger action (long-term overdraft, dewatered streams) are well understood, and, thus, provide a more objective threshold than the broader concept of sustainability. Of course, these conditions are also key indicators of unsustainable groundwater management.
In short, the backstop is designed to be flexible, incremental, and constructive. Local agencies can avoid it in several ways. Well-managed basins are not exposed to the state authority, presumably, because the threshold basin conditions would not be present or the agencies would have a plan to address them. In all basins, local agencies have two years to put in place a basin-wide governance structure and five years to adopt a groundwater management plan. In basins with overdraft problems, where the State Water Board intends to pursue a state groundwater management plan, local agencies may adopt a local groundwater plan that cures the defects within 180 days of notice by the State Water Board, ask the State Water Board to stay its action while local agencies diligently pursue an adequate plan or an adjudication, or ask the board to incorporate, in whole or in part, elements of existing local plans that are working well.

Summary

- **The State Water Board could designate basins at any time, but would be prohibited from taking any further action in a sub-basin until January 1, 2017 so long as a governance structure is developed by January 1, 2017, and if a local structure is in place, limit board action until January 1, 2020.**
- **The State Water Board actions could include the following steps all designed to promote local action and provide the State Water Board the flexibility to suspend the process if the locals develop an adequate plan at any point in the process:**
  - Engagement with locals before initiating any formal process to solicit information and provide assistance
  - After holding hearings, the board may issue a determination that the sub-basin is in long term overdraft or that it is having a significant effect on the beneficial uses of interconnected surface water and that there are no groundwater management plans in the sub-basin that will solve the problem. If a sub-basin receives this designation the State Water Board will notify them of the board’s intent to develop a groundwater management plan for the sub-basin and provide an opportunity for the local agencies to act
  - The State Water Board adopts a groundwater management plan for the sub-basin and implements the plan
  - The State Water Board returns groundwater management authority to a local agency when they have adopted a sufficient plan or completed adjudication

7. **Make groundwater adjudications more efficient.**

The proposal would improve the adjudication process to provide an additional tool to address unsustainable groundwater management. It will extend the expedited process for statutory adjudications for surface water to include groundwater. It will also include provisions to modernize and speed the process and to encourage negotiated settlements.

This element of the proposal is still being developed and will be provided soon.
What is required AB 3030 today?
http://www.water.ca.gov/groundwater/gwmanagement/ab_3030.cfm

What is required SB 1938 today?
http://www.water.ca.gov/groundwater/gwmanagement/sb_1938.cfm

www.groundwater.ca.gov draft text will be posted at 5pm
DRAFT BILL LANGUAGE—GROUNDWATER MANAGEMENT

GENERAL

LEGISLATIVE INTENT

SECTION G1. (a) The Legislature finds and declares:
   (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 in drought years, when other sources are unavailable;
   (3) Excessive groundwater pumping 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) Some local agencies manage their groundwater sustainably, either through local management structures or pursuant to an adjudication of water rights, while others have not done so, leading to a variety of serious local groundwater problems;
   (8) Groundwater management will not be effective unless local actions to sustainably manage groundwater basins are taken;
   (9) Local and regional agencies need to have the necessary support and authorities to manage groundwater sustainably;
   (10) 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;
   (11) Information on the amount of groundwater extractions is necessary to effective management of groundwater, and reporting of groundwater extractions is essential to provide the information needed to identify and protect groundwater rights, in a manner consistent with water right priorities, when those rights are adjudicated.

(b) It is therefore, the intent of the Legislature:
   (1) To provide local and regional agencies the authority to sustainably manage groundwater;

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(2) To make the statutory procedures for determination of water rights available where a local agency decides to manage a groundwater basin through an adjudication of water rights;

(3) To provide that when local agencies have been unable to sustainably manage groundwater and an area experiences serious groundwater problems, the State Water Resources Control Board may designate those groundwater basins with serious problems, and if local action is not taken after sufficient time, the board may develop an interim groundwater management plan to remedy the problem until a local agency undertakes sustainable groundwater management; and

(4) To provide for recordation of groundwater extractions, for use in groundwater management and adjudications of water rights.

(5) To respect overlying and other proprietary rights to groundwater and avoid creating incentives to initiate or expand pumping while plans are developed to manage groundwater basins sustainably.

SUSTAINABLE GROUNDWATER MANAGEMENT: STATE POLICY AND DEFINITION

SEC. G2. Section 113 is added to the Water Code to read:

113. It is the policy of the state that groundwater resources be managed sustainably. Sustainable groundwater management means the management of groundwater to provide for multiple long term benefits without resulting in or aggravating conditions that cause significant long-term overdraft, land subsidence, ecosystem degradation, depletions from surface water bodies, and water quality degradation, in order to protect the resource for future generations. Sustainable groundwater management requires the development, implementation and updating of local water budgets, plans and programs based on the best available science, monitoring, forecasting and use of technological resources.

TECHNICAL ASSISTANCE BY DWR

SEC. G3. Section 148 is added to the Water Code to read;

148. The department is authorized to provide technical assistance in the preparation and implementation of groundwater management and conjunctive use plans, to review and comment on the adequacy of those plans, and to make recommendations for when preparation of update of those plans is necessary.

GROUNDWATER RECHARGE AS A BENEFICIAL USE

SEC. G4. Section 1242 of the Water Code is amended to read:

1242. The storing of water diversion of water to underground storage, including diversion for groundwater recharge, constitutes a diversion for beneficial use of water for which an appropriation may be made if the water so stored is thereafter put to beneficial use consistent with this division. The beneficial uses of water diverted to underground storage may include protection of water quality or other beneficial uses made while the water is in underground storage, in addition to uses requiring subsequent extraction or
release of the stored water. applied to the beneficial purposes for which the appropriation for storage was made. The forfeiture periods in sections 1240 and 1241 do not include any period when the water is being used in the aquifer or storage area or is being held in storage for later use.

LOCAL AUTHORITY

RECOGNIZE NEW CATEGORY OF BASINS DESIGNATED IN LONG-TERM OVERDRAFT & TECHNICAL AMENDMENTS

SEC L1. Section 10750.7 of the Water Code is amended to read:

10750.7 (a) A local agency may not manage groundwater pursuant to this part within the service area of another local agency, a water corporation regulated by the Public Utilities Commission, or a mutual water company without the agreement of that other entity.
(b) This section applies only to groundwater basins that are not critically overdrafted basins or designated basins.

SEC L2. Section 10750.8 of the Water Code is amended to read:

(a) A local agency may not manage groundwater pursuant to this part within the service area of another local agency without the agreement of that other entity.
(b) This section applies only to groundwater basins that are critically overdrafted basins or designated basins.

SEC. L3. Section 10750.10 of the Water Code is repealed:

10750.10. This part is in addition to, and not a limitation on, the authority granted to a local agency pursuant to other provisions of law.

SEC. L4. Section 10752 of the Water Code is amended and renumbered to read:

10751. Unless the context otherwise requires, the following definitions govern the construction of this part:
(a) “Designated basin” has the same meaning as under Section 5200.
(b) “Groundwater” means 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.
(bc) “Groundwater basin” means any basin or subbasin identified in the department’s Bulletin No. 118, dated September 1975, and any amendments to that bulletin, but does not include a basin in which the average well yield, excluding domestic wells that supply water to a single-unit dwelling, is less than 100 gallons per minute.
(ed) “Groundwater extraction facility” means a device or method for the extraction of groundwater within a groundwater basin.
(de) “Groundwater management plan” or “plan” means a document that describes the activities intended to be included in a groundwater management program.
(ef) "Groundwater management program" or "program" means a coordinated and ongoing activity undertaken for the benefit of a groundwater basin, or a portion of a groundwater basin, pursuant to a groundwater management plan adopted pursuant to this part.

(fg) "Groundwater recharge" means the augmentation of groundwater, by natural or artificial means, with surface water or recycled water.

(gh) "Local agency" means a local public agency that provides water service to all or a portion of its service area, and includes a joint powers authority formed by local public agencies that provide water service.

(hi) "Person" has the same meaning as defined in Section 19.

(ij) "Recharge area" means the area that supplies water to an aquifer in a groundwater basin and includes multiple wellhead protection areas.

(ik) "Watermaster" means a watermaster appointed by a court or pursuant to other provisions of law.

(kl) "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.

EXPANDED AUTHORITY FOR LOCAL AGENCIES TO MANAGE GROUNDWATER

SEC. L5. Chapter 2.5 (commencing with Section 10752) is added to Part 2.75 of Division 6 of the Water Code, to read:

Chapter 2.5
Local Groundwater Management Authority

10752. A local agency shall have any powers that may be necessary or convenient for the local agency to implement this part, including, but not limited to, the authority to do the following:

(a) Enter into a joint powers authority, participate in a memorandum of understanding among existing agencies, participate in an integrated regional water management planning group, any of which may include a locally authorized watermaster, or establish another form of appropriate local or regional sustainable groundwater management entity.

(b) Act jointly or in cooperation with the United States or any agency thereof, an Indian tribe, the State of California or any agency thereof, a city, county, city and county or other public agency.

(c) Raise funds.

(d) Provide technical assistance to persons who extract or use groundwater to promote water conservation and protect groundwater resources.

(e) Regulate groundwater pumping.

(f) Establish, assume, or cooperatively manage a program for registration or permitting of wells.

(g) Establish reasonable requirements for monitoring, installation and operation of water measurement devices, maintaining records, and reporting by persons or entities that extract groundwater or divert water to underground storage.

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LOCAL AUTHORITY FOR RULES RELATED TO GROUNDWATER MANAGEMENT

10752.1 A local agency may adopt rules and regulations for purposes of this part, in compliance with any procedural requirements applicable to the adoption of regulations by the local agency. In addition to any other applicable procedural requirements, the local agency shall provide notice of the proposed adoption on its internet website and provide for electronic notice to any person who requests electronic notification.

LOCAL AUTHORITY TO CONDUCT INVESTIGATIONS

10752.2 A local agency may conduct an investigation for purposes of this part, including but not limited to an investigation to determine the need for groundwater management, to prepare and adopt a groundwater management plan and implementing rules and regulations, to propose and updating fees, and for compliance monitoring and enforcement. In connection with that investigation, the local agency may inspect the property or facilities of a person or entity to ascertain whether the purposes of this part are being met and to ascertain compliance with this part. The local agency is authorized to obtain 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 for purposes of an inspection under this subdivision.

LOCAL AUTHORITY TO BRING JUDICIAL ACTIONS

10752.3 The local agency may bring an action in superior court against any person engaged in or about to engage in any acts or practices that violate or will violate a groundwater management plan or regulation adopted by the local agency under this part. The superior court may issue a temporary restraining order, preliminary injunction or permanent injunction to enjoin those acts or practices or to require compliance.

LOCAL AUTHORITY TO ENFORCE GROUNDWATER MANAGEMENT RULES

10752.4 (a) A person who violates a regulation adopted under section 10753.9 or a regulation implementing subdivision (g) or (h) of section 10752.1 shall be liable for a civil penalty not to exceed one thousand dollars ($1000) 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 called the violation to the attention of that person.

(b) A person who extracts groundwater in excess of the amount that person is authorized to extract under a rule or regulation adopted under section 10753.9, shall be liable for a civil penalty not to exceed five hundred ($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 subdivision (a) and any fee imposed for the extraction.

(c) A local agency may bring an action in superior court to determine whether the violation occurred and impose a penalty under this section. In determining the amount of the penalty, the court 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.

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(d) Penalties imposed under this section shall be paid to the local agency and shall be expended solely for purposes of this part.

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

LOCAL AUTHORITY PROVIDED IS NOT A LIMITATION ON EXISTING AUTHORITIES; LIMITATION OF AUTHORITY IF GROUNDWATER MANAGEMENT PLAN NOT IN PLACE BY JANUARY 1, 2020

10752.5. (a) This part is in addition to, and not a limitation on, the authority granted to a local agency under any other law, and 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, collection of fees.

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

(c) This part applies to the United States or an Indian tribe to the extent authorized under federal or tribal law.

(d) This part does not authorize a local agency to impose any requirement or impose any penalty or fee 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.

(e) After January 1, 2020, a local agency that does not have a groundwater management plan that meets all requirements of Section 10753.7 for a qualifying groundwater management plan may exercise the authority provided in this part only for purposes necessary or convenient for the agency to prepare and adopt a plan that meets those requirements.

AUTHORITY FOR COUNTIES WHERE NO OTHER LOCAL AGENCY HAS AUTHORITY

SEC. L6. Section 10753 of the Water Code is amended to read:

10753. (a) Any local agency, whose service area includes a groundwater basin, or a portion of a groundwater basin, that is not subject to groundwater management pursuant to other provisions of law or a court order, judgment, or decree, may, by ordinance, or by resolution if the local agency is not authorized to act by ordinance, adopt and implement a groundwater management plan pursuant to this part within all or a portion of its service area.

(b) Notwithstanding subdivision (a), a local public agency, other than an agency defined in subdivision (g) of Section 10752, that provides flood control, groundwater management, or groundwater replenishment, or a local agency formed pursuant to this code for the principal purpose of providing water service that has not yet provided that service, or a county may exercise the authority of this part within a groundwater basin that is located within its boundaries within areas that are either of the following:

(1) Not served by a local agency.

(2) Served by a local agency whose governing body, by a majority vote, declines to exercise the authority of this part and enters into an agreement with the local public agency or county pursuant to Section 10750.7 or 10750.8.

(c) Except as provided in subdivision (b), this chapter does not authorize a local agency to manage groundwater planning within the service area of another local agency.

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(d) Except as otherwise provided in this part, the process for developing and adopting a revised groundwater management plan shall be the same as the process for developing and adopting a new groundwater management plan.

**UPDATE SB1938 PLANS TO INCLUDE SUSTAINABILITY (BY 2020), AGGREGATE BASIN USAGE DATA (BY 2018), COVER AN ENTIRE SUBBASIN (BY 2020), AND TO REMEDY CRITICALLY OVERDRAFTED BASINS (BY 2035)**

**SEC. L7. Section 10753.7 of the Water Code is amended to read:**

10753.7. (a) For the purposes of qualifying as a groundwater management plan under this section, a plan shall contain the components that are set forth in this section. In addition to the requirements of a specific funding program, a local agency seeking state funds administered by the department for groundwater projects or groundwater quality projects, including projects that are part of an integrated regional water management program or plan, and excluding programs that are funded under Part 2.78 (commencing with Section 10795), shall do all of the following:

(1) **(A)** Prepare and implement a groundwater management plan that includes basin management objectives for the groundwater basin that is subject to the plan. The plan shall include components relating to the monitoring and management of groundwater levels within the groundwater basin, groundwater quality degradation, inelastic land surface subsidence, changes in surface flow and surface water quality that directly affect groundwater levels or quality or are caused by groundwater pumping in the basin, and a description of how recharge areas identified in the plan substantially contribute to the replenishment of the groundwater basin.

**(B)** On or before January 1, 2020, these components of the groundwater management plan required under subparagraph (A) shall be consistent with sustainable groundwater management, as provided in Section 113.

**(C)** (i) On January 1, 2018, and annually on January 1 thereafter, a local agency that has prepared a groundwater management plan pursuant to this part shall include an annual addendum to the groundwater management plan that reports the aggregated groundwater extraction from the preceding water year for the area subject to the plan. The plan shall, at a minimum, identify extraction amounts for the period of October 1 through March 31, and April 1 through September 30.

**(B)[Placeholder for DWR role].**

**(B)** For purposes of implementing paragraph (1), the local agency shall prepare a plan to involve other agencies that enables the local agency to work cooperatively with other public entities whose service area or boundary overlies the groundwater basin.

**(B)** For purposes of implementing paragraph (1), the local agency shall prepare a map that details the area of the groundwater basin, as defined in the department’s Bulletin No. 118, and the area of the local agency, that will be subject to the plan, as well as the boundaries of other local agencies that overlie the basin in which the agency is developing a groundwater management plan.

**(A)** Commencing January 1, 2013, for purposes of implementing paragraph (1), the groundwater management plan shall include a map identifying the recharge areas for the groundwater basin.

**(B)** The local agency shall provide the map required pursuant to subparagraph (A) to the appropriate local planning agencies after adoption of the groundwater management plan.

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(C) Upon submitting a map pursuant to subparagraph (B), the local agency shall notify the department and all persons on the list established and maintained pursuant to subdivision (c) of Section 10753.4.

(D) For purposes of this paragraph, “map identifying the recharge areas” means a map that identifies, or maps that identify, the current recharge areas that substantially contribute to the replenishment of the groundwater basin.

(5) The local agency shall adopt 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 pumping in the basin. The monitoring protocols shall be designed to generate information that promotes efficient and effective groundwater management.

(6) Except as provided in paragraph (8), the groundwater management plan, in combination with areas cooperatively managed by other entities consistent with subdivisions (a) and (b) of Section 10752, shall encompass an area no smaller than a subbasin, and shall include all areas within that subbasin, as defined in Section 10925, on or before January 1, 2020.

(7) (A) If the plan is for a critically overdrafted groundwater basin, as identified in the department’s Bulletin 118 on or before July 1, 2014, the plan shall provide for the elimination of long-term overdraft, with programs in place on or before January 1, 2035, that effectively correct the critically overdrafted condition of the groundwater basin.

(B) If a plan will not correct the condition of critical overdraft or correct a condition that is a basis for a designation pursuant to Section 5200, within five years after the plan is adopted, the plan shall include interim objectives establishing levels of progress towards achieving full compliance. The dates for achieving interim objectives shall be no more than five years apart.

(8) Local agencies that are located in areas outside the groundwater basins delineated on the latest edition of the department’s groundwater basin and subbasin map shall prepare groundwater management plans incorporating the components in this subdivision, and shall use geologic and hydrologic principles appropriate to those areas.

(b) (1) (A) A local agency may receive state funds administered by the department for groundwater projects or for other projects that directly affect groundwater levels or quality if it prepares and implements, participates in, or consents to be subject to, a groundwater management plan, a basinwide management plan, or other integrated regional water management program or plan that meets, or is in the process of meeting, the requirements of subdivision (a). A local agency with an existing groundwater management plan that meets the requirements of subdivision (a), or a local agency that completes an update of its plan to meet the requirements of subdivision (a) within one year of applying for funds, shall be given priority consideration for state funds administered by the department over local agencies that are in the process of developing a groundwater management plan. The department shall withhold funds from the project until the update of the groundwater management plan is complete.

(B) Notwithstanding subparagraph (A), a local agency that manages groundwater under any other provision of existing law that meets the requirements of subdivision (a), or that completes an update of its plan to meet the requirements of subdivision (a) within one year of applying for funding, shall be eligible for funding administered by the department. The department shall withhold funds from a project until the update of the groundwater management plan is complete.

(C) Notwithstanding subparagraph (A), a local agency that conforms to the requirements of an adjudication of water rights in the groundwater basin is in compliance with subdivision (a).
purposes of this subparagraph, an “adjudication” includes an adjudication under Section 2101, an administrative adjudication, and an adjudication in state or federal court.

(D) Subparagraphs (A) and (B) do not apply to proposals for funding under Part 2.78 (commencing with Section 10795), or to funds authorized or appropriated prior to September 1, 2002.

(E) A local agency may request state funds to map groundwater recharge areas pursuant to paragraph (4) of subdivision (a) to the extent that the request for state funds is consistent with eligibility requirements that are applicable to the use of the requested funds.

(2) Upon the adoption of a groundwater management plan in accordance with this part, the local agency shall submit a copy of the plan to the department, in an electronic format, if practicable, approved by the department. The department shall make available to the public copies of the plan received pursuant to this part.

EXPLICIT LOCAL AUTHORITY IN AB3030 PLANS FOR REGULATION OF GROUNDWATER EXTRACtIONS

SEC. L8. Section 10753.8 of the Water Code is amended to read:

10753.8. A groundwater management plan may include components relating to all of the following:

(a) Control of saline water intrusion.
(b) Identification and management of wellhead protection areas and recharge areas.
(c) Regulation of the migration of contaminated groundwater.
(d) Administration of a well abandonment and well destruction program.
(e) Mitigation or avoidance of conditions of overdraft.
(f) Regulation of groundwater extractions.
(g) Replenishment of groundwater extracted by water producers.
(h) Monitoring and reporting, including but not limited to reasonable requirements for monitoring and reporting by persons or entities that extract groundwater or divert water to underground storage, of groundwater extractions, levels, and storage.
(i) Facilitating conjunctive use operations.
(j) Identification of well construction policies.
(k) The construction and operation by the local agency of groundwater contamination cleanup, recharge, storage, conservation, water recycling, and extraction projects.
(l) The development of relationships with state and federal regulatory agencies.
(m) The review of land use plans and coordination with land use planning agencies to assess activities which create a reasonable risk of groundwater contamination.

ADDITIONAL AUTHORITIES FOR AB3030 PLANS

SEC. L9. Section 10753.9 of the Water Code is amended to read:
10753.9. (a) A local agency shall adopt rules and regulations to implement and enforce a groundwater management plan adopted pursuant to this part. *The rules and regulations may include, but are not necessarily limited to:*

1. Requirements for registration or permitting of wells.
2. Requirements for well construction, abandonment and destruction.
3. Regulation of groundwater extractions, including limits on new extractions and amounts that may be extracted from existing or relocated wells.
4. Requirements for monitoring, installation and operation of water measurement devices, record keeping, and reporting.

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

—(c) Nothing in this part shall be construed as authorizing the local agency to limit or suspend extractions unless the local agency has determined through study and investigation that groundwater replenishment programs or other alternative sources of water supply have proved insufficient or infeasible to lessen the demand for groundwater.

**REMOVE EXISTING FEE AUTHORITY**

SEC. L10. Section 10754.2 of the Water Code is repealed:

10754.2. (a) Subject to Section 10754.3 except as specified in subdivision (b), a local agency that adopts a groundwater management plan pursuant to this part, may impose equitable annual fees and assessments for groundwater management based on the amount of groundwater extracted from the groundwater basin within the area included in the groundwater management plan to pay for costs incurred by the local agency for groundwater management, including, but not limited to, the costs associated with the acquisition of replenishment water, administrative and operating costs, and costs of construction of capital facilities necessary to implement the groundwater management plan.

(b) The local agency may not impose fees or assessments on the extraction and replacement of groundwater pursuant to a groundwater remediation program required by other provisions of law or a groundwater storage contract with the local agency.

SEC. L11. Section 10754.3 of the Water Code is repealed:

10754.3. Before a local agency may levy a water management assessment pursuant to Section 10754.2 or otherwise fix and collect fees for the replenishment or extraction of groundwater pursuant to this part, the local agency shall hold an election on the proposition of whether or not the local agency shall be authorized to levy a groundwater management assessment or fix and collect fees for the replenishment or extraction of groundwater. The local agency shall be so authorized if a majority of the votes cast at the election is in favor of the proposition. The election shall be conducted in the manner prescribed by the laws applicable to the local agency or, if there are no laws so applicable, then as prescribed by laws relating to local elections. The election shall be conducted only within the portion of the jurisdiction of the local agency subject to groundwater management pursuant to this part.
REGULATORY FEE AUTHORITY TO BE UTILIZED CONSISTENT WITH PROP 26

SEC. L12. Section 10754.3 is added to the Water Code, to read:

10754.3. (a) In addition to the powers granted to the local agency under any other law, the local agency may impose fees on groundwater extraction or other activities regulated by a groundwater management plan adopted pursuant to this part including, but are not limited to, costs incurred in connection with investigations, technical assistance, inspections, planning, implementing groundwater management plans, mitigating the effect of activities affecting groundwater, and enforcement. Recoverable costs do not include costs recovered under Section 10754.5.

(b) Fees imposed under this section shall be set to recover the estimated costs set forth in subdivision (a), taking into account the amounts recovered from other sources. If the fees collected exceed the actual costs for the period for which the fees were imposed, the fees may be held in reserve for future costs, and shall not be used for general revenue purposes. The local agency shall adjust the fees as necessary to assure that program revenues do not exceed program costs, including maintenance of a prudent reserve as determined to be necessary by the local agency, over the long term.

(c) The fees shall allocate costs among fee payers in a manner that bears a fair or reasonable relationship to fee payers' burdens on, or benefits received from, the local agency's activities. Factors that may be considered in establishing a fair and reasonable allocation among fee payers include, but are not limited to, the contribution of their activities on the need for groundwater management, the local agency's costs related to monitoring or oversight of their activities, and the policies of Sections 100, 106.3, and 113.

(d) (1) Except as provided in paragraphs (2) and (3), a local agency is not authorized to impose fees under this section unless the local agency has adopted a groundwater management plan that meets all requirements of Section 10753.7 for a qualifying groundwater management plan.

(2) A local public agency may impose fees under this section to recover costs incurred in connection with preparing and adopting a groundwater management plan that meets all requirements of Section 10753.7 for a qualifying groundwater management plan.

(3) In an action seeking to invalidate a fee imposed under this section or for refund of a fee, the court shall not invalidate the fee or order a refund based on a failure to comply with subparagraph (A) of paragraph (1) of subdivision (a) of Section 10753.7.

FEE AUTHORITY FOR WATER SERVICE-RELATED FEES PURSUANT TO PROP 218

SEC. L13. Section 10754.4 is added to the Water Code, to read:

10754.4. (a) In addition to the powers granted to the local agency under any other law, a local agency that adopts a groundwater management plan that meets all requirements of Section 10753.7 for a qualifying groundwater management plan may impose fees on the extraction of groundwater to recover costs of groundwater management, including, but are not limited to, costs for acquisition of replenishment water or deliveries in lieu of groundwater extractions, land acquisition costs, costs for construction and operation of facilities, technical assistance, and related administrative costs. Recoverable costs do
not include any costs for which fees are recovered under Section 10754, 10754.2, or 10754.3.

(b) Fees imposed under this section shall be adopted and implemented in accordance with Subdivisions (a) and (b) of Section 6 of Article XIIID of the California Constitution.

(c) In an action seeking to invalidate a fee imposed under this section or for refund of a fee, the court shall not invalidate the fee or order a refund based on a failure to comply with subparagraph (A) of paragraph (1) of subdivision (a) of Section 10753.7.

NOTICE OF FEES AND AUTHORITY TO COLLECT

SEC. L14. Section 10754.5 is added to the Water Code, to read:

10754.5. (a) Except as otherwise provided by the local agency when it imposes the fee, a fee imposed under this part is due within 30 days after the fee payer is notified of the fee imposed.

(b) A local agency may exercise the authority set forth in Sections 75615 and 75616 and Article 5 (commencing with Section 75630) of Chapter 3 of Part 9 of Division 21 to collect delinquent fees.

RECOGNIZE NEW CATEGORY OF BASINS DESIGNATED IN LONG-TERM OVERDRAFT

SEC. L15. Section 10755.4 of the Water Code is amended to read:

10755.4. Except in those groundwater basins that are designated basins or are subject to critical conditions of groundwater overdraft, as identified in the department’s Bulletin 118–80, revised on December 24, 1982, the requirements of a groundwater management plan that is implemented pursuant to this part do not apply to the extraction of groundwater by means of a groundwater extraction facility that is used to provide water for domestic purposes to a single-unit residence and, if applicable, any dwelling unit authorized to be constructed pursuant to Section 65852.1 or 65852.2 of the Government Code.

LAFCO AND GROUNDWATER DISTRICT GOVERNANCE

[placeholder, in case language is needed]

LAND USE

LIMITATIONS ON EXTRACTIONS IN HIGH OR MEDIUM PRIORITY BASINS AFTER 2020 IF GROUNDWATER MANAGEMENT PLANS NOT IN PLACE

SEC. LU1. Section 53087.7 is added to the Government Code, to read:

[PLACEHOLDER – For basins designated high or medium priority by DWR there would be automatic limitations on extractions if a sustainable groundwater management plan is not in place by 2020. The intent is to avoid making the situation worse and to encourage]
the development of sustainable groundwater management plans. The administration is interested in exploring options that do not create a rush to drill and that protect unexercised, overlying correlative water rights, while not exacerbating the condition of overdraft.]

NOTIFICATION TO GROUNDWATER AGENCIES DURING GENERAL PLANNING PROCESS

SEC. LU2. Section 65352 of the Government Code is amended to read:

65352. (a) Prior to action by a legislative body 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 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 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 local agency that has adopted a groundwater management plan, or that otherwise manages groundwater pursuant to other provisions of law or a court order, judgment, or decree, or the State Water Resources Control Board if it has adopted a groundwater management plan pursuant to Section 5201 of the Water Code, that includes territory within the planning area of the proposed general plan.
(9) The Bay Area Air Quality Management District for a proposed action within the boundaries of the district.
(10) On and after March 1, 2005, a California Native American tribe, that is on the contact list maintained by the Native American Heritage Commission, with traditional lands located within the city or county's jurisdiction.

(11) 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 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.

REQUIREMENT TO PROVIDE GROUNDWATER INFORMATION DURING GENERAL PLANNING PROCESS

SEC. LU3. Section 65352.5 of the Government Code is amended to read:

65352.5. (a) The Legislature finds and declares that it is vital that there be close coordination and consultation between California's water supply agencies and California's land use approval agencies to ensure that proper water supply planning occurs in order to accommodate projects that will result in increased demands on water supplies.

(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.

(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 local agency that has adopted a groundwater management plan, or that otherwise manages groundwater pursuant to other provisions of law or a court order, judgment, or decree, or the State Water Resources Control Board if it has adopted a groundwater management plan pursuant to Section 5201 of the Water Code, shall provide the planning agency with maps of recharge basins, percolation ponds, and any other information that is appropriate and relevant.

UPDATING OF GENERAL PLAN TO INCORPORATE GROUNDWATER REQUIREMENTS

SEC. LU4. Section 65302.2.5 is added to the Government Code, to read:

65302.2.5. Prior to the adoption or any substantial amendment of a city or county's general plan, the planning agency shall review and, if necessary, revise the land use, conservation, open space or any other element as appropriate to address the following:

(a) Any adoption of, or update to, a groundwater management plan by a local agency pursuant to Water Code section 10753 or other provisions of law or a court order, judgment, or decree, or the State Water Resources Control Board if it has adopted a groundwater management plan pursuant to Water Code section 5201.

(b) Any limitation on pumping by a local groundwater management agency.

(c) An adjudication of water rights, or an interim allocation of rights to a groundwater basin by the State Water Resources Control Board pursuant to Article 2.5 (commencing with Section 2530) of Chapter 3 of Part 3 of Division 2 of the Water Code.

(d) Any declaration by the State Water Resources Control Board that a groundwater basin is in a condition of long-term overdraft or in a condition where groundwater extractions unreasonably affect the beneficial uses of interconnected surface waters pursuant to Section 5200 of the Water Code.

CASGEM LOCAL EXTRACTION REPORTING

[Placeholder coordinated with Water Code section 10753.7(a)(1)(C) for use and extraction coordinated with DWR’s existing CASGEM program, including providing guidance on local groundwater management plan development]
STATE BACKSTOP

AUTHORITY AND PROCESS FOR THE STATE WATER BOARD TO DESIGNATE BASINS
AND PROCESS TO RESCIND DESIGNATION

SEC. B1. Part 5.2 (commencing with Section 5200) is added to Division 2 of the Water Code to read:

Part 5.2
State Groundwater Management Pending Establishment of Sustainable Groundwater Management Locally

5200. (a) (1) The board, after notice and a public hearing, may declare a groundwater basin to be in a condition of long-term overdraft or in a condition where groundwater extractions unreasonably affect the beneficial uses of interconnected surface waters.
   (2) The department shall provide information and recommendations to assist the board in prioritizing and making determinations under paragraph (1).
   (b) A declaration that a groundwater basin is in a condition of long-term overdraft or in a condition where groundwater extractions unreasonably affect the beneficial uses of interconnected surface waters shall include the following findings:
      (1) The long-term average annual amount of water extracted from the basin exceeds the long-term average supply of water to the basin, or groundwater extractions affect interconnected surface waters in a manner that unreasonably affects the beneficial uses of interconnected surface waters;
      (2) There is a need for groundwater management in the basin; and
      (3) There is no groundwater management program in effect that has eliminated or is making progress that will lead to the elimination of long-term overdraft or condition where groundwater extractions unreasonably affect the beneficial uses of interconnected surface waters in interconnected surface waters.
   (c) The declaration shall include identification of the boundaries of the groundwater basin.
   (d) The declaration shall set an amount of groundwater extractions, for purposes of establishing the amount for which reports of groundwater extraction are required under Section 10753.7.
   (e) Upon its own motion or upon petition of any interested person or entity, the board may revoke or revise the declaration that a groundwater basin is in a condition of long-term overdraft or in a condition where groundwater extractions unreasonably affect the beneficial uses of interconnected surface waters.
   (f) As used in this part, “designated basin” means a ground water basin for which the board has issued a declaration under this section.
   (g) As used in this part, “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 thereof. “Person” includes, to the extent authorized by federal law, the United States, a department, agency or instrumentality of the federal government, an Indian Tribe or an authorized Indian tribal organization, or interstate body.
5201. (a) The board, after notice and a public hearing, may adopt a groundwater management plan for a designated basin.

(1) The board is not authorized to adopt a plan under this section before January 1, 2017.

(2) If a local public agency or joint powers authority has a governance structure in place on or before January 1, 2017, that applies to all areas within a subbasin, as defined in Section 10925, and includes authority consistent with Part 2.5 (commencing with Section 10750) of Division 6 throughout that subbasin, the board is not authorized to adopt a plan for that subdivision under this section before January 1, 2020. If the designated basin includes areas outside the subbasin, this paragraph is not a limitation on the authority of the board to adopt a plan for those portions of the designated basin that are outside the subbasin.

(b) (1) Before adopting a plan under this section, the board shall first determine whether any local public agency overlying all or a part of the designated basin has initiated a process to adopt a groundwater management plan, or undertake an adjudication of water rights, that will lead to the elimination of the condition of long-term overdraft or condition where groundwater extractions unreasonably affect the beneficial uses of interconnected surface waters. To provide an opportunity for a local public agency to initiate preparation of an adequate local groundwater management plan or to initiate an adjudication of water rights, the board shall provide a period of at least one hundred and eighty days after it issues a declaration under Section 5200 before making a determination under this paragraph.

(2) If the board determines that a plan will be adopted or an adjudication will be initiated as provided in paragraph (1), the board shall take no further action under this section, except that the board may become a party to the adjudication or accept a reference under Part 3 (commencing with Section 2000).

(3) The board may periodically review a determination made under paragraph (2), and may revoke the determination if the board determines that the local agency is not diligently pursuing the adoption of a groundwater management plan or the initiation and prosecution of an adjudication of water rights, or finds that the groundwater management plan or adjudication will not lead to the elimination of long-term overdraft or condition where groundwater extractions unreasonably affect the beneficial uses of interconnected surface waters.

(c) The groundwater management plan shall include:

(1) Identification of the actions which are necessary to correct a condition of long-term overdraft or a condition where groundwater extractions unreasonably affect the beneficial uses of interconnected surface waters, including recommendations for appropriate action by any entity, public or private;

(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.

(d) The groundwater management plan may include:

(1) Restrictions on groundwater pumping or extraction;

(2) A physical solution.
(3) Principles and guidelines for the administration of rights to surface waters that are connected to the groundwater basin.

(e) To the extent feasible consistent with Sections 100 and 275 and subdivision (f), the plan shall be consistent with water right priorities.

(f) Where, in the judgment of the board, a local groundwater management plan or program or an adjudication of water rights can be relied on as part of the plan, either throughout the groundwater basin or in an area within the groundwater basin, the board may rely on or incorporate elements of that plan, program or adjudication into the plan adopted by the board.

(g) State offices, departments and boards, in carrying out activities that may affect the designated basin, shall comply with a groundwater management plan adopted by the board under this section unless otherwise directed or authorized by statute, in which case they shall indicate to the board in writing their authority for not complying with the groundwater management plan.

(h) (1) After the board adopts a groundwater management plan under this section, board shall determine if a local groundwater management plan or an adjudication of water rights is adequate to eliminate the condition of long-term overdraft or condition where groundwater extractions unreasonably affect the beneficial uses of interconnected surface waters, upon petition of either of the following:

(A) a local public agency that has adopted a groundwater management plan for the designated basin; or

(B) a person authorized to file the petition by a judicial order or decree entered in a proceeding to adjudicate water rights in the designated basin.

(2) The board shall act on a petition filed paragraph (1) within 90 days after the petition is complete. If the board determines that the local public agency’s groundwater management plan or the adjudication of water rights is adequate, the board shall rescind the groundwater management plan adopted by the board for the designated basin, except as provided in paragraphs (3) and (4).

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

(4) The board may decline to rescind a groundwater management plan adopted in this section if the board determines that the petitioner has not provided adequate assurances that the local public agency’s groundwater management plan or adjudication decree will be implemented.

(5) This subdivision is not a limitation on the authority of the board to rescind or amend a groundwater management plan adopted under this section based on the progress made by local public agency or in a proceeding for adjudication of water rights, even if the board cannot make a determination of adequacy under paragraph (1).

PHASED AUTHORITY TO ADOPT TEMPORARY LIMITATIONS ON EXTRACTIONS WHILE PLANS DEVELOPED

5202. [PLACEHOLDER – Phased State Water Board authority to adopt temporary limitations on extractions or new/expanded wells in designated basins. The intent is to avoid making the situation worse while a sustainable groundwater management plan is developed at either local or state level. The administration is interested in exploring]
options that do not create a rush to drill and that protect unexercised, overlying correlative water rights, while not exacerbating the condition of overdraft.

PROCEDURES FOR STATE WATER BOARD ACTION

5203.  (a)  The board shall adopt or amend a declaration, plan or limitation under Section 5200, 5201 or 5202 in accordance with procedures for quasi-legislative action.  
(b) The board shall provide notice of a hearing under subdivision (a) of Section 5200, subdivision (a) of Section 5201 or subdivision (a) of Section 5202 as follows:  
(1) At least 90 days before the hearing, the board shall publish notice on its internet website;  
(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 groundwater basin is situated; and  
(3) At least 60 days before the hearing, the notice shall be mailed or sent by e-mail to all persons and entities known to the board who extract or who propose to extract water from the groundwater basin, or who have made written or e-mail request to the board for special notice of hearing pursuant to this part. If any portion of the groundwater basin is within a board-designated local area, the records made available to the board by the local agency under subdivision (d)(4) of Section 5009 shall include the names and addresses of persons and entities known to the local agency who extract water from the groundwater basin, and the board shall mail or e-mail the notice to those persons and entities. For purposes of this paragraph, “board-designated local area” and “local agency” shall have the same meaning as in Section 5009.
(c)  The board shall provide notice of proceedings to amend or repeal of a declaration, plan or limitation under Section 5200, 5201, 5202 as appropriate to the proceedings, taking into account the nature of the proposed revision and the person and entities likely to be affected. If the board proposes to modify the boundaries identified under Section 5200, subdivision (c), amend a plan to include additional restrictions on pumping or extraction, or expand the scope of a limitation, the board shall provide notice under subdivision (b) with respect to any areas proposed to be added or any person or entity subject to the additional restrictions or expanded limitation.
(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 of the Government Code does not apply to any action authorized under Section 5200, 5201, or 5202.
(2) The board may adopt a regulation setting procedures for adopting a declaration, plan or limitation.
(3) The board may adopt a regulation pursuant to Section 1530 applying or interpreting this part if the board determines that the regulation is reasonably necessary for the allocation, administration or collection of fees authorized under Section 1529.5.

EXTRactions NOT IN COMPLIANCE WITH A PLAN OR LIMITATION NOT A BASIS FOR ESTABLISHING A WATER RIGHT

5204.  The extraction or use of water extracted in violation of a plan or limitation under this part may 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.

5-22-2014 1:35 p.m.
AUTHORITY TO REQUIRE REPORTS

5205. (a) The board may order any person or entity that extracts or uses water from a groundwater basin that is subject to an investigation or proceeding under this part 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 or entity 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 or entity subject to this subdivision to pay a reasonable share of the cost of preparing reports.

(b) (1) An order issued under this section shall be served by personal service or registered mail on the party required 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 or entities under the procedures specified in paragraph (1), the board may adopt a regulation applicable to a category or class of persons or entities in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 2 of Title of the Government Code.

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

(d) In conducting an investigation or proceeding under this part, the board may inspect the property or facilities of a person or entity to ascertain whether the purposes of this part are being met and to ascertain compliance with this part. The board is authorized to obtain 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 for purposes of an inspection under this subdivision.

APPLICABILITY OF CEQA TO GROUNDWATER PLANS, EXCEPTION FOR DESIGNATIONS OR INTERIM LIMITATIONS

5206. 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 part, other than adoption or amendment of a groundwater management plan under Section 5201.

ALLOWING RECONSIDERATION OF BOARD GROUNDWATER DECISIONS

SEC. B2. Section 1120 of the Water Code is amended to read:

1120. This chapter applies to any decision or order issued under this part or Section 275, Part 2 (commencing with Section 1200), Part 5.2 (commencing with Section 5200), Part 2 (commencing with Section 10500) of Division 6, Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, or the public trust doctrine.

5-22-2014 1:35 p.m.
FEE AUTHORITY

SEC. B3. Section 1529.5 is added to the Water Code to read:

1529.5. (a) The board shall adopt a schedule of fees pursuant to Section 1530 to recover costs incurred in administering Part 5.2 (commencing with Section 5200). Recoverable costs include, but are not limited to, costs incurred in connection with investigations, 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:
   (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 Chapter 4 (commencing with Section 10940) of Part 2.11 of Division 6 for extractions from a source within the boundaries of a designated basin under Section 5200.
   (c) To the extent consistent with 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 under Part 5.2 (commencing with Section 5200), excluding any funds appropriated from sources other than the Water Rights Fund for this purpose. In setting these fees, the board is not required to fully recover these costs in the year or the year immediately after they are incurred, but may provide for recovery over a period of years.
   (d) [PLACEHOLDER- Coordination with local or DWR extraction or use information.]

AUTHORITY TO ISSUE CEASE AND DESIST ORDERS FOR VIOLATIONS OF GROUNDWATER PLANS OR ORDERS

SEC. B4. Section 1831 of the Water Code, as amended by Stats. 2014, ch. 3, is amended to read:

1831. (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, Part 5.2 (commencing with Section 5200), 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.

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(5) Any pumping restriction, limitation, order or regulation adopted or issued under Part 5.2 (commencing with Section 5200).

(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 by the board under this division or section 275 part.

DEFINITION OF PERSON

SEC. B5. Section 2002 is added to the Water Code to read:

2002. As used in this part and Part 5.2 (commencing with Section 5200), “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 thereof. “Person” includes, to the extent authorized by federal law, the United States, a department, agency or instrumentality of the federal government, an Indian Tribe or an authorized Indian tribal organization, or interstate body.

ADJUDICATIONS

[to be provided]

TECHNICAL PROVISIONS

WELL REPORTS

SEC. T1. Section 13752 of the Water Code is amended to read:

13752. Reports made in accordance with paragraph (1) of subdivision (b) of Section 13751 shall not be made available for inspection by the public, but shall be made available to governmental agencies for use in making studies and to the board or department for use in any investigation or proceeding under this division, Division 2 (commencing with Section 1000), or Part 2.11 (commencing with Section 10920) of Division 6, or to any person who obtains a written authorization from the owner of the well. However, a report associated with a well located within two miles of an area affected or potentially affected by a known unauthorized release of a contaminant shall be made available to any person performing an environmental cleanup study associated with the unauthorized release, if the study is conducted under the order of a regulatory agency. A report released to a person conducting an environmental cleanup study shall not be used for any purpose other than for the purpose of conducting the study.
NO LOCAL MANDATES

SEC. T2. (a) No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution.
   (b) Except as provided in subdivision (c), this act does not mandate a new program or higher level of service on any local government. Local agencies are provided additional authority and incentives to manage groundwater sustainability, but are not required to exercise that authority or take advantage of those incentives. Requirements of this act that apply to persons who extract groundwater apply equally to private parties and public agencies, and therefore do not mandate a new program or higher level of service on any local government.
   (c) With respect to LU1 through LU4, No reimbursement is required by this act pursuant to Section 6 of Article XIII of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.